Federal Register

11–18–10 Thursday
Vol. 75 No. 222 Nov. 18, 2010

Pages 70571–70810

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register**, *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 75 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: Sponsored by the Office of the Federal Register.

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

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

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

WHEN: Tuesday, December 7, 2010
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 75, No. 222

Thursday, November 18, 2010

Agency for Healthcare Research and Quality
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70677–70679

Agricultural Marketing Service
RULES
Increased Assessment Rates:
Domestic Dates Produced or Packed in Riverside County, CA, 70571–70573
Sorghum Promotion and Research Program:
Procedures for the Conduct of Referenda, 70573–70578

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Forest Service
See National Institute of Food and Agriculture

Animal and Plant Health Inspection Service
NOTICES
Reestablishment of General Conference Committee of the National Poultry Improvement Plan, 70712–70713

Bonneville Power Administration
NOTICES
Meetings:
Fiscal Year 2012–2013 Proposed Power Rate Adjustments, 70744–70751

Coast Guard
RULES
Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan, 70595–70604

Commerce Department
See Economic Development Administration
See International Trade Administration
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration

Copyright Office, Library of Congress
NOTICES
Federal Copyright Protection of Sound Recordings Fixed Before February 15, 1972; Correction, 70704–70705

Economic Development Administration
NOTICES
Petitions for Determination of Eligibility to Apply for Trade Adjustment Assistance, 70724–70725

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70725

Employee Benefits Security Administration
PROPOSED RULES
Annual Funding Notice for Defined Benefit Plans, 70625–70653

Employment and Training Administration
NOTICES
Amended Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance:
Actel Corp., et al., Mountain View, CA, 70688–70689
Avaya, Inc., et al., Highlands Ranch, CO, 70689–70690
International Game Technology, et al., Corvallis, OR, 70691–70692
Kaiser Aluminum Fabricated Products, LLC, et al., Greenwood, SC, 70689
Masonico, LLC, et al., Fraser, MI, 70690
Visteon Corp., Springfield Plant, et al., Springfield, OH, 70690–70691
World Color Mt. Morris, IL LLC, Premedia Chicago Division, et al., Schaumburg, IL, 70691
Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance, 70699–70702
Revised Determinations on Reconsideration:
Humana Insurance Co., Green Bay, WI, 70703–70704

Energy Department
See Bonneville Power Administration
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Spectrum Policy Seminar for the Utility Sector, 70725–70726

Environmental Protection Agency
RULES
Recertification Decisions:
Criteria for the Certification and Recertification of Waste Isolation Pilot Plant's Compliance with Disposal Regulations, 70584–70595
Significant New Use Rule; Withdrawals:
Cobalt Lithium Manganese Nickel Oxide, 70583–70584
PROPOSED RULES
Approval and Promulgation of Air Quality Implementation Plans:
Texas; System Cap Trading Program, 70654–70657
Approval and Promulgation of Implementation Plans:
Kansas; Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision, 70657–70664
Guidelines for Establishing Test Procedures for Analysis of Pollutants Under the Clean Water Act, 70664–70665
Significant New Use Rule:
Cobalt Lithium Manganese Nickel Oxide, 70665–70670
NOTICES
Access to Confidential Business Information:
Computer Sciences Corp. and Identified Subcontractors, 70672–70673

Executive Office of the President
See Trade Representative, Office of United States

Farm Credit Administration
PROPOSED RULES
Standards of Conduct and Referral of Known or Suspected Criminal Violations:
Disclosure to Shareholders and Investors in System-wide and Consolidated Bank Debt Obligations of Farm Credit System, etc., 70619–70623

Federal Aviation Administration
PROPOSED RULES
Airworthiness Directives:
Dornier Luftfahrt GmbH Models Dornier 228 100, Dornier 228–101, Dornier 228–200, Dornier 228–201, Dornier 228–202, and Dornier 228–212 Airplanes, 70623–70625

Federal Communications Commission
RULES
Wireless E911 Location Accuracy Requirements, 70604–70614

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70726–70727
Applications:
Blue Heron Hydro, LLC, 70729–70730
BPUS Generation Development, LLC, 70732
EBD Hydro, 70730–70731
Florida Gas Transmission Co., LLC, 70728–70729
Natural Currents Energy Services, LLC, 70730
Perryville Gas Storage LLC, 70727–70728
Baseline Filings:
Enterprise Texas Pipeline LLC, 70732
Southcross Gulf Coast Transmission Ltd., et al., 70732–70733
Combined Filings, 70733–70738
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
AES Laurel Mountain, LLC, 70742–70743
AP Gas and Electric (PA), LLC, 70738
Blythe Energy, LLC, 70743
Cedar Creek II, LLC, 70742
Domtar A.W. LLC, 70738–70739
Elk City II Wind, LLC, 70740
E–T Global Energy, LLC, 70742
Gulf Oil Limited Partnership, 70738
Innovative Energy Systems, LLC, 70741–70742
New Harvest Wind Project LLC, 70740
Schuylkill Energy Resources, Inc., 70740–70741
TPF Generation Holdings, LLC, 70741
Wheelabrator North Broward Inc., 70739–70740
Market-Based Rate Filings Including Requests for Blanket Section 204 Authorization:
Seneca Energy, II LLC, 70743–70744
Meetings:
Public Utility District No. 1; Snohomish County, WA, 70751
Motions for Extension of Rate Case Fililng Deadline:
ONEOK WesTex transmission, LLC, 70752
Panelists For Technical Conference:
Reliability Monitoring, Enforcement and Compliance Issues, 70752–70753
Records Governing Off-the-Record Communications, 70672

Federal Highway Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
WIS 47 Corridor, Outagamie and Shawano Counties, WI, 70772

Federal Maritime Commission
NOTICES
Ocean Transportation Intermediary Licenses; Applicants, 70673–70674
Ocean Transportation Intermediary Licenses; Reissuances, 70674
Ocean Transportation Intermediary Licenses; Revocations, 70674–70675

Federal Railroad Administration
NOTICES
Application for Approval of Discontinuance or Modification of a Railroad Signal System, 70771–70772

Federal Trade Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70675–70677

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Manufactured Food Regulatory Program Standards, 70679

Forest Service
NOTICES
Meetings:
Ashley Resource Advisory Committee, 70712

Health and Human Services Department
See Agency for Healthcare Research and Quality
See Food and Drug Administration
See National Institutes of Health

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection

Housing and Urban Development Department
RULES
Use of Public Housing Capital Funds for Financing Activities; Correction, 70582–70583

Interior Department
See National Indian Gaming Commission

International Trade Administration
NOTICES
Final Results of Expedited Third Sunset Review of Antidumping Duty Order:
Petroleum Wax Candles from the People's Republic of China, 70713
Initiation of Countervailing Duty Investigation:
Multilayered Wood Flooring from the People's Republic of China, 70714–70722
Partial Rescission of Antidumping Duty Administrative Review:
Circular Welded Carbon Steel Pipes and Tubes from Taiwan, 70723

Justice Department
NOTICES
Settlement Agreements Pursuant to CERCLA, 70686–70687

Labor Department
See Employee Benefits Security Administration
See Employment and Training Administration
See Occupational Safety and Health Administration

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 70704

Library of Congress
See Copyright Office, Library of Congress

Merit Systems Protection Board
PROPOSED RULES
Practices and Procedure; Board Meetings, 70617–70618

National Archives and Records Administration
NOTICES
Records Schedules; Availability and Request for Comments, 70705–70707

National Highway Traffic Safety Administration
PROPOSED RULES
Final Vehicle Safety Rulemaking and Research Priority Plan 2010–2013, 70670–70671

National Indian Gaming Commission
NOTICES
Inquiry and Request for Information; Consultation, 70680–70686

National Institute of Food and Agriculture
RULES
Competitive and Noncompetitive Nonformula Federal Assistance Programs:
Administrative Provisions for the Sun Grant Program, 70578–70582

National Institutes of Health
NOTICES
Meetings:
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 70679–70680

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Pacific Cod by Catcher Vessels Greater Than or Equal To 60 Feet Using Pot Gear in the Bering Sea and Aleutian Islands Management Area, 70614–70615
NOTICES
Meetings:
New England Fishery Management Council, 70722–70723

National Telecommunications and Information Administration

NOTICES
Global Free Flow of Information on the Internet, 70714

Nuclear Regulatory Commission
PROPOSED RULES
Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 70618–70619
NOTICES
Environmental Assessments; Availability, etc.:
Detroit Edison Co., Fermi Unit 2, 70707–70708
Facility Operating Licenses; Amendments:
Palisades Nuclear Plant, 70708–70710

Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Storage and Handling of Anhydrous Ammonia Standard, 70687–70688
Applications for Recognition:
QPS Evaluation Services Inc., 70696–70699
TUV Rheinland PTL, LLC, 70692–70696
Meetings:
Advisory Committee on Construction Safety and Health, 70702–70703

Office of United States Trade Representative
See Trade Representative, Office of United States

Personnel Management Office
PROPOSED RULES
Prevailing Rate Systems:
Redefinition of the Madison, WI, and Southwestern Wisconsin Appropriated Fund Federal Wage System Wage Areas, 70616–70617
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70710–70712
Excepted Service:
Consolidated Listing of Schedules A, B, and C, 70784–70809

Postal Regulatory Commission
NOTICES
Market Test Involving Greeting Cards, 70753–70754
Postal Classification Changes, 70754–70755

Presidio Trust
NOTICES
Meetings:
Board of Directors, 70755–70756

Securities and Exchange Commission
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
Financial Industry Regulatory Authority, Inc., 70757–70759
Municipal Securities Rulemaking Board, 70756–70757, 70759–70763

Small Business Administration
NOTICES
Disaster Declarations:
Texas, 70763–70764
Meetings:
Small Business Information Security Task Force, 70764

State Department
NOTICES
Bureau of Educational and Cultural Affairs Request for Grant Proposals:
Study of the U.S. Institutes for Student Leaders on New Media in Journalism, 70764–70770
Meetings:
U.S. National Commission for UNESCO, 70770

Trade Representative, Office of United States
NOTICES
Compliance with Telecommunications Trade Agreements, 70770–70771

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration

Treasury Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70772–70778

U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70680

Veterans Affairs Department
NOTICES
Privacy Act; Systems of Records, 70778–70781

Separate Parts In This Issue

Part II
Personnel Management Office, 70784–70809

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR

Proposed Rules:

532 70616
1206 70617

7 CFR

987 70571
1221 70573
3430 70578

10 CFR

Proposed Rules:

30 70618
40 70618
70 70618
170 70618
171 70618

12 CFR

Proposed Rules:

612 70619
620 70619
630 70619

14 CFR

Proposed Rules:

39 70623

24 CFR

905 70582

29 CFR

Proposed Rules:

2520 70625

40 CFR

9 70583
194 70584
721 70583

Proposed Rules:

52 (2 documents) 70654, 70657
136 70664
260 70664
423 70664
430 70664
435 70664
721 70664

46 CFR

45 70595

47 CFR

20 70604

49 CFR

Proposed Rules:

571 70670

50 CFR

679 70614

Rules and Regulations

Federal Register

Vol. 75, No. 222

Thursday, November 18, 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.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Doc. No. AMS–FV–10–0059; FV10–987–2 FR]

Domestic Dates Produced or Packed in Riverside County, CA; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the California Date Administrative Committee (Committee) for the 2010–11 and subsequent crop years from $0.75 to $1.00 per hundredweight of dates handled. The Committee locally administers the marketing order that regulates the handling of dates grown or packed in Riverside County, California. Assessments upon date handlers are used by the Committee to fund reasonable and necessary expenses of the program. The crop year begins October 1 and ends September 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* November 19, 2010.

FOR FURTHER INFORMATION CONTACT: Jeff Smutny, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or E-mail: *Jeffrey.Smutny@ams.usda.gov* or *Kurt.Kimmel@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Antoinette.Carter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 987, as amended (7 CFR part 987), regulating the handling of dates grown or packed in Riverside County, California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Riverside County, California date handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dates beginning October 1, 2010, and will continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2010–11 and subsequent crop years from $0.75 to $1.00 per hundredweight of dates.

The California date marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California dates. They are familiar with the Committee's needs and with the costs for goods and services in their local area, and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2009–10 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 24, 2010, and unanimously recommended 2010–11 expenditures of $245,000 and an assessment rate of $1.00 per hundredweight of California dates. In comparison, last year's budgeted expenditures were $200,000. The modified assessment rate of $1.00 is $0.25 higher than the rate currently in effect. The Committee recommended a higher assessment rate to offset the 2010–11 budgeted increases in salaries, operating expenses, and promotion programs, and to build their operating reserve. The higher assessment rate should be sufficient to cover the 2010–11 budgeted expenses and meet their financial goals.

Section 987.72(c) authorizes the Committee to establish and maintain an operating reserve not to exceed 50 percent of an average year's expenses. Funds from the reserve are available for the Committee's use during the crop year to cover budgeted expenses as necessary or for other purposes deemed appropriate by USDA. The Committee expects to carry a $40,000 reserve into the 2010–11 crop year. They expect to add $16,500 to the reserve during the year, for a desired carryout of approximately $56,000, which is well below the limit specified in the order.

Income from the sale of cull dates is deposited in a surplus account for subsequent use by the Committee to cover the surplus pool share of the

Committee's expenses. Handlers may also dispose of cull dates of their own production within their own livestock-feeding operation; otherwise, such cull dates must be shipped or delivered to the Committee for sale to non-human food product outlets. Pursuant to § 987.72(b), the Committee is authorized to temporarily use funds derived from assessments to defray expenses incurred in disposing of surplus dates. All such expenses are required to be deducted from proceeds obtained by the Committee from the disposal of surplus dates. For the 2010–11 crop year, the Committee estimated that $1,500 from the surplus account will be needed to temporarily defray expenses incurred in disposing of surplus dates.

The major expenditures recommended by the Committee for the 2010–11 crop year include $85,000 for general and administrative programs, $127,875 for promotional programs, $17,900 for nutritional research, and $14,225 for marketing and media consulting. The budgeted amount for promotional programs includes a $29,000 contingency fund that will allow the Committee to take advantage of unexpected marketing opportunities that may present themselves during the year.

By comparison, expenditures recommended by the Committee for the 2009–10 crop year included $60,000 for general and administrative programs, $97,000 for promotional programs, $15,000 for nutritional research, and $28,000 for marketing and media consulting.

The assessment rate of $1.00 per hundredweight of assessable dates was derived by applying the following formula where:

A = 2009–10 estimated reserve on 09/30/10 ($40,000);
B = 2010–11 estimated reserve on 09/30/11 ($56,500);
C = 2010–11 expenses ($245,000);
D = Cull Surplus Fund ($1,500);
F = 2010–11 expected shipments (26,000,000 pounds).

$$[(C - A + B - D)/F] \times 100.$$

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2010–11 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 85 producers of dates in the production area and 9 handlers subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those having annual receipts of less than $7,000,000.

According to the National Agricultural Statistics Service (NASS), data for the most-recently completed crop year, 2009–10, indicates that about 3.8 tons, or 7,600 pounds, of dates were produced per acre. The 2009–10 producer price published by NASS was $1,450 per ton, or $0.725 per pound. Thus, the value of date production in 2009–10 averaged about $5,510 per acre (7,600 pounds per acre times $0.725 per pound). At that average price, a producer would have to farm more than 136 acres to receive an annual income from dates of $750,000 ($750,000 divided by $5,510 per acre equals 136.1 acres). According to the Committee's staff, the majority of California date producers farm fewer than 136 acres. Thus, it can be concluded that the majority of date producers could be considered small entities. According to data from the Committee, the majority of California date handlers may also be considered small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2010–11 and subsequent crop years from $0.75 to $1.00 per hundredweight of dates handled. The Committee unanimously recommended 2010–11 expenditures of $245,000 and an assessment rate of $1.00 per hundredweight of dates. The assessment rate of $1.00 is $0.25 higher than the 2009–10 rate currently in effect. The quantity of assessable dates for the 2010–11 crop year is estimated at 26,000,000 pounds. Thus, the $1.00 rate should provide approximately $260,000 in assessment income and will be adequate to meet the budgeted expenses.

The major expenditures recommended by the Committee for the 2010–11 crop year include $85,000 for general and administrative programs, $127,875 for promotional programs, $17,900 for nutritional research, and $14,225 for marketing and media consulting. The Committee also hopes to add $16,500 to its operating reserve. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Marketing Subcommittee. Alternative expenditure levels were discussed, but the Committee ultimately decided that the recommended levels were reasonable to properly administer the order. The assessment rate of $1.00 per hundredweight of dates was then derived, based upon the Committee's estimates of the available operating reserve, projected crop size, and anticipated expenses.

As previously noted, NASS reported that the average producer price for 2009–10 crop dates was $1,450 per ton, or $72.50 per hundredweight. No official NASS estimate is available yet for 2010–11. However, the average grower price for the three year period between 2007–08 and 2009–10 was $1,756.67 per ton, or $87.83 per hundredweight.

Assuming that the average producer price for 2010–11 will range between $72.50 and $87.83 per hundredweight, the estimated assessment revenue, stated as a percentage of producer revenue, will range between 1.38 and 1.14 percent ($1.00 per hundredweight divided by either $72.50 or $87.83 per hundredweight). Thus, assessment revenue should be less than 1.5 percent of estimated producer revenue for 2010–11.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal

and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California date industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 24, 2010, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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

A proposed rule concerning this action was published in the **Federal Register** on September 15, 2010 (75 FR 56019). Copies of the proposed rule were also mailed or sent via facsimile to all California date handlers. Finally, the proposal was made available through the Internet by USDA and the Office of Federal Register. A 30-day comment period ending October 15, 2010, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because handlers have already received 2010 dates from growers, the crop year began on October 1, 2010, and the assessment rate applies to all dates received during the 2010–11 and subsequent seasons. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

■ 1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 987.339 is revised to read as follows:

§ 987.339 Assessment rate.

On and after October 1, 2010, an assessment rate of $1.00 per hundredweight is established for California dates.

Dated: November 10, 2010.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2010–29107 Filed 11–17–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1221

[Doc. No. AMS–LS–10–0003]

Sorghum Promotion and Research Program: Procedures for the Conduct of Referenda

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Commodity Promotion, Research, and Information Act of 1996 (Act) authorizes a program of promotion, research, and information to be developed through the promulgation of the Sorghum Promotion, Research, and Information Order (Order). The Act requires that the Secretary of Agriculture (Secretary) conduct a referendum among persons subject to assessments who, during a representative period established by the Secretary, have engaged in the production or importation of sorghum. This final rule establishes procedures the Department of Agriculture (USDA) will use in conducting the required referendum as well as future referenda. Eligible persons will be provided the opportunity to vote during a specified period announced by USDA. For the program to continue, it must be approved, with an affirmative vote, by at least a majority of those persons voting who were engaged in the production or importation of sorghum during the representative period.

DATES: *Effective Date:* December 20, 2010.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Payne, Chief, Marketing Programs Branch on 202/720–1115, fax 202/720–1125, or by e-mail at *Kenneth.Payne@ams.usda.gov* or Rick Pinkston, USDA, FSA, DAFO, on 202/690–8034, fax 202/720–5900, or by e-mail on *rick.pinkston@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not established in accordance with the law, and may request a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within 2 years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary will issue a ruling on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to

review a final ruling on the petition if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

Regulatory Flexibility and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), USDA is required to examine the impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

The Act, which authorizes USDA to consider industry proposals for generic programs of promotion, research, and information for agricultural commodities, became effective on April 4, 1996. The Act states that Congress found that it is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, Government-supervised, commodity promotion programs.

Section 518 of the Act provides three options for determining industry approval or continuation of a new research and promotion program. They are: (1) By a majority of those voting; (2) by a majority of the volume of the agricultural commodity voted in the referendum; or (3) by a majority of those persons voting who also represent a majority of the volume of the agricultural commodity voted in the referendum. In addition, § 518 of the Act provides for referendums to ascertain approval of an Order to be conducted either prior to its going into effect or within 3 years after assessments first begin under an Order. As recommended by representatives of the sorghum industry, the final Order, which was published in the **Federal Register** on May 6, 2008 (73 FR 25398), provides that USDA conduct a referendum within 3 years after assessments begin and that the continuation of the Order be approved by at least a majority of those persons voting for approval who are engaged in the production or importation sorghum.

This final rule establishes the procedures USDA will use for the conduct of a nationwide referendum among eligible persons to determine if the Order should be continued. This final rule adds a new subpart that establishes procedures to conduct the initial and future referendums. The new subpart covers definitions, certification and voting procedures, eligibility, disposition of forms and records, the role of the Farm Service Agency (FSA), and reporting the results.

According to the 2007 Census of Agriculture, there are approximately 26,000 persons engaged in the production of sorghum who are subject to the program. Most sorghum producers are classified as small businesses under the criteria established by the Small Business Administration (SBA) (13 CFR 121.201).

In accordance with OMB regulation (5 CFR part 1320) that implements the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) (PRA), AMS received OMB approval for a new information collection for the sorghum program. Upon approval, this collection was merged into the existing collection numbered 0581–0093.

The information collection requirements are minimal. Public reporting burden on producers and importers for this collection of information is estimated to average 0.01 hours per response with an estimated total number of 166 hours and a total cost of $3,079.30. Obtaining a ballot by mail, in-person, facsimile, or via the Internet and completing it in its entirety will not impose a significant economic burden on participants. Accordingly, the Administrator of the Agricultural Marketing Service (AMS) has determined that this final rule will not have a significant economic impact on a substantial number of small business entities.

Background

The Act (U.S.C. 7411–7425), which became effective on April 4, 1996, authorizes USDA to establish generic programs of promotion, research, and information for agricultural commodities designed to strengthen an industry's position in the marketplace and to maintain and expand existing domestic and foreign markets and uses for agricultural commodities. Pursuant to the Act, a proposed Order on the Sorghum Checkoff Program was published in the **Federal Register** on November 23, 2007 (72 FR 65842). The final Order was published in the **Federal Register** on May 6, 2008 (73 FR 25398). Collection of assessments began on July 1, 2008.

This program is funded primarily by those persons engaged in the production of sorghum. Grain sorghum is assessed at a rate of 0.6 percent of net market value received by the producer. Sorghum forage, sorghum hay, sorghum haylage, sorghum billets, and sorghum silage are assessed at a rate of 0.35 percent of net market value received by the producer. Imported sorghum is also subject to assessment and therefore, sorghum importers are eligible to vote in the referendum. Total annual revenue for the program is approximately $6,000,000 of which, less than $100 comes from import assessments.

For purposes of this program, *Sorghum* means any harvested portion of *Sorghum bicolor* (L.) Moench or any related species of the genus *Sorghum* of the family Poaceae. This includes, but is not limited to, grain sorghum (including hybrid sorghum seeds, inbred sorghum line seed, and sorghum cultivar seed), sorghum forage, sorghum hay, sorghum haylage, sorghum billets, and sorghum silage.

The Act requires that a referendum to ascertain approval of the Order must be conducted either prior to the Order going into effect or within 3 years after assessments first begin. The industry recommended to USDA that the referendum be conducted no later than 3 years after assessments first begin to determine whether the Order should be continued. Assessments began on July 1, 2008. Thus, USDA is required to conduct a nationwide referendum among persons subject to the assessment by July 1, 2011.

On January 25, 2010, the Chairman of the United Sorghum Checkoff Program Board signed a letter requesting that the referendum be completed by March 1, 2011. He observed that there is a large area of sorghum production in South Texas, Louisiana, Arkansas and other southern States that begin planting in March. He noted that by conducting the referendum before March 1, 2011, producers will not have to interrupt planting operations at a critical time to go and vote.

The Order will continue if a majority of those persons voting favor continuing the program. If the continuation of the Order is not approved by eligible persons voting in the referendum, USDA will begin the process of terminating the program.

Eligible persons are required to complete a ballot in its entirety, vote "yes" or "no" to continue the program, and provide documentation showing that they engaged in the production or importation of sorghum during the representative period. The person will sign the ballot certifying that they were engaged in the production or importation of sorghum during a representative period specified by the Secretary to the best of one's knowledge.

USDA has determined that the representative period for the production or importation of sorghum will be July 1, 2008 through December 31, 2010. This final rule also provides that the

ballots may be cast in person, by facsimile, or by mail-in vote at the appropriate county FSA or, for importers, AMS office. Providing producers an opportunity to vote at the county FSA office and importers through the AMS office provides persons subject to the Order the greatest opportunity to vote in the referendum.

Producers are directed to vote at the county FSA office where FSA maintains and processes the person's administrative farm records. For those eligible producers not participating in FSA programs, the opportunity to vote is provided at the county FSA office serving the county where the person owns or rents land. A person engaged in the production of sorghum in more than one county will vote in the county FSA office where the person does most of his or her business. Eligible producer voters can determine the location of county FSA offices by contacting (1) the nearest county FSA office, (2) the State FSA office, or (3) through an online search of FSA's Web site at *http://www.fsa.usda.gov/pas/default.asp.* From the options available on this Web page select "Your local office," click on your State, and click on the map to select a county.

Importers will vote by contacting Craig Shackelford, Marketing Programs Branch, Livestock and Seed Program, AMS, USDA, Room 2628–S, STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250–0251; Telephone: (202) 720–1115; Fax: (202) 720–1125; *craig.shackelford@ams.usda.gov.* Forms may be obtained via the Internet at *http://www.ams.usda.gov/LSMarketingPrograms.*

The final rule establishes procedures USDA will use in conducting the required referendum as well as future referendums provided under the Act. The final rule includes definitions, eligibility, certification and voting procedures, reporting results, and disposition of the forms and records.

FSA will coordinate State and county FSA roles in conducting the referendum by (1) Determining producer eligibility, (2) canvassing and counting ballots, and (3) reporting the results. AMS will coordinate importer voting. A 60 day comment period was provided from July 16, 2010 through September 14, 2010 in order for interested persons to comment.

Comments

USDA published proposed procedures for conducting a Sorghum Promotion, Research and Information Program referendum on July 16, 2010 [75 FR 41392] with a request for comments on the proposal to be received by September 14, 2010. USDA received two timely comments regarding the proposal. Two comments were received on September 10, 2010 by sorghum industry organizations. Both comments stated that the proposed rule adequately reflects the intentions of the producers they represent. Both comments suggested that section 1221.222 Eligibility could be strengthened by adding a sentence to clarify that the intent of eligibility is to allow each entity one vote. This comment has merit and a new sentence has been added to section 1221.222 to add clarity.

List of Subjects in 7 CFR Part 1221

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Sorghum and sorghum products, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, Title 7, Chapter XI, part 1221 of the Code of Federal Regulations, is amended as follows:

PART 1221—SORGHUM PROMOTION, RESEARCH, AND INFORMATION

■ 1. The authority citation for 7 CFR part 1221 continues to read as follows:

Authority: 7 U.S.C. 7411–7425.

■ 2. In part 1221, subpart B is added to read as follows:

Subpart B—Procedures for the Conduct of Referenda

Definitions

Sec.
1221.200 Terms defined.
1221.201 Administrator, AMS.
1221.202 Administrator, FSA.
1221.203 Eligible person.
1221.204 Farm Service Agency.
1221.205 Farm Service Agency County Committee.
1221.206 Farm Service Agency County Executive Director.
1221.207 Farm Service Agency State Committee.
1221.208 Farm Service Agency State Executive Director.
1221.209 Public notice.
1221.210 Representative period.
1221.211 Voting period.

Procedures

1221.220 General.
1221.221 Supervision of the process for conducting referenda.
1221.222 Eligibility.
1221.223 Time and place of the referendum.
1221.224 Facilities.
1221.225 Certification and referendum ballot form.
1221.226 Certification and voting procedures.
1221.227 Canvassing voting ballots.
1221.228 Counting ballots.
1221.229 FSA county office report.
1221.230 FSA State office report.
1221.231 Results of the referendum.
1221.232 Disposition of records.
1221.233 Instructions and forms.
1221.234 Confidentiality.

Subpart B—Procedures for the Conduct of Referenda

Definitions

§ 1221.200 Terms defined.

As used throughout this subpart, unless the context otherwise requires, terms shall have the same meaning as the definition of such terms in subpart A of this part.

§ 1221.201 Administrator, AMS.

Administrator, AMS, means the Administrator of the Agricultural Marketing Service, or any officer or employee of USDA to whom there has been delegated or may be delegated the authority to act in the Administrator's stead.

§ 1221.202 Administrator, FSA.

Administrator, FSA, means the Administrator of the Farm Service Agency, or any officer or employee of USDA to whom there has been delegated or may be delegated the authority to act in the Administrator's stead.

§ 1221.203 Eligible person.

Eligible person is defined as any person subject to the assessment who during the representative period determined by the Secretary has engaged in the production or importation of sorghum. Such persons are eligible to participate in the referendum.

§ 1221.204 Farm Service Agency.

Farm Service Agency, also referred to as "FSA," means the Farm Service Agency of USDA.

§ 1221.205 Farm Service Agency County Committee.

Farm Service Agency County Committee, also referred to as "FSA County Committee or COC," means the group of persons within a county who are elected to act as the Farm Service Agency County Committee.

§ 1221.206 Farm Service Agency County Executive Director.

Farm Service Agency County Executive Director, also referred to as "CED," means the person employed by the FSA County Committee to execute the policies of the FSA County Committee and to be responsible for the day-to-day operation of the FSA county

office, or the person acting in such capacity.

§ 1221.207 Farm Service Agency State Committee.

Farm Service Agency State Committee, also referred to as "FSA State Committee," means the group of persons within a State who are appointed by the Secretary to act as the Farm Service Agency State Committee.

§ 1221.208 Farm Service Agency State Executive Director.

Farm Service Agency State Executive Director, also referred to as "SED," means the person within a State who is appointed by the Secretary to be responsible for the day-to-day operation of the FSA State Office, or the person acting in such capacity.

§ 1221.209 Public notice.

Public notice means not later than 30 days before the referendum is conducted, the Secretary shall notify the eligible voters in such manner as determined by the Secretary, of the voting period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under section 518 of the Act.

§ 1221.210 Representative period.

Representative period means the period designated by the Secretary pursuant to section 518 of the Act.

§ 1221.211 Voting period.

The term *voting period* means a 4-week period to be announced by the Secretary for voting in the referendum.

Procedures

§ 1221.220 General.

A referendum to determine whether eligible persons favor the continuance of this part shall be carried out in accordance with this subpart.

(a) The referendum will be conducted at county FSA offices for producers and through AMS headquarters offices for importers.

(b) The Secretary shall determine if at least a majority of those persons voting favor the continuance of this part.

§ 1221.221 Supervision of the process for conducting referenda.

The Administrator, AMS, shall be responsible for supervising the process of permitting persons to vote in a referendum in accordance with this subpart.

§ 1221.222 Eligibility.

(a) Any person subject to the assessment who during the representative period determined by the Secretary has engaged in the production or importation of sorghum is eligible to participate in the referendum. An eligible person at the time of the referendum and during the representative period, shall be entitled to cast only one vote in the referendum.

(b) *Proxy registration.* Proxy registration is not authorized, except that an officer or employee of a corporate producer or importer, or any guardian, administrator, executor, or trustee of a person's estate, or an authorized representative of any eligible producer or importer entity (other than an individual person), such as a corporation or partnership, may vote on behalf of that entity. Further, an individual cannot vote on behalf of another individual (*i.e.,* spouse, family members, sharecrop lease, joint tenants, tenants in common, owners of community property, a partnership, or a corporation).

(c) Any individual, who votes on behalf of any producer or importer entity, shall certify that he or she is authorized by such entity to take such action. Upon request of the county FSA or AMS office, the person voting may be required to submit adequate evidence of such authority.

(d) *Joint and group interest.* A group of individuals, such as members of a family, joint tenants, tenants in common, a partnership, owners of community property, or a corporation who engaged in the production or importation of sorghum during the representative period as a producer or importer entity shall be entitled to cast only one vote; provided, however, that any individual member of a group who is an eligible person separate from the group may vote separately.

§ 1221.223 Time and place of the referendum.

(a) The opportunity to vote in the referendum shall be provided during a 4-week period beginning and ending on a date determined by the Secretary. Eligible persons shall have the opportunity to vote following the procedures established in this subpart during the normal business hours of each county FSA or AMS office.

(b) Persons can determine the location of county FSA offices by contacting the nearest county FSA office, the State FSA office, or through an online search of FSA's Web site.

(c) Each eligible producer shall cast a ballot in the county FSA office where FSA maintains the person's administrative farm records. For eligible persons not participating in FSA programs, the opportunity to vote will be provided at the county FSA office serving the county where the person owns or rents land. A person engaged in the production of sorghum in more than one county will vote in the county FSA office where the person does most of his or her business.

(d) Each eligible importer will cast a ballot in the Marketing Programs Branch, Livestock and Seed Program, AMS, USDA, Room 2628–S, STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250–0251; Telephone: (202) 720–1115; Fax: (202) 720–1125.

§ 1221.224 Facilities.

Each county FSA office will provide:

(a) A voting place that is well known and readily accessible to persons in the county and that is equipped and arranged so that each person can complete and submit a ballot in secret without coercion, duress, or interference of any sort whatsoever, and

(b) A holding container of sufficient size so arranged that no ballot or supporting documentation can be read or removed without breaking seals on the container.

§ 1221.225 Certification and referendum ballot form.

Form LS–379 shall be used to vote in the referendum and certify eligibility. Eligible persons will be required to complete a ballot in its entirety, vote "yes" or "no" to continue the program and provide documentation such as a sales receipt or remittance form showing that the person voting was engaged in the production of sorghum during the representative period. The person or authorized representative shall sign the ballot certifying that they or the entity they represent were engaged in the production of sorghum during the representative period.

§ 1221.226 Certification and voting procedures.

(a) Each eligible person shall be provided the opportunity to cast a ballot during the voting period announced by the Secretary.

(1) Each eligible person shall be required to complete Form LS–379 in its entirety, sign it and, provide evidence that they were engaged in the production or importation of sorghum during the representative period. The person must legibly place his or her name and, if applicable, the entity represented, address, county and, telephone number. The person shall sign and certify on Form LS–379 that:

(i) The person was engaged in the production or importation of sorghum during the representative period;

(ii) The person voting on behalf of a corporation or other entity is authorized to do so;

(iii) The person has cast only one vote; and

(2) Only a completed and signed Form LS–379 accompanied by supporting documentation showing that the person was engaged in the production or importation of sorghum during the representative period shall be considered a valid vote.

(b) To vote, eligible producers may obtain Form LS–379 in-person, by mail, or by facsimile from county FSA offices or through the Internet during the voting period. A completed and signed Form LS–379 and supporting documentation, such as a sales receipt or remittance form, must be returned to the appropriate county FSA office where FSA maintains and processes the person's administrative farm records. For a person not participating in FSA programs, the opportunity to vote in a referendum will be provided at the county FSA office serving the county where the person owns or rents land. A person engaged in the production of sorghum in more than one county will vote in the county FSA office where the person does most of his or her business. A completed and signed Form LS–379 and the supporting documentation may be returned in-person, by mail, or facsimile to the appropriate county FSA office. Form LS–379 and supporting documentation returned in-person or by facsimile, must be received in the appropriate county FSA office prior to the close of the work day on the final day of the voting period to be considered a valid ballot. Form LS–379 and the accompanying documentation returned by mail must be postmarked no later than midnight of the final day of the voting period and must be received in the county FSA office on the 5th business day following the final day of the voting period. To vote, eligible importers may obtain Form LS–379 in-person, by mail or, by facsimile from AMS offices or through the Internet during the voting period. A completed and signed Form LS–379 and supporting documentation, such as a U.S. Customs and Border Protection form 7501, must be returned to the AMS headquarters office.

(c) A completed and signed Form LS–379 and the supporting documentation may be returned in-person, by mail, or facsimile to the appropriate county FSA office for producers and to AMS office for importers. Form LS–379 and supporting documentation returned in-person or by facsimile, must be received in the appropriate county FSA office for producers or the AMS office for importers prior to the close of the work day on the final day of the voting period to be considered a valid ballot. Form LS–379 and the accompanying documentation returned by mail must be postmarked no later than midnight of the final day of the voting period and must be received in the county FSA office for producers and the AMS office for importers on the 5th business day following the final day of the voting period.

(d) Persons who obtain Form LS–379 in-person at the appropriate FSA county office may complete and return it the same day along with the supporting documentation. Importers who obtain Form LS–379 in-person at the appropriate AMS office may complete and return it the same day along with the supporting documentation.

§ 1221.227 Canvassing voting ballots.

(a) Canvassing of Form LS–379 shall take place at the appropriate county FSA offices or AMS office on the 6th business day following the final day of the voting period. Canvassing of producer ballots shall be in the presence of at least two members of the county committee. If two or more of the counties have been combined and are served by one county office, the canvassing of the requests shall be conducted by at least one member of the county committee from each county served by the county office. The FSA State committee or the State Executive Director, if authorized by the State Committee, may designate the County Executive Director (CED) and a county or State FSA office employee to canvass the ballots and report the results instead of two members of the county committee when it is determined that the number of eligible voters is so limited that having two members of the county committee present for this function is impractical, and designate the CED and/or another county or State FSA office employee to canvass requests in any emergency situation precluding at least two members of the county committee from being present to carry out the functions required in this section.

(b) Canvassing of importer ballots will be performed by AMS personnel or any other person as deemed necessary.

(c) Form LS–379 should be canvassed as follows:

(1) *Number of valid ballots.* A person has been declared eligible by FSA or AMS to vote by completing Form LS–379 in its entirety, signing it, and providing supporting documentation that shows the person who cast the ballot during the voting period was engaged in the production or importation of sorghum. Such ballot will be considered a valid ballot.

(2) *Number of ineligible ballots.* If FSA or AMS cannot determine that a person is eligible based on the submitted documentation or if the person fails to submit the required supporting documentation, the person shall be determined to be ineligible. FSA or AMS shall notify ineligible persons in writing as soon as practicable but no later than the 8th business day following the final day of the voting period.

(d) *Appeal.* A person declared to be ineligible by FSA or AMS can appeal such decision and provide additional documentation to the FSA county office or AMS within 5 business days after the postmark date of the letter of notification of ineligibility. FSA or AMS will then make a final decision on the person's eligibility and notify the person of the decision.

(e) *Invalid ballots.* An invalid ballot includes, but is not limited to the following:

(1) Form LS–379 is not signed or all required information has not been provided;

(2) Form LS–379 and supporting documentation returned in-person or by facsimile was not received by close of business on the last business day of the voting period;

(3) Form LS–379 and supporting documentation returned by mail was not postmarked by midnight of the final day of the voting period;

(4) Form LS–379 and supporting documentation returned by mail was not received in the county FSA or AMS office by the 5th business day following the final day of the voting period;

(5) Form LS–379 or supporting documentation is mutilated or marked in such a way that any required information on the Form is illegible; or

(6) Form LS–379 and supporting documentation not returned to the appropriate county FSA or AMS office.

§ 1221.228 Counting ballots.

(a) Form LS–379 shall be counted by county FSA offices or the AMS office on the same day as the ballots are canvassed if there are no ineligibility determinations to resolve. For those county FSA offices that do have ineligibility determinations, the requests shall be counted no later than the 14th business day following the final day of the voting period.

(b) Ballots shall be counted as follows:

(1) Number of valid ballots cast;

(2) Number of persons favoring the Order;

(3) Number of persons not favoring the Order;

(4) Number of invalid ballots.

§ 1221.229 FSA county office report.

The county FSA office report shall be certified as accurate and complete by the CED or designee, acting on behalf of the Administrator, AMS, as soon as may be reasonably possible, but in no event shall submit no later than the 18th business day following the final day of the specified period. Each county FSA office shall transmit the results in its county to the FSA State office. The results in each county may be made available to the public upon notification by the Administrator, FSA, that the final results have been released by the Secretary. A copy of the report shall be posted for 30 calendar days following the date of notification by the Administrator, FSA, in the county FSA office in a conspicuous place accessible to the public. One copy shall be kept on file in the county FSA office for a period of at least 12 months after notification by FSA that the final results have been released by the Secretary.

§ 1221.230 FSA State office report.

Each FSA State office shall transmit to the Administrator, FSA, as soon as possible, but in no event later than the 20th business day following the final day of the voting period, a report summarizing the data contained in each of the reports from the county FSA offices. One copy of the State summary shall be filed for a period of not less than 12 months after the results have been released and available for public inspection after the results have been released.

§ 1221.231 Results of the referendum.

(a) The Administrator, FSA, shall submit to the Administrator, AMS, reports from all State FSA offices. The Administrator, AMS shall tabulate the results of the ballots. USDA will issue an official press release announcing the results of referendum and publish the same results in the **Federal Register**. In addition, USDA will post the official results on its Web site. State reports and related papers shall be available for public inspection upon request during normal business hours at the Marketing Programs Branch; Livestock and Seed Program, AMS, USDA, Room 2628–S; STOP 0251; 1400 Independence Avenue, SW., Washington, DC.

(b) If the Secretary deems necessary, a State report or county report shall be reexamined and checked by such persons who may be designated by the Secretary.

§ 1221.232 Disposition of records.

Each FSA CED will place in sealed containers marked with the identification of the "Sorghum Checkoff Program Referendum," all of the Forms LS–379 along with the accompanying documentation and county summaries. Such records will be placed in a secure location under the custody of FSA CED for a period of not less than 12 months after the date of notification by the Administrator, FSA, that the final results have been announced by the Secretary. If the county FSA office receives no notice to the contrary from the Administrator, FSA, by the end of the 12 month period as described above, the CED or designee shall destroy the records.

§ 1221.233 Instructions and forms.

The Administrator, AMS, is authorized to prescribe additional instructions and forms not inconsistent with the provisions of this subpart.

§ 1221.234 Confidentiality

The names of persons voting in the referendum and ballots shall be confidential and the contents of the ballots shall not be divulged except as the Secretary may direct. The public may witness the opening of the ballot box and the counting of the votes but may not interfere with the process.

Dated: November 10, 2010.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2010–29106 Filed 11–17–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

7 CFR Part 3430

[0524–AA64]

Competitive and Noncompetitive Nonformula Federal Assistance Programs—Administrative Provisions for the Sun Grant Program

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: The National Institute of Food and Agriculture (NIFA), formerly the Cooperative State Research, Education, and Extension Service (CSREES), is publishing a set of specific administrative requirements as subpart O to 7 CFR part 3430 for the Sun Grant Program to supplement the Competitive and Noncompetitive Non-formula Federal Assistance Programs—General Award Administrative Provisions for this program. The Sun Grant Program is authorized under section 7526 of the Food, Conservation, and Energy Act of 2008 (FCEA).

DATES: This interim rule is effective on November 18, 2010. The Agency must receive comments on or before March 18, 2011.

ADDRESSES: You may submit comments, identified by Regulatory Information Number (RIN) 0524–AA64, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

E-mail: policy@NIFA.usda.gov. Include RIN 0524–AA64 in the subject line of the message.

Fax: 202–401–7752.

Mail: Paper, disk or CD–ROM submissions should be submitted to National Institute of Food and Agriculture; U.S. Department of Agriculture; STOP 2299; 1400 Independence Avenue, SW.; Washington, DC 20250–2299.

Hand Delivery/Courier: National Institute of Food and Agriculture; U.S. Department of Agriculture; Room 2255, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024.

Instructions: All comments submitted must include the agency name and the RIN for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Carmela Bailey, National Program Leader, Plant and Animal Systems, National Institute of Food and Agriculture, U.S. Department of Agriculture, STOP 3356, 1400 Independence Avenue, Washington, DC 20250–3356; Voice: 202–401–6443; Fax: 202–401–4888; E-mail: *cbailey@NIFA.usda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Summary

Authority

Section 7526 of the Food, Conservation, and Energy Act of 2008 (FCEA), Public Law 110–246 (7 U.S.C. 8114), provides authority to the Secretary of Agriculture (Secretary) to establish and carry out the Sun Grant Program under which grants are provided to Sun Grant Centers (hereafter, the Center(s)) and a Subcenter (as designated in section 7526(b)(1)(A)–(F) of the FCEA) for the purpose of subawarding 75 percent of USDA-awarded funds through a regional competitive grants program administered by the Centers and Subcenter to fund multi-institutional

and multistate research, extension, and education programs on technology development and integrated research, extension, and education programs on technology implementation, in accordance with the purpose and priorities as described in section 7526. The Centers and Subcenter will utilize the remaining balance of USDA-awarded funds (after using up to 4 percent of the USDA-awarded funds for the administrative expenses of carrying out the regional competitive grants program) to conduct such programs at the respective Center or the Subcenter. Additionally, section 7526(d) of the FCEA requires the Centers and Subcenter to jointly develop and submit to the Secretary for approval a plan for addressing the bioenergy, biomass, and gasification research priorities of USDA and the Department of Energy at the State and regional levels. With respect to gasification research activities, the Centers and Subcenter are required to coordinate planning with land-grant colleges and universities in their respective regions that have ongoing research activities in that area. The Centers and Subcenter must use the approved plan in making grants and must give priority to programs that are consistent with the plan.

Section 7526(e) of the FCEA also requires the Centers and Subcenter to maintain, at the North-Central Center, a Sun Grant Information Analysis Center to provide the Centers and Subcenter with analysis and data management support.

The USDA authority to carry out this program has been delegated to NIFA through the Under Secretary for Research, Education, and Economics.

Purpose

The objectives of the Sun Grant Program are to enhance national energy security through the development, distribution, and implementation of biobased energy technologies; to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies; to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration among USDA, the Department of Energy, and land-grant colleges and universities.

Organization of 7 CFR Part 3430

A primary function of NIFA is the fair, effective, and efficient administration of Federal assistance programs implementing agricultural research, education, and extension programs. As noted above, NIFA has been delegated the authority to administer this program and will be issuing Federal assistance awards for funding made available for this program; and thus, awards made under this authority will be subject to the Agency's assistance regulations at 7 CFR part 3430, Competitive and Noncompetitive Non-formula Federal Assistance Programs—General Award Administrative Provisions. The Agency's development and publication of these regulations for its non-formula Federal assistance programs serve to enhance its accountability and to standardize procedures across the Federal assistance programs it administers while providing transparency to the public. NIFA published 7 CFR part 3430 with subparts A through F as an interim rule on August 1, 2008 [73 FR 44897–44909] and as a final rule on September 4, 2009 [74 FR 45736–45752]. These regulations apply to all Federal assistance programs administered by NIFA except for the formula grant programs identified in 7 CFR 3430.1(f), the Small Business Innovation Research programs, with implementing regulations at 7 CFR part 3403, and the Veterinary Medicine Loan Repayment Program (VMLRP) authorized under section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA), with implementing regulations at 7 CFR part 3431.

NIFA organized the regulation as follows: Subparts A through E provide administrative provisions for all competitive and noncompetitive non-formula Federal assistance awards. Subparts F and thereafter apply to specific NIFA programs.

NIFA is, to the extent practical, using the following subpart template for each program authority: (1) Applicability of regulations, (2) purpose, (3) definitions (those in addition to or different from § 3430.2), (4) eligibility, (5) project types and priorities, (6) funding restrictions (including indirect costs), and (7) matching requirements. Subparts F and thereafter contain the above seven components in this order. Additional sections may be added for a specific program if there are additional requirements or a need for additional rules for the program (*e.g.,* additional reporting requirements).

Through this rulemaking, NIFA is adding subpart O for the administrative provisions that are specific to the Federal assistance awards made under the Sun Grant Program authority.

Timeline for Implementing Regulations

NIFA is publishing this rule as an interim rule with a 120-day comment period and anticipates publishing a final rule by June 20, 2011. However, in the interim, these regulations apply to the Federal assistance awards made under the Sun Grant Program authority.

II. Administrative Requirements for the Proposed Rulemaking

Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget. This interim rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; nor will it materially alter the budgetary impact of entitlements, grants, user fees, or loan programs; nor will it have an annual effect on the economy of $100 million or more; nor will it adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way. Furthermore, it does not raise a novel legal or policy issue arising out of legal mandates, the President's priorities or principles set forth in the Executive Order.

Regulatory Flexibility Act of 1980

This interim rule has been reviewed in accordance with the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612. The Department concluded that the rule will not have a significant economic impact on a substantial number of small entities. The rule does not involve regulatory and informational requirements regarding businesses, organizations, and governmental jurisdictions subject to regulation.

Paperwork Reduction Act (PRA)

The Department certifies that this interim rule has been assessed in accordance with the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* (PRA). The Department concludes that this interim rule does not impose any new information requirements; however, the burden estimates will increase for existing approved information collections associated with this rule due to additional applicants. These estimates will be provided to OMB. In addition to the SF–424 form families (*i.e.,* Research

and Related and Mandatory), and the SF–425 Federal Financial Report; NIFA has three currently approved OMB information collections associated with this rulemaking: OMB Information Collection No. 0524–0042, NIFA Current Research Information System (CRIS); No. 0524–0041, NIFA Application Review Process; and No. 0524–0026, Assurance of Compliance with the Department of Agriculture Regulations Assuring Civil Rights Compliance and Organizational Information.

Catalog of Federal Domestic Assistance

This interim regulation applies to the Federal assistance program administered by NIFA under the Catalog of Federal Domestic Assistance (CFDA) No. 10.320, Sun Grant Program.

Unfunded Mandates Reform Act of 1995 and Executive Order 13132

The Department has reviewed this interim rule in accordance with the requirements of Executive Order No. 13132 and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.,* and has found no potential or substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As there is no Federal mandate contained herein that could result in increased expenditures by State, local, or tribal governments, or by the private sector, the Department has not prepared a budgetary impact statement.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

The Department has reviewed this interim rule in accordance with Executive Order 13175, and has determined that it does not have "tribal implications." The interim rule does not "have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes."

Clarity of This Regulation

Executive Order 12866 and the President's Memorandum of June 1, 1998, require each agency to write all rules in plain language. The Department invites comments on how to make this interim rule easier to understand.

List of Subjects in 7 CFR Part 3430

Administrative practice and procedure, Agricultural research, Education, Extension, Federal assistance.

■ Accordingly, Chapter XXXIV of Title 7 of the Code of Federal Regulations is amended as set forth below:

PART 3430—COMPETITIVE AND NONCOMPETITIVE NON-FORMULA FEDERAL ASSISTANCE PROGRAMS—GENERAL AWARD ADMINISTRATIVE PROVISIONS

■ 1. The authority for part 3430 continues to read as follows:

Authority: 7 U.S.C. 3316; Pub. L. 106–107 (31 U.S.C. 6101 note).

Subpart N—[Added and Reserved]

■ 2. Add and reserve subpart N.

■ 3. Add a new subpart O, to read as follows:

Subpart O—Sun Grant Program

Sec.
3430.1000 Applicability of regulations.
3430.1001 Purpose.
3430.1002 Definitions.
3430.1003 Eligibility.
3430.1004 Project types and priorities.
3430.1005 Funding restrictions.
3430.1006 Matching requirements.
3430.1007 Planning activities.
3430.1008 Sun Grant Information Analysis Center.
3430.1009 Administrative duties.
3430.1010 Review criteria.
3430.1011 Duration of awards.

Subpart O—Sun Grant Program

§ 3430.1000 Applicability of regulations.

The regulations in this subpart apply to the Federal assistance awards made under the program authorized under section 7526 of the Food, Conservation, and Energy Act of 2008 (FCEA), Pub. L. 110–246 (7 U.S.C. 8114).

§ 3430.1001 Purpose.

In carrying out the program, NIFA is authorized to make awards under section 7526 of the FCEA to eligible entities (as designated in section 7526(b)(1)(A)–(F) of the FCEA) to fund subgrants and activities that:

(a) Enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

(b) Promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

(c) Promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

(d) Enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration among the Department, the Department of Energy, and land-grant colleges and universities.

§ 3430.1002 Definitions.

The definitions specific to the Sun Grant Program are from the authorizing legislation, the National Program Leadership of NIFA, and the Department of Energy. The definitions applicable to the program under this subpart include:

Biobased product means:

(1) An industrial product (including chemicals, materials, and polymers) produced from biomass; or

(2) A commercial or industrial product (including animal feed and electric power) derived in connection with the conversion of biomass to fuel.

Bioenergy means power generated in the form of electricity or heat using biomass as a feedstock.

Center means a Sun Grant Center identified in § 3430.1003(a)(1) through (5).

Gasification means a process that converts carbonaceous materials, such as biomass, into carbon monoxide and hydrogen by reacting the raw material, high temperatures with a controlled amount of oxygen and/or steam.

Subcenter means the Sun Grant Subcenter identified in § 3430.1003(a)(6).

Technology development means the process of research and development of technology.

Technology implementation means the introduction of new technologies to either an existing organization, or to a larger community, such as a type of business.

§ 3430.1003 Eligibility.

(a) *Sun Grant Centers and Subcenter.* NIFA will use amounts appropriated for the Sun Grant Program to provide grants to the following five Centers and one Subcenter:

(1) A North-Central Center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming;

(2) A Southeastern Center at the University of Tennessee at Knoxville for the region composed of the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, the Commonwealth of Puerto Rico, and the United States Virgin Islands;

(3) A South-Central Center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana,

Missouri, New Mexico, Oklahoma, and Texas;

(4) A Northeastern Center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia;

(5) A Western Center at Oregon State University for the region composed of the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington, and insular areas (other than the Commonwealth of Puerto Rico and the United States Virgin Islands); and

(6) A Western Insular Pacific Subcenter at the University of Hawaii (that receives Federal funds through the Western Center rather than directly from NIFA, in accordance with § 3430.1004(b)) for the region of Alaska, Hawaii, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(b) *Subawardees of the Centers and Subcenter.* To be eligible for a subaward from a Center or Subcenter pursuant to § 3430.1004(a)(1), an applicant:

(1) Must be located in the region covered by the applicable Center or Subcenter; and

(2) Must be one of the following:

(i) State agricultural experiment station;

(ii) College or university;

(iii) University research foundation;

(iv) Other research institution or organization;

(v) Federal agency;

(vi) National laboratory;

(vii) Private organization or corporation;

(viii) Individual; or

(ix) Any group consisting of 2 or more entities described in paragraphs (b)(2)(i) through (viii) of this section.

(c) *Ineligibility.* A Center or Subcenter will be ineligible for funding under the Sun Grant Program if NIFA determines on the basis of an audit or a review of a report submitted under § 3430.1009 that the Center or Subcenter has not complied with the requirements of section 7526 of the FCEA (7 U.S.C. 8114). A Center or Subcenter determined to be ineligible pursuant to this paragraph will remain ineligible for such period of time as deemed appropriate by NIFA. This ineligibility requirement is in addition to the enforcement actions that NIFA may take pursuant to § 3430.60.

§ 3430.1004 Project types and priorities.

(a) *Project types.* The Sun Grant Program provides funds for two distinct project types. Subject to paragraph (b), of the funds provided by NIFA to the Centers and Subcenter, the required use of funds by each of the Centers and the Subcenter is as follows:

(1) *Regional competitive research, extension, and education grant programs.* Seventy-five percent must be used for regional competitively awarded research, extension, and education subgrants to eligible entities (described in § 3430.1003(b)) to conduct, in a manner consistent with the purposes described in § 3430.1001, multi-institutional and multistate research, extension, and education programs on technology development and multi-institutional and multistate integrated research, extension, and education programs on technology implementation. Regional competitive grants programs will target specific elements of the purposes described in § 3430.1001, implementing national priorities in the context of regional scale biogeographic and climatic conditions.

(i) *Requests for applications.* The Centers and Subcenter must develop regional requests for applications (RFAs) utilizing guidance from regional advisory panels created and administered by the Centers and Subcenter for purposes of addressing region-specific issues, and which include representation from academia, the national laboratories, Federal and State agencies, the private sector, and public interest groups. Advisory panel members will have appropriate expertise and experience in the areas of biomass and bioenergy.

(ii) *Peer review of proposals.* Each region will announce RFAs and solicit proposals. These proposals must be peer reviewed by panels in a manner similar to the system of peer review required by section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613), and may include representation from Federal and State laboratories, the national laboratories, and private and public interest groups, as appropriate. The Centers and Subcenter may use implementing regulations found in §§ 3430.31 through 3430.37 as a guideline for appropriate peer review standards. Additional guidance may be provided by NIFA. To ensure consistency across the regions, prior to announcing the regional RFAs that will be used to solicit proposals, the Centers and Subcenter must provide NIFA the RFAs for approval by the designated NIFA program contact, as identified in the NIFA program solicitation. The Centers and Subcenter shall award subgrants on the basis of merit, quality, and relevance to advancing the purposes of the Sun Grant Program.

(2) *Research, extension, and education activities conducted at the Centers and Subcenter.* Except for funds available for administrative expenses as provided in § 3430.1005(b), the remainder of the funds must be used for multi-institutional and multistate research, extension, and education programs on technology development and multi-institutional and multistate integrated research, extension, and education programs on technology implementation, in a manner consistent with the purposes described in § 3430.1001.

(b) *Special provisions for the Western Center and Western Insular Pacific Subcenter.* Funds provided by NIFA to the Western Insular Pacific Subcenter shall come from an allocation of a portion of the funds received by the Western Center, as directed by NIFA in the program solicitation, rather than directly from NIFA. For the Center, the phrase "funds provided by NIFA" in paragraph (a) of this section refers to those funds provided by NIFA for the Sun Grant Program that are not allocated to the Subcenter. For the Subcenter, the phrase "funds provided by NIFA" in paragraph (a) of this section refers to those funds that are allocated to the Subcenter.

(c) *Priorities.* For the regional competitive grants program under paragraph (a)(1) of this section, the Centers and Subcenter shall use the plan approved by NIFA under § 3430.1007 in making subawards and shall give a higher priority to proposals that are consistent with the plan.

§ 3430.1005 Funding restrictions.

(a) *Facility costs.* Funds made available under the Sun Grant Program shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement, and architect fees).

(b) *Indirect cost provisions for regional competitive research, extension, and education grant programs.* Funds provided by NIFA to the Centers and Subcenter for the regional competitive grants program under § 3430.1004(a)(1) may not be used for the indirect costs of awarding the competitive grants. However, up to 4 percent of the total funds provided by NIFA to each of the five Centers and the Subcenter under § 3430.1004 for the Sun Grant Program may be budgeted for

administrative costs incurred in awarding the competitive grants.

(c) *Indirect cost provisions for research, extension, and education activities conducted at the Centers and Subcenter.* Subject to § 3430.54, indirect costs are allowable for the funds provided by NIFA to the Centers and the Subcenter for the research, extension, and education programs under § 3430.1004(a)(2).

(d) *Required allocations.* Each Center and Subcenter must fund subgrants in a proportion that is a minimum 30 percent for conducting multi-institutional and multistate research, extension, and education programs on technology development; and a minimum 30 percent for conducting integrated multi-institutional and multistate research, extension, and education programs on technology implementation. Each Sun Grant Center must clearly demonstrate a common procedure for ensuring the required allocations are met, and for maintaining documentation of these required percentages for audit purposes.

§ 3430.1006 Matching requirements.

(a) *Matching provisions for the Centers and Subcenter.* The Centers and the Subcenter are not required to match Federal funds.

(b) *Matching provisions for subawards.* For subawards made by the Centers or Subcenter through the competitive grants process, not less than 20 percent of the cost of an activity must be matched with funds, including in-kind contributions, from a non-Federal source, by the subawardee.

(1) *Exception for fundamental research.* This matching requirement does not apply to fundamental research (as defined in § 3430.2).

(2) *Special matching provisions for applied research.* With prior approval by the NIFA authorized departmental officer (ADO), the Center or Subcenter may reduce or eliminate the matching requirement for applied research (as defined in § 3430.2) if the Center or Subcenter determines that the reduction is necessary and appropriate pursuant to guidance issued by NIFA.

§ 3430.1007 Planning activities.

(a) *Required plan.* The Centers and Subcenter shall jointly develop and submit to NIFA for approval a plan for addressing the bioenergy, biomass, and gasification research priorities of the Department and the Department of Energy at the State and regional levels. To comply with this requirement, NIFA requires that the proposals from each of the five Centers be of similar format and subject matter and complementary to comprise a national program for purposes of serving as the actual "plan." Each proposal will present a plan that includes a description of what will be done in common and collectively by the Centers and Subcenter, what each will do as a Center and Subcenter, and how each Center and Subcenter will implement its regional competitive grants program. Proposals submitted to the Sun Grant Program must be sufficiently detailed and of high enough quality and demonstrate adequate evidence of collaboration to meet this requirement. Funds available for administrative costs (see § 3430.1005(b)) may be used to meet this requirement.

(b) Gasification. With respect to gasification research activities, the Centers and Subcenter shall coordinate planning with land-grant colleges and universities in their respective regions that have ongoing research activities in that area.

§ 3430.1008 Sun Grant Information Analysis Center.

The Centers and Subcenter shall maintain, at the North-Central Center, a Sun Grant Information Analysis Center to provide the Centers and Subcenter with analysis and data management support. Each Center and Subcenter shall allocate a portion of the funds available for administrative or indirect costs under § 3430.1005 to maintain the Sun Grant Information Analysis Center.

§ 3430.1009 Administrative duties.

In addition to other reporting requirements agreed to in the terms and conditions of each award, not later than 90 days after the end of each Federal fiscal year, each Center and Subcenter shall submit to NIFA a report that describes the policies, priorities, and operations of the program carried out by the Center or Subcenter during the fiscal year, including the results of all peer and merit review procedures conducted as part of administering the regional competitive research, extension, and educational grant programs; and a description of progress made in facilitating the plan described in § 3430.1007.

§ 3430.1010 Review criteria.

Panel reviewers conducting merit reviews on proposals submitted by the Centers will be instructed to ensure that proposals adequately address the plan developed in accordance with § 3430.1007 for consideration of the relevance and merit of proposals.

§ 3430.1011 Duration of awards.

The term of a Federal assistance award made under the Sun Grant Program shall not exceed 5 years. No-cost extensions of time beyond the maximum award terms will not be considered or granted.

Signed at Washington, DC, August 26, 2010.

Roger Beachy,

Director, National Institute of Food and Agriculture.

[FR Doc. 2010–29103 Filed 11–17–10; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 905

[Docket No. FR–4843–C–03]

RIN 2577–AC49

Use of Public Housing Capital Funds for Financing Activities

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule; correction.

SUMMARY: This publication makes a technical correction to the preamble of the final rule on Capital Fund Financing, published on October 21, 2010. That preamble erroneously included a paragraph in the "Findings and Certifications" section" headed "Congressional Review of Final Rules." That paragraph is only relevant where a rule is deemed economically significant, which this rule is not. Therefore, this paragraph should not have been included in the "Findings and Certifications" section of the preamble. Removing this paragraph makes no substantive change to the rule.

DATES: *Effective Date:* December 20, 2010.

FOR FURTHER INFORMATION CONTACT: Jeffrey Riddel, Director, Office of Capital Improvements, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410–8000; telephone number 202–708–1640, extension 4999 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: On October 21, 2010 (75 FR 65198), HUD published a final rule that implements the Capital Fund Finance Program (CFFP) to allow public housing agencies (PHAs) to use a portion of their Capital Funds for financing activities, including modernization and development activities along with the payment of

debt service on the financing. This final rule followed a proposed rule published on July 18, 2007 (72 FR 39546), that included financing options under both the Capital Fund and the Operating Fund, and that provided a 60-day period for public comment. Ultimately, only the Capital Fund portion became a final rule.

During the period when HUD was responding to public comments and producing the final rule, the Department held discussions internally on the issue of whether this rule would have an annual effect on the economy of $1 million or more, and therefore was an economically significant rule under Executive Order 12866 (Regulatory Planning and Review), and a major rule under the Congressional Review Act (5 U.S.C. 801 *et seq. See,* specifically, the 5 U.S.C. 804 definition of "major rule"). The Department concluded that this rule would not have an annual effect on the economy of $1 million or more, and the Office of Management and Budget (OMB) agreed with HUD's final assessment while the rule was under OMB review in accordance with Executive Order 12866. The economic impact of this rule is addressed in Section IV (Findings and Certifications) of the preamble to the final rule at 75 FR 65206 through 65208.

Following HUD's final assessment that the rule was not economically significant, HUD failed to remove the "Congressional Review of Final Rules," paragraph from the preamble (*see* 75 FR 65208), which is used by HUD in the case of major, economically significant rules under the Congressional Review Act and the Executive Order. This paragraph and its heading should not have been included in this preamble. This document corrects this error. This correction does not substantively change the rule.

Accordingly, FR Doc. 2010–26404, Use of Public Housing Capital Funds for Financing Activities (FR–4843–F–02), published in the **Federal Register** on October 21, 2010 (75 FR 65198), is corrected as follows:

On page 65208, in the second column, the paragraph entitled "Congressional Review of Final Rules" is removed.

Dated: November 15, 2010.

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. 2010–29134 Filed 11–17–10; 8:45 am]

BILLING CODE 4210–67–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2009–0922; FRL–8853–2]

RIN 2070–AB27

Cobalt Lithium Manganese Nickel Oxide; Withdrawal of Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is withdrawing a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance identified as cobalt lithium manganese nickel oxide (CAS No. 182442–95–1), which was the subject of premanufacture notice (PMN) P–04–269. EPA published the SNUR using direct final rulemaking procedures. EPA received a notice of intent to submit adverse comments on the rule. Therefore, the Agency is withdrawing the SNUR, as required under the expedited SNUR rulemaking process. Elsewhere in today's **Federal Register**, EPA is publishing (under separate notice and comment rulemaking procedures), a proposed SNUR for this substance.

DATES: This final rule is effective November 19, 2010.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; e-mail address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

A list of potentially affected entities is provided in the **Federal Register** of September 20, 2010 (75 FR 57169) (FRL–8839–7). If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What rule is being withdrawn?

In the **Federal Register** of September 20, 2010 (75 FR 57169), EPA issued several direct final SNURs, including a SNUR for the chemical substance that is the subject of this withdrawal. These direct final rules were issued pursuant to the procedures in 40 CFR part 721, subpart D. In accordance with 40 CFR 721.160(c)(3)(ii), EPA is withdrawing the rule issued for cobalt lithium manganese nickel oxide (PMN P–04–269; CAS No. 182442–95–1) at 40 CFR 721.10201 because the Agency received a notice of intent to submit adverse comments. Elsewhere in today's **Federal Register**, EPA is proposing a SNUR for this chemical substance via notice and comment rulemaking.

For further information regarding EPA's expedited process for issuing SNURs, interested parties are directed to 40 CFR part 721, subpart D, and the **Federal Register** of July 27, 1989 (54 FR 31314). The record for the direct final SNUR for the chemical substance being withdrawn was established at EPA–HQ–OPPT–2009–0922. That record includes information considered by the Agency in developing the rule and the notice of intent to submit adverse comments.

III. How do I access the docket?

To access the electronic docket, please go to *http://www.regulations.gov* and follow the online instructions to access docket ID no. EPA–HQ–OPPT–2009–0922. Additional information about the Docket Facility is provided under **ADDRESSES** in the **Federal Register** document of September 20, 2010 (75 FR 57169). If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

IV. What statutory and executive order reviews apply to this action?

This final rule revokes or eliminates an existing regulatory requirement and does not contain any new or amended requirements. As such, the Agency has determined that this withdrawal will not have any adverse impacts, economic or otherwise. The statutory and executive order review requirements applicable to the direct final rule were discussed in the **Federal Register** document of September 20, 2010 (75 FR 57169). Those review requirements do not apply to this action because it is a withdrawal and does not contain any new or amended requirements.

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and

other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 10, 2010.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

■ Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. The table in § 9.1 is amended by removing under the undesignated center heading "Significant New Uses of Chemical Substances" § 721.10201.

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.10201 [Removed]

■ 4. Remove § 721.10201.

[FR Doc. 2010–29147 Filed 11–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[EPA–HQ–OAR–2009–0330; FRL–9227–4]

Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance With the Disposal Regulations: Recertification Decision

AGENCY: Environmental Protection Agency.

ACTION: Recertification decision.

SUMMARY: With this document, the Environmental Protection Agency (EPA) recertifies that the U.S. Department of Energy's (DOE) Waste Isolation Pilot Plant (WIPP) continues to comply with the "Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic (TRU) Radioactive Waste." EPA initially certified that WIPP met applicable regulatory requirements on May 18, 1998, and the first shipment of waste was received at WIPP on March 26, 1999. The first Compliance Recertification Application (CRA) was submitted by DOE to EPA on March 26, 2004, and the Agency's first recertification decision was issued on March 29, 2006.

DATES: Effective November 18, 2010.

FOR FURTHER INFORMATION CONTACT: Ray Lee or Jonathan Walsh, Radiation Protection Division, Mail Code 6608J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number: 202–343–9463 or 202–343–9238; fax number: 202–343–2305; e-mail address: *lee.raymond@epa.gov* or *walsh.jonathan@epa.gov.* Copies of the Compliance Application Review Documents (CARDs) supporting today's action and all other recertification-related documentation can be found in the Agency's electronic docket found at *http://www.regulations.gov* (FDMS Docket ID No. EPA–HQ–OAR–2009–0330) or on its WIPP Web site (*http://www.epa.gov/radiation/wipp*).

SUPPLEMENTARY INFORMATION: EPA initially certified that WIPP met applicable regulatory requirements on May 18, 1998 (63 FR 27354), and the first shipment of waste was received at WIPP on March 26, 1999. The first Compliance Recertification Application (CRA) was submitted by DOE to EPA on March 26, 2004, and the Agency's first recertification decision was issued on March 29, 2006 (71 FR 18010–18021).

This action represents the Agency's second periodic evaluation of WIPP's continued compliance with the disposal regulations and WIPP Compliance Criteria. The compliance criteria implement and interpret the disposal regulations specifically for WIPP. As directed by Congress in the WIPP Land Withdrawal Act (LWA), this "recertification" process will occur five years after the WIPP's initial receipt of TRU waste (March 26, 1999), and every five years thereafter (*e.g.,* March 2004, March 2009) until the end of the decommissioning phase. For each recertification—including the one being announced with today's action—DOE must submit documentation of the site's continuing compliance with the disposal regulations to EPA for review. In accordance with the WIPP Compliance Criteria, documentation of continued compliance was made available in EPA's dockets, and the public was provided at least a 30-day period in which to submit comments. In addition, all recertification decisions must be announced in the **Federal Register**. According to the WIPP LWA, Section 8(f), these periodic recertification determinations are not subject to rulemaking or judicial review.

This action is not a reconsideration of the decision to open WIPP. Rather, recertification is a process that evaluates changes at WIPP to determine if the facility continues to meet all the requirements of EPA's disposal regulations. The recertification process ensures that WIPP's continued compliance is demonstrated using the most accurate, up-to-date information available.

This recertification decision is based on a thorough review of information submitted by DOE, independent technical analyses, and public comments. The Agency has determined that DOE continues to meet all applicable requirements of the WIPP Compliance Criteria, and with this notice, recertifies the WIPP facility. This recertification decision does not otherwise amend or affect EPA's radioactive waste disposal regulations or the WIPP Compliance Criteria.

Table of Contents

I. General Information
II. What is WIPP?
  A. 1998 Certification Decision
  B. 2006 Recertification Decision
III. With which regulations must WIPP comply?
  A. Radioactive Waste Disposal Regulations & Compliance Criteria
  B. Compliance With Other Environmental Laws and Regulations
IV. What has EPA's role been at WIPP since the 1998 certification decision?
  A. Continuing Compliance
  B. Annual Change Reports

C. Monitoring the Conditions of Compliance
D. Inspections and Technical Exchanges
V. What is EPA's 2010 recertification decision?
A. What information did the Agency examine to make its final decision?
B. Content of the Compliance Recertification Application (§§ 194.14 and 194.15)
C. Performance Assessment: Modeling and Containment Requirements (§§ 194.14, 194.15, 194.23, 194.31 through 194.34)
D. General Requirements
E. Assurance Requirements (§§ 194.41 Through 194.46)
F. Individual and Groundwater Protection Requirements (§§ 194.51 Through 194.55)
VI. How has the public been involved in EPA's WIPP recertification activities?
A. Public Information
B. Stakeholder Meetings
C. Public Comments on Recertification
VII. Where can I get more information about EPA's WIPP-related activities?
A. Supporting Documents for Recertification
B. WIPP Web Site & WIPP–NEWS E-mail Listserv
C. Dockets
VIII. What happens next for WIPP? What is EPA's role in future WIPP activities?

I. General Information

A. How can I get copies of this document and other related information?

1. *Docket.* EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2009–0330. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742. As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

II. What is WIPP?

The Waste Isolation Pilot Plant (WIPP) is a disposal system for defense-related transuranic (TRU) radioactive waste. Developed by the Department of Energy (DOE), WIPP is located near Carlsbad in southeastern New Mexico. At WIPP, radioactive waste is disposed of 2,150 feet underground in an ancient salt layer which will eventually creep and encapsulate the waste. WIPP has a total capacity of 6.2 million cubic feet of waste.

Congress authorized the development and construction of WIPP in 1980 "for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States."[1] The waste which may be emplaced in the WIPP is limited to TRU radioactive waste generated by defense activities associated with nuclear weapons; no high-level waste or spent nuclear fuel from commercial power plants may be disposed of at the WIPP. TRU waste is defined as materials containing alpha-emitting radioisotopes, with half lives greater than twenty years and atomic numbers above 92, in concentrations greater than 100 nano-curies per gram of waste.[2]

Most TRU waste proposed for disposal at the WIPP consists of items that have become contaminated as a result of activities associated with the production of nuclear weapons (or with the clean-up of weapons production facilities), *e.g.,* rags, equipment, tools, protective gear, and organic or inorganic sludges. Some TRU waste is mixed with hazardous chemicals. Some of the waste proposed for disposal at the WIPP is currently located at Federal facilities across the United States, including locations in California, Idaho, Illinois, New Mexico, Nevada, Ohio, South Carolina, Tennessee, and Washington.

The WIPP LWA, passed initially by Congress in 1992 and amended in 1996, is the statute that provides EPA the authority to oversee and regulate the WIPP. (Prior to the passage of the WIPP LWA in 1992, DOE was self-regulating with respect to WIPP; that is, DOE was responsible for determining whether its own facility complied with applicable regulations for radioactive waste disposal.) The WIPP LWA delegated to EPA three main tasks, to be completed sequentially, for reaching an initial compliance certification decision. First, EPA was required to finalize general regulations which apply to all sites—except Yucca Mountain—for the disposal of highly radioactive waste.[3] These disposal regulations, located at subparts B and C of 40 CFR part 191, were published in the **Federal Register** in 1985 and 1993.[4]

Second, EPA was to develop criteria, by rulemaking, to implement and interpret the general radioactive waste disposal regulations specifically for the WIPP. In 1996, the Agency issued the WIPP Compliance Criteria, which are found at 40 CFR part 194.[5]

Third, EPA was to review the information submitted by DOE and publish a certification decision.[6] The Agency issued its certification decision on May 18, 1998, as required by Section 8 of the WIPP LWA (63 FR 27354–27406).

A. 1998 Certification Decision

The WIPP LWA, as amended, required EPA to evaluate whether the WIPP site complied with EPA's standards for the disposal of radioactive waste. On May 18, 1998 (63 FR 27354–27406), EPA determined that the WIPP met the standards for radioactive waste disposal. This decision allowed the emplacement of radioactive waste in the WIPP to begin, provided that all other applicable health and safety standards, and other legal requirements, had been met. The first shipment of TRU waste was received at WIPP on March 26, 1999.

Although EPA determined that DOE met all of the applicable requirements of the WIPP Compliance Criteria in its original certification decision (63 FR 27354–27406; May 18, 1998), EPA also found that it was necessary for DOE to take additional steps to ensure that the measures actually implemented at the WIPP (and thus the circumstances expected to exist there) were consistent with DOE's Compliance Certification Application (CCA) and with the basis for EPA's compliance certification. To address these situations, EPA amended the WIPP Compliance Criteria, 40 CFR part 194, and appended four explicit conditions to its certification of compliance for the WIPP.

Condition 1 of the certification applies to the panel closure system, which is intended, over the long-term, to block brine flow between waste panels in WIPP. In the CCA, DOE presented four options for the design of the panel closure system, but did not specify which one would be constructed at the WIPP facility. The Agency based

[1] Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980, Public Law 96–164, section 213.

[2] WIPP Land Withdrawal Act, Public Law 102–579, section 2(18), as amended by the 1996 WIPP LWA Amendments, Public Law 104–201.

[3] WIPP LWA, section 8(b).

[4] 50 FR 38066–38089 (September 19, 1985) and 58 FR 66398–66416 (December 20, 1993).

[5] 61 FR 5224–5245 (February 9, 1996).

[6] WIPP LWA, section 8(d).

its certification decision on DOE's use of the most robust design (referred to in the CCA as "Option D"). Condition 1 of EPA's certification required DOE to implement the Option D panel closure system at WIPP, with Salado mass concrete replacing fresh water concrete.

Conditions 2 and 3 of the final certification decision apply to activities conducted at waste generator sites that produce TRU waste proposed for disposal at WIPP. The WIPP Compliance Criteria (§§ 194.22 and 194.24) require DOE to have, in place, a system of controls to measure and track important waste components, and to apply quality assurance (QA) programs to waste characterization activities. These two Conditions state that EPA must separately approve the QA programs for other generator sites (Condition 2) and the waste characterization system of controls for other waste streams (Condition 3). The approval process includes an opportunity for public comment, and an inspection or audit of the waste generator site by EPA. The Agency's approvals of waste characterization systems of controls and QA programs are conveyed by letter from EPA to DOE. EPA also made changes to the compliance criteria in July 2004 (69 FR 42571–42583). These new provisions provide equivalent or improved oversight and better prioritization of technical issues in EPA inspections to evaluate waste characterization activities at DOE WIPP waste generator sites. The new provisions also offer more direct public input into EPA's decisions about what waste can be disposed of at WIPP. The Agency continues to conduct independent inspections to evaluate a site's waste characterization capabilities, consistent with Conditions 2 and 3.

Condition 4 of the certification applies to passive institutional controls (PICs). The WIPP Compliance Criteria require DOE to use both records and physical markers to warn future societies about the location and contents of the disposal system, and thus to deter inadvertent intrusion into the WIPP (§ 194.43). In the CCA, EPA allowed DOE to delay submission of a final PICs design. Condition 4 of the certification requires DOE, prior to the submission of the final recertification application, to submit a revised schedule showing that markers and other measures will be implemented as soon as possible after closure of the WIPP. The Department also must provide additional documentation showing that it is feasible to construct markers and place records in archives as described in the CCA. After WIPP's closure, DOE will not be precluded from implementing additional PICs beyond those described in the application. DOE recently requested a delay for all PICs activities until approximately ten years prior to the decommissioning of the WIPP facility (which is currently anticipated in 2033). EPA approved the delay (March 7, 2008; Air Docket A–98–49, Item II–B2–67), with the condition that it was based on current projections and activities and also revised the schedule that was proposed originally in November 2002 (Air Docket A–98–49, Item II–B3–41). This schedule not only gave DOE more time to seek out the most viable PICs options, but also ensured that testing and research is in fact being done and reported to EPA on a regular basis.

The complete record and basis for EPA's 1998 certification decision can be found in Air Docket A–93–02.

B. 2006 Recertification Decision

After the 1998 certification decision, EPA continued to conduct ongoing independent technical review and inspections of all WIPP activities related to compliance with the EPA's disposal regulations. The initial certification decision identified the starting (baseline) conditions for WIPP and established the waste and facility characteristics necessary to ensure proper disposal in accordance with the regulations. At that time, EPA and DOE understood that future information and knowledge gained from the actual operation of WIPP would result in changes to the best practices and procedures for the facility. In recognition of this, section 8(f) of the amended WIPP LWA requires EPA to evaluate all changes in conditions or activities at WIPP every five years to determine if WIPP continues to comply with EPA's disposal regulations for the facility.

The first recertification process, which occurred in 2004–2006, included a review of all of the changes made at the WIPP facility since the original 1998 EPA certification decision to the submittal of the initial CRA. The Agency received DOE's first CRA on March 26, 2004. On May 24, 2004, EPA announced the availability of the CRA–2004 and EPA's intent to evaluate compliance with the disposal regulations and compliance criteria in the **Federal Register** (69 FR 29646–29649). At that time, EPA also began accepting public comments on the application. Following over a year of requests for additional information from DOE, EPA issued its completeness determination for the CRA–2004 on September 29, 2005 (70 FR 61107–61111). "Completeness determinations" are solely administrative steps and do not reflect any conclusion regarding WIPP's continued compliance with the disposal regulations.

All completeness determinations are made using a number of the Agency's WIPP-specific guidances; most notably, the "Compliance Application Guidance" (CAG; EPA Pub. 402–R–95–014) and "Guidance to the U.S. Department of Energy on Preparation for Recertification of the Waste Isolation Pilot Plant with 40 CFR parts 191 and 194" (Docket A–98–49, Item II–B3–14; December 12, 2000). Both guidance documents include guidelines regarding: (1) Content of certification/recertification applications; (2) documentation and format requirements; (3) time frame and evaluation process; and (4) change reporting and modification. The Agency developed these guidance documents to assist DOE with the preparation of any compliance application for the WIPP. They are also intended to assist in EPA's review of any application for completeness and to enhance the readability and accessibility of the application for EPA and public scrutiny.

Following the September 2005 completeness determination, EPA began its in-depth technical review on the CRA–2004 using the entire record available to the Agency, which is located in EPA's official Dockets (FMDS Docket ID No. EPA–HQ–OAR–2004–0025 found at *http:www.regulations.gov,* and also Air Docket A–98–49). Much of the CRA–2004 documentation was also placed on the Agency's WIPP Web site (*http://www.epa.gov/radiation/wipp/2004application.html* and *http://www.epa.gov/radiation/wipp/2006recertfication.html*).

EPA's technical review evaluated compliance of the CRA–2004 with each section of the WIPP Compliance Criteria. The Agency focused its review on areas of change relative to the original certification decision as identified by DOE, in order to ensure that the effects of the changes have been addressed. EPA also made sure to address any substantial public comments received on the application (*e.g.,* karst, waste inventory) in its Compliance Application Review Documents (CARDs) and Technical Support Documents (TSDs). On March 29, 2006, EPA officially recertified the WIPP facility for the first time, exactly six months following the September 2005 completeness determination.

III. With which regulations must WIPP comply?

A. Radioactive Waste Disposal Regulations & Compliance Criteria

WIPP must comply with EPA's radioactive waste disposal regulations, located at subparts B and C of 40 CFR part 191. These regulations limit the amount of radioactive material which may escape from a disposal facility, and protect individuals and ground water resources from dangerous levels of radioactive contamination. In addition, the Compliance Recertification Application (CRA) and other information submitted by DOE must meet the requirements of the WIPP Compliance Criteria at 40 CFR part 194. The WIPP Compliance Criteria implement and interpret the general disposal regulations specifically for WIPP, and clarify the basis on which EPA's certification decision is made.

B. Compliance With Other Environmental Laws and Regulations

The WIPP must also comply with a number of other environmental and safety regulations in addition to EPA's disposal regulations [7]—including, for example, the Solid Waste Disposal Act and EPA's environmental standards for the management and storage of radioactive waste. Various regulatory agencies are responsible for overseeing the enforcement of these Federal laws. For example, enforcement of some parts of the hazardous waste management regulations has been delegated to the State of New Mexico. The State is authorized by EPA to carry out the State's Resource Conservation and Recovery Act (RCRA) programs in lieu of the equivalent Federal programs. New Mexico's Environment Department (NMED) reviews DOE's permit applications for treatment, storage, and disposal facilities for hazardous waste, under Subtitle C of RCRA. The State's authority for such actions as issuing a hazardous waste operating permit for the WIPP is in no way affected by EPA's recertification decision. It is the responsibility of the Secretary of Energy to report the WIPP's compliance with all applicable Federal laws pertaining to public health and the environment to EPA and the State of New Mexico.[8] Compliance with environmental or public health regulations other than EPA's disposal regulations and WIPP Compliance Criteria is not addressed by today's action.

[7] Compliance with these regulations is addressed in the site's Biennial Environmental Compliance Report (BECR).

[8] WIPP LWA, sections 7(b)(3) and 9.

IV. What has EPA's role been at WIPP since the 1998 certification decision and 2006 recertification decision?

A. Continuing Compliance

Since EPA's 1998 certification decision (and through the initial 2006 recertification decision), the Agency has been monitoring and evaluating changes to the activities and conditions at WIPP. EPA monitors and ensures continuing compliance with EPA regulations through a variety of activities, including: Review and evaluation of DOE's annual change reports, monitoring of the conditions of compliance, inspections of the WIPP site, and inspections of waste characterization operations.

At any time, DOE must report any planned or unplanned changes in activities pertaining to the disposal system that differ significantly from the most recent compliance application (§ 194.4(b)(3)). The Department must also report any releases of radioactive material from the disposal system (§ 194.4(b)(3)(iii), (v)). Finally, EPA may request additional information from DOE at any time (§ 194.4(b)(2)). This information allows EPA to monitor the performance of the disposal system and evaluate whether the certification must be modified, suspended, or revoked to prevent or quickly reverse any potential danger to public health and the environment.

B. Annual Change Reports

Under § 194.4(b) DOE was required to submit a report of any changes to the conditions and activities at WIPP within six months of the 1998 certification decision and annually thereafter. DOE met this requirement by submitting the first change report in November 1998 and annually thereafter.

Since 1998, DOE's annual change reports have reflected the progress of quality assurance and waste characterization inspections, minor changes to DOE documents, information on monitoring activities, and any additional EPA approvals for changes in activities and conditions. All correspondence and approvals regarding the annual change reports can be found in Air Docket A–98–49, Categories II–B2 and II–B3.

C. Monitoring the Conditions of Compliance

As discussed previously, Condition 1 of the WIPP certification requires DOE to implement the Option D panel closure system at WIPP, with Salado mass concrete used in place of fresh water concrete. Since the 1998 certification decision, DOE has indicated that it would like to change the design of the Option D panel closure system selected by EPA (Air Docket A–98–49, Item II–B3–19). EPA chose to defer review of a new panel closure design until after issuing the first recertification decision (Air Docket A–98–49, Item II–B3–42). In November 2002, DOE requested permission to install only the explosion isolation portion of the Option D panel closure design until EPA and NMED can render their respective final decisions on DOE's request to approve a new design for the WIPP panel closure system. In December 2002, EPA approved DOE's request to install only the explosion wall and to extend the panel closure schedule until a new design is approved (Air Docket A–98–49, Item II–B3–44). In a January 11, 2007 letter (DOE 2007b), DOE requested panel closures be delayed until a new design could be approved. EPA approved this request in a February 22, 2007 letter (EPA 2007a), and expects DOE to re-submit a new panel closure design after the CRA–2009 recertification decision. Since 1998, the Agency has conducted numerous audits and inspections at waste generator sites in order to implement Conditions 2 and 3 of the compliance certification. Notices announcing EPA inspections or audits to evaluate implementation of QA and waste characterization (WC) requirements at waste generator facilities were published in the **Federal Register** and also periodically announced on the Agency's WIPP Web site (*http://www.epa.gov/radiation/wipp*) and WIPP-NEWS e-mail listserv. The public has had the opportunity to submit written comments on waste characterization activities and QA program plans submitted by DOE in the past, and based on the revised WIPP Compliance Criteria, are now able to submit comments on EPA's proposed waste characterization approvals (*See* 69 FR 42571–42583). As noted above, EPA's decisions on whether to approve waste generator QA program plans and waste characterization systems of controls—and thus, to allow shipment of specific waste streams for disposal at WIPP—are conveyed by a letter from EPA to DOE. The procedures for EPA's approval are incorporated in the amended WIPP Compliance Criteria in § 194.8.

Since 1998, EPA has audited and approved the QA programs at Carlsbad Field Office (CBFO), Washington TRU Solutions (WTS), Sandia National Laboratory (SNL), and at 11 other DOE organizations. Following the initial approval of a QA program, EPA conducts follow-up audits to ensure

continued compliance with EPA's QA requirements. EPA's main focus for QA programs has been the demonstration of operational independence, qualification, and authority of the QA program at each location.

EPA has approved waste characterization (WC) activities at multiple waste generator sites since 1998, including Idaho National Laboratory, Hanford, Rocky Flats Environmental Technology Site, Savannah River Site, Nevada Test Site, Argonne National Laboratory-East, and General Electric Vallecitos Nuclear Center. In the interim since the 2004 CRA, remote-handled waste streams were approved for shipment and emplaced at WIPP for the first time. EPA inspects waste generator sites to ensure that waste is being characterized and tracked according to EPA requirements. EPA's WC inspections focus on the personnel, procedures and equipment involved in WC. A record of EPA's WC and QA correspondences and approvals can be found in Air Docket A–98–49, Categories II–A1 and II–A4.

EPA will evaluate DOE's compliance with Condition 4 of the certification when DOE submits a revised schedule and additional documentation regarding the implementation of PICs. This documentation must be provided to EPA no later than the final recertification application. Once received, the information will be placed in EPA's public dockets, and the Agency will evaluate the adequacy of the documentation. During the operational period when waste is being emplaced in WIPP (and before the site has been sealed and decommissioned), EPA will verify that specific actions identified by DOE in the CCA, CRA, and supplementary information (and in any additional documentation submitted in accordance with Condition 4) are being taken to test and implement passive institutional controls.

D. Inspections

The WIPP Compliance Criteria provide EPA the authority to conduct inspections of activities at the WIPP and at all off-site facilities which provide information included in certification applications (§ 194.21). Since 1998, the Agency has conducted periodic inspections to verify the adequacy of information relevant to certification applications. EPA has conducted annual inspections at the WIPP site to review and ensure that the monitoring program meets the requirements of § 194.42. EPA has also inspected the emplacement and tracking of waste in the repository. The Agency's inspection reports can be found in Air Docket A–98–49, Categories II–A1 and II–A4.

V. What is EPA's 2010 recertification decision?

EPA recertifies that DOE's WIPP continues to comply with the requirements of subparts B and C of 40 CFR part 191. The following information describes EPA's determination of compliance with each of the WIPP Compliance Criteria specified by 40 CFR part 194.

The recertification process will not be used to approve any new significant changes proposed by DOE; any such proposals will be addressed separately by EPA. Recertification will ensure that WIPP is operated using the most accurate and up-to-date information available and provides documentation requiring DOE to operate to these standards.

A. What information did the Agency examine to make its final decision?

40 CFR part 194 sets out those elements which the Agency requires to be in any complete compliance application. In general, compliance applications must include information relevant to demonstrating compliance with each of the individual sections of 40 CFR part 194 to determine if the WIPP will comply with the Agency's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C. The Agency published the "Compliance Application Guidance for the Waste Isolation Pilot Plant: A Companion Guide to 40 CFR Part 194" (CAG) which provided detailed guidance on the submission of a complete compliance application (EPA Pub. No. 402–R–95–014, Air Docket A–93–02, Item II–B2–29).[10]

To make its decision, EPA evaluated basic information about the WIPP site and disposal system design, as well as information which addressed all the provisions of the compliance criteria. As required by § 194.15(a), DOE's CRA–2009 updated the previous compliance application (CRA–2004) with sufficient information for the Agency to determine whether or not WIPP continues to be in compliance with the disposal regulations.

As mentioned previously, the first step in recertification is termed the "completeness determination." "Completeness" is a key administrative step that EPA uses to determine that any recertification application addresses all the required regulatory elements and provides sufficient information for EPA to conduct a full, technical review. Following receipt of DOE's second CRA on March 24, 2009, EPA began to identify areas of the application where additional information was needed. A June 16, 2009 **Federal Register** notice announced availability of the CRA–2009 and opened the official public comment period. Over the course of the following 12 months, the Agency submitted five official letters (May 21, 2009; July 16, 2009; October 19, 2009; January 25, 2010; and February 22, 2010) to DOE requesting additional information regarding the CRA. The Department responded with a series of ten letters (August 24, 2009; September 30, 2009; November 25, 2009; January 12, 2010; February 22, 2010; March 31, 2010; April 12, 2010; April 19, 2010; May 26, 2010; and June 24, 2010) submitting all of the requested supplemental information to EPA. On June 29, 2010, EPA announced that DOE's recertification application was complete (75 FR 41421–41424).

EPA also relied on materials prepared by the Agency or submitted by DOE in response to EPA requests for specific additional information necessary to address technical sufficiency concerns. For example, EPA directed DOE to conduct a revised performance assessment—referred to as the performance assessment baseline calculation (PABC)—to address technical issues. Though recertification is not an official rulemaking, the Agency also considered public comments related to recertification, concerning both completeness and technical issues.

In summary, EPA's recertification decision is based on the entire record available to the Agency, which is located in its official dockets (FMDS Docket ID No. EPA–HQ–OAR–2009–0330, and Air Docket A–98–49). The record consists of the complete CRA, supplementary information submitted by DOE in response to EPA requests for additional information, technical reports generated by EPA, EPA audit and inspection reports, and public comments submitted on EPA's proposed recertification decision during the public comment period. All pertinent CRA–2009 correspondence was placed in our dockets (FDMS Docket No. OAR–2009–0330) and on our WIPP Web site (*http://www.epa.gov/radiation/wipp/2009application.html*).

EPA's technical review evaluated compliance of the CRA with each section of the WIPP Compliance Criteria. The Agency focused its review

[10] Section 194.11 provides that EPA's certification evaluation would not begin until EPA notified DOE of its receipt of a "complete" compliance application. This ensures that the full six-month period for EPA's review, as provided by the WIPP LWA, shall be devoted to substantive, meaningful review of the application (61 FR 5226).

on areas of change relative to the initial recertification decision as identified by DOE, in order to ensure that the effects of the changes have been addressed. As with its original recertification decision, EPA's evaluation of DOE's demonstration of continuing compliance with the disposal regulations is based on the principle of reasonable expectation. 40 CFR 191.13(b) states, "proof of the future performance of a disposal system is not to be had in the ordinary sense of the word in situations that deal with much shorter time frames. Instead, what is required is a reasonable expectation, on the basis of the record before the implementing agency, that compliance with § 191.13(a) will be achieved." As discussed in 40 CFR part 191, and applied to the 1998 certification decision and 2006 recertification decision, reasonable expectation is used because of the long time period involved and the nature of the events and processes at radioactive waste disposal facilities. There are inevitable and substantial uncertainties in projecting disposal system performance over long time periods. EPA applies reasonable expectation to the evaluation of both quantitative (*i.e.,* performance assessment) and qualitative (*i.e.,* assurance requirements) aspects of any compliance application.

The Agency produced a suite of documents during its technical review. EPA's Compliance Application Review Documents (CARDs) correspond in number to the sections of 40 CFR part 194 that they respectively address. Each CARD enumerates all changes made by DOE impacting a particular section of the rule, and EPA's process and conclusions. CARDs are found at Docket A–98–49, Category V–B. Technical Support Documents (TSDs) were prepared to address specific topics in greater detail, and are found in Docket A–98–49, Category II–B1. Together, the CARDs and TSDs thoroughly document EPA's review of DOE's compliance recertification application and the technical rationale for the Agency's decisions.

B. Content of the Compliance Recertification Application (§§ 194.14 and 194.15)

According to § 194.14, any compliance application must include, at a minimum, basic information about the WIPP site and disposal system design. This section focuses on the geology, hydrology, hydrogeology, and geochemistry of the WIPP disposal system. A compliance application must also include information on WIPP materials of construction, standards applied to design and construction, background radiation in air, soil, and water, as well as past and current climatological and meteorological conditions. Section 194.15 states that recertification applications shall update this information to provide sufficient information for EPA to determine whether or not WIPP continues to be in compliance with the disposal regulations.

In Section 15 of the 2009 CRA, DOE identified changes to the disposal system between the 2004 CRA and 2009 CRA, including changes that were approved by EPA and changes to technical information relevant to §§ 194.14 and 194.15. Noteworthy changes discussed in the 2009 CRA include enhanced monitoring leading to an updated understanding of Culebra transmissivity and new transmissivity field calculations. Although EPA considers these updates important to the current understanding of the disposal system, EPA determined that the changes, both individually and collectively, do not have a significant impact on the performance of the disposal system. Today's notice summarizes the most important of these changes.

Culebra Dolomite: The Culebra Dolomite is considered the primary pathway for long-term radionuclide transport in ground water. As part of the required monitoring program, DOE monitors water levels in the Culebra. At the time of the 2004 CRA, observed fluctuations and a general increase in the water levels of Culebra monitoring wells was poorly understood and attributed to human influences, such as potash mining and petroleum production. These water levels establish the hydraulic gradient across the site, which in turn influences radionuclide travel times for the purposes of performance assessment. DOE uses the Culebra hydrologic data in combination with geologic information and modeling software to develop transmissivity fields for performance assessment (PA) modeling. The approach DOE used in the 2004 CRA was considered adequate by EPA, but lacked strong prediction power for transmissivity at specific points. [*See* EPA 2004 Performance Assessment Baseline Calculation (PABC) Technical Support Document (TSD) (Air Docket A–98–49, Item II–B1–16).]

Since the 2004 CRA, DOE conducted a Culebra well optimization program to determine where new water monitoring wells were needed most and which old wells could be plugged and abandoned. Additionally, DOE added well instrumentation that produces virtually continuous data, offering a more complete record of the changes in water pressure than manual monthly measurements previously provided. The new monitoring data allowed DOE to develop transmissivity fields that are geologically based, consistent with observed groundwater heads, consistent with groundwater responses in Culebra pump tests, and consistent with water chemistry. Furthermore, Culebra water-level changes previously considered unpredictable and anthropogenic in origin can now be demonstrated to be responses to rainfall in Nash Draw, while others can be conclusively linked to well drilling activities. This understanding facilitated the development of the revised Culebra Hydrology Conceptual Model, which was peer reviewed in 2008. A detailed discussion of these changes is found in 2009 CRA CARD 15. In conclusion, EPA finds that DOE has adequately characterized and assessed the site characteristics for the purposes of the PA and has demonstrated continued compliance with §§ 194.14 and 194.15.

In addition to technical changes identified by DOE and EPA, the Agency received comments regarding the geology surrounding the WIPP site. As during the 2004 CRA, some stakeholders commented that karst features are prevalent in the vicinity of WIPP. Karst is a type of topography in which there are numerous sinkholes and large voids, such as caves. Karst is caused when rainwater reacts with carbon dioxide from the air, forms carbonic acid, and seeps through the soil into the subsurface to dissolve soluble rocks such as limestone and evaporites. If substantial karst features were present at WIPP, they could increase the speed at which releases of radionuclides travel away from the repository through the subsurface to the accessible environment.

In the 1998 certification decision, EPA reviewed existing information and concluded that, although it is possible that dissolution has occurred in the vicinity of the WIPP site sometime in the past (*e.g.,* Nash Draw was formed ~500,000 years ago), dissolution is not an ongoing, pervasive process at the WIPP site. Therefore, karst feature development would not impact the containment capabilities of the WIPP for at least the 10,000-year regulatory period (Air Docket A–93–02, Item III–B–2, CCA CARD 14).

Following the 1998 certification decision, several groups challenged EPA's decision in the United States Court of Appeals for the District of Columbia Circuit (No. 98–1322), including EPA's conclusions regarding

karst at the WIPP site. On June 28, 1999, the U.S. Court of Appeals upheld all aspects of EPA's 1998 certification decision, including EPA's conclusion that karst is not a feature that will impact the containment capabilities of the WIPP.

During the 2004 CRA, some stakeholders continued to assert that the geologic characterization of the subsurface surrounding the WIPP repository does not adequately identify the presence of karst. As a result of these concerns, EPA conducted a thorough review of the geologic and hydrologic information related to karst. EPA made a site visit to re-examine the evidence of karst around the WIPP site, prepared a technical support document (TSD) that discusses EPA's in-depth review of the karst issue for recertification (Air Docket A–98–49, Item II–B1–15), and requested that DOE/SNL conduct a separate analysis of the potential for karst and address issues raised by stakeholders. These efforts reaffirmed the previous conclusion that pervasive karst processes have been active outside the WIPP site, but not at WIPP.

Again during the 2009 CRA, some stakeholders argued that major karst features are present at WIPP, based on a report by Dr. Richard Phillips (2009 [9]) which purported to correlate fluctuations of the water levels of monitoring wells with rainfall events in order to prove that rainwater reached the Culebra Dolomite through karst. EPA analyzed the Phillips report and directed SNL to respond to challenges to the conceptual model. The Phillips report failed to support hydrologic arguments for the presence of karst, or to acknowledge analyses by SNL which integrate pressure changes due to rainfall into a robust, peer-reviewed conceptual model. The Agency finds that the data continue to support the conclusion made during the CCA that karst will not impact the WIPP site over the regulatory timeframe. The 2008 peer review of the revised Culebra Hydrology Conceptual Model came to a similar conclusion. Additional information on this topic is found in EPA's 2009 CRA Compliance Application Review Document (CARD) 15.

C. Performance Assessment: Modeling and Containment Requirements (§§ 194.14, 194.15, 194.23, 194.31 Through 194.34)

The disposal regulations at 40 CFR part 191 include requirements for containment of radionuclides. The containment requirements at 40 CFR 191.13 specify that releases of radionuclides to the accessible environment must be unlikely to exceed specific limits for 10,000 years after disposal. At WIPP, the specific release limits are based on the amount of waste in the repository at the time of closure (§ 194.31). Assessment of the likelihood that WIPP will meet these release limits is conducted through the use of a process known as performance assessment, or PA.

The WIPP PA process culminates in a series of computer simulations that attempts to describe the physical attributes of the disposal system (site characteristics, waste forms and quantities, engineered features) in a manner that captures the behaviors and interactions among its various components. The computer simulations require the use of conceptual models that represent physical attributes of the repository based on features, events, and processes that may impact the disposal system. The conceptual models are then expressed as mathematical relationships, which are solved with iterative numerical models, which are then translated into computer codes. (§ 194.23) The results of the simulations are intended to show estimated releases of radioactive materials from the disposal system to the accessible environment over the 10,000-year regulatory time frame.

The PA process must consider both natural and man-made processes and events which have an effect on the disposal system (§§ 194.32 and 194.33). The PA must consider all reasonably probable release mechanisms from the disposal system and must be structured and conducted in a way that demonstrates an adequate understanding of the physical conditions in the disposal system. The PA must evaluate potential releases from both human-initiated activities (*e.g.,* via drilling intrusions) and natural processes (*e.g.,* dissolution) that may occur independently of human activities. DOE must justify the omission of events and processes that could occur but are not included in the final PA calculations.

The results of the PA are used to demonstrate compliance with the containment requirements in 40 CFR 191.13. The containment requirements are expressed in terms of "normalized releases." The results of the PA are assembled into complementary cumulative distribution functions (CCDFs) which indicate the probability of exceeding various levels of normalized releases. (§ 194.34)

To demonstrate continued compliance with the disposal regulations, DOE submitted a new PA as part of the 2009 CRA. EPA monitored and reviewed changes to the PA since the PABC–04, summarized below.

DOE performed two conceptual model peer reviews between the submission of the 2004 CRA and the 2009 CRA: The WIPP Revised Disturbed Rock Zone and Cuttings and Cavings Submodels Peer Review, and the Culebra Hydrogeology Conceptual Model Peer Review. These revisions did not result in significant changes to the 2009 CRA PA. DOE again updated its analysis of features, events and processes (FEPs) that could impact WIPP. As in the 2004 CRA, this update of FEPs did not result in any changes to the scenarios used in the CRA PA. Since the 2004 PABC, DOE updated a number of parameters, including duration of a direct brine release, cellulosics, plastics, and rubber (CPR) degradation rates, BRAGFLO (computer code) flow chemistry implementation, capillary pressure and related permeability, and the drilling rate and borehole plugging patterns. DOE also corrected minor parameter errors. For more information, refer to 2009 CRA CARDs 23 and 24.

EPA examined the recent inventory updates and changes, mainly the Annual Transuranic Waste Inventory Report (ATWIR) 2007 and the ATWIR 2008, and determined that a new performance assessment needed to be conducted in order to include updated inventory information, such as an increase in chemical components (*see* 2009 CRA CARD 24, Table 24–2, produced from PAIR 2008 Table 5–7). In its first completeness letter (dated May 21, 2009, items 1–G–3 and 1–23–1 [EPA 2009a]), EPA directed DOE to perform updated PA calculations using the updated inventory. In response to EPA's direction, DOE produced the 2009 Performance Assessment Baseline Calculations (PABC–09). The Agency's review of the PABC–09 found that DOE made all the changes required by EPA, and that the PABC demonstrates compliance with the containment requirements specified in 40 CFR part 191. The results of the PABC–09 are discussed below. Additional detail on the Agency's review of the PABC–09 may be found in CARDs 23, 24, 31–34, and specifically in the PABC–09 TSD (Docket A–98–49, Category II–B1).

The 2009 CRA PA and PABC–09 included calculations of the same scenarios as the original CCA PA: (1) The undisturbed scenario, where the repository is not impacted by human activities, and three drilling scenarios, (2) the E1 Scenario, where one or more boreholes penetrate a Castile brine

[9] "PROOF OF RAPID RAINWATER RECHARGE AT THE WIPP SITE"; Richard Hayes Phillips, PhD; March 25, 2009.

reservoir and also intersect a repository waste panel, (3) the E2 Scenario, where one or more boreholes intersect a repository waste panel but not a brine reservoir, and (4) the E1E2 Scenario, where there are multiple penetrations of waste panels by boreholes of the E1 or E2 type, at many possible combinations of intrusions times, locations, and E1 or E2 drilling events.

The 2009 Culebra modeling predicted shorter travel time for a particle to travel through the Culebra to the WIPP site boundary than did the 2004 PABC. Three main changes contributed to these changes in flow time: The Bureau of Land Management (BLM) redefined the definition of minable potash in 2009, in particular within the WIPP site near the waste disposal panels; matrix distribution coefficients (K_ds) decreased several orders of magnitude for most radionuclides when the increase in the organic ligand inventory was included; and well SNL–14 confirmed the existence of the high-transmissivity zone in the southeastern portion of the WIPP site. This zone allows water to flow faster toward the Land Withdrawal Boundary than in PABC–04 calculations. The travel time is closer to that predicted in the original compliance certification, and releases remain within the limits established by 40 CFR part 191. EPA considers the PABC to be a conservative and current representation of the knowledge of the WIPP and how it will interact with the surrounding environment. EPA finds that DOE is in continued compliance with the requirements of 40 CFR 194.23 and 194.31 through 194.34. DOE calculated the release limits properly (§ 194.31), adequately defined the scope of the PA (§ 194.32), included drilling scenarios as in the original CCA (§ 194.33), and calculated and presented the results of the 2009 CRA PA and PABC–09 properly (§ 194.34). Details on the PABC–09 may be found in EPA's PABC–09 TSD (Docket A–98–49, Category II–B1).

EPA received public comments related to the 2009 CRA performance assessment. Commenters questioned whether the PA encompassed the results of specific experiments related to plutonium nanocolloids that enhanced groundwater transport capabilities. The Agency asked DOE to respond, and in a letter dated September 1, 2010, DOE indicated that although the formation of these colloids has been demonstrated to be unlikely in the chemical conditions expected at WIPP, the PA conservatively takes into consideration the formation and transport of intrinsic colloids. For more information, refer to 2009 CRA CARD 24.

D. General Requirements

1. Approval Process for Waste Shipment From Waste Generator Sites for Disposal at WIPP (§ 194.8)

EPA codified the requirements of § 194.8 at the time of the 1998 certification decision. Under these requirements, EPA evaluates site specific waste characterization and QA plans to determine that DOE can adequately characterize and track waste for disposal at WIPP. Since 1998, EPA has conducted numerous inspections and approvals pursuant to § 194.8.

EPA previously issued an approval of DOE's general framework for characterizing remote-handled (RH) waste in March 2004. This approval required DOE to provide site-specific RH waste characterization plans and characterization procedures for EPA approval prior to implementing them for characterizing and disposing of RH waste at WIPP. Specific RH waste streams were approved and emplaced at WIPP for the first time during this recertification period.

For more information on activities related to § 194.8, please refer to 2009 CRA CARD 8.

2. Inspections (§ 194.21)

Section 194.21 provides EPA with the right to inspect all activities at WIPP and all activities located off-site which provide information in any compliance application. EPA did not exercise its authority under this section prior to the 1998 certification decision.

Since 1998, EPA has inspected WIPP site activities, waste generator sites, monitoring programs, and other activities. For all inspections, DOE provided EPA with access to facilities and records, and supported our inspection activities. Information on EPA's 194.21 inspection activities can be found in 2009 CRA CARD 21.

3. Quality Assurance (§ 194.22)

Section 194.22 establishes quality assurance (QA) requirements for WIPP. QA is a process for enhancing the reliability of technical data and analyses underlying compliance applications. Section 194.22 requires DOE to demonstrate that a Nuclear Quality Assurance (NQA) program has been established and executed/implemented for items and activities that are important to the long-term isolation of transuranic waste.

EPA determined that the 2009 CRA provides adequate information to demonstrate the establishment of each of the applicable elements of the NQA standards. EPA has also verified the continued proper implementation of the NQA Program through periodic audits conducted in accordance with § 194.22(e).

EPA's determination of compliance with § 194.22 can be found in 2009 CRA CARD 22.

4. Waste Characterization (§ 194.24)

Section 194.24, waste characterization, generally requires DOE to identify, quantify, and track the chemical, radiological and physical components of the waste destined for disposal at WIPP. Since the 2004 CRA, DOE has collected data from generator sites and compiled the waste inventory on an annual basis. DOE's 2008 Annual Tranuranic Waste Inventory Report (ATWIR 2008) reflected the disposal intentions of the waste generator sites as of December 31, 2007. DOE classified the wastes as emplaced, stored or projected (to-be-generated). DOE used data from the WIPP Waste Information System (WWIS) to identify the characteristics of the waste that has been emplaced at WIPP. The projected wastes were categorized similarly to existing waste (*e.g.,* heterogeneous debris, filter material, soil).

DOE's 2009 CRA recertification inventory was initially the same inventory used for the PABC–04. During its evaluation of the completeness of the CRA, however, EPA identified changes in the waste inventory that were potentially impactful to PA. As previously mentioned, EPA directed DOE to perform the 2009 PABC using the updated inventory in the Annual Transuranic Waste Inventory Report-2008. DOE generally kept the same categories of waste for the 2009 PABC. The major changes were changes to waste volumes and radioactive content since the 2004 CRA. Of particular concern to the Agency was an increase in the volume of organic ligands in the ATWIR–2008 inventory, which bind radionuclides, enhancing their solubility and transport. The radioactivity of the waste was estimated to decrease since the 2004 CRA, principally because of the removal of Hanford tank waste from the performance assessment inventory (EPA 2010f). Subsequent to the submission of the 2009 CRA, DOE altered the preferred alternatives in its Hanford tank waste environmental impact statement, indicating that these tank wastes would be managed as High-Level Waste (HLW) [74 FR 67189 (2009–12–18)]. This change decreased the volume of both contact-handled and remote-handled waste in the inventory.

EPA reviewed the CRA and supplemental information provided by DOE to determine whether they

provided a sufficiently complete description of the chemical, radiological and physical composition of the emplaced, stored and projected wastes proposed for disposal in WIPP. The Agency also reviewed DOE's description of the approximate quantities of waste components (for both existing and projected wastes). EPA considered whether DOE's waste descriptions were of sufficient detail to enable EPA to conclude that DOE did not overlook any component that is present in TRU waste and has significant potential to influence releases of radionuclides. The 2009 CRA did not identify any significant changes to DOE's waste characterization program in terms of measurement techniques, or quantification and tracking of waste components.

Since the 1998 certification decision, EPA has conducted numerous inspections and approvals of generator site waste characterization programs to ensure compliance with §§ 194.22, 194.24, and 194.8. For a summary of EPA's waste characterization approvals, please refer to 2009 CRA CARD 8.

As in previous certifications, stakeholders again commented that high-level waste, commercial waste, and spent nuclear fuel must not be allowed at WIPP. Commenters also objected to the inclusion in the potential inventory of wastes which currently lack a TRU or defense determination. EPA reiterates that it will not allow wastes prohibited by the Land Withdrawal Act to be shipped to WIPP. All wastes must meet the WIPP waste acceptance criteria and all requirements of EPA's waste characterization program, and EPA must officially notify DOE before the Department is allowed to ship waste to WIPP. Inclusion in the performance assessment *does not* imply EPA's approval of such waste for disposal at WIPP.

Commenters also objected to wastes being shipped to WIPP that have not been explicitly included in a compliant performance assessment. Inventory, for the purposes of PA, represents a set of bounding conditions. Any waste which represents a deviation from the expected waste parameters will not be approved until it can be demonstrated not to negatively impact PA results (*e.g.* supercompacted waste).

Finally, commenters objected to the fact that the Comprehensive Inventory Database (CID) is not a public document, and that the legal process through which defense and TRU determinations are made is not adequately transparent. The Department provided stakeholders with additional inventory information. The Agency will continue to work with DOE to meet stakeholders' requests for information, and to engage the public early in inventory decisions.

For more information on EPA's determination of compliance with § 194.24, please refer to CRA CARD 24.

5. Future State Assumptions (§ 194.25)

Section 194.25 stipulates that performance assessments and compliance assessments "shall assume that characteristics of the future remain what they are at the time the compliance application is prepared, provided that such characteristics are not related to hydrogeologic, geologic or climatic conditions." Section 194.25 also requires DOE to provide documentation of the effects of potential changes of hydrogeologic, geological, and climatic conditions on the disposal system over the regulatory time frame. Section 194.25 focuses the PA and compliance assessments on the more predictable significant features of disposal system performance, instead of allowing unbounded speculation on all developments over the 10,000-year regulatory time frame.

EPA concludes that DOE adequately addressed the impacts of potential hydrogeologic, geologic and climate changes to the disposal system. The 2009 CRA includes all relevant elements of the performance assessment and compliance assessments and is consistent with the requirements of § 194.25. For more information regarding EPA's evaluation of compliance with this section, *see* 2009 CRA CARDs 25 and 32, and the corresponding TSD for FEPs (Docket A–98–49, Category II–B1).

6. Expert Judgment (§ 194.26)

The requirements of § 194.26 apply to expert judgment elicitation, which is a process for obtaining data directly from experts in response to a technical problem. Expert judgment may be used to support a compliance application, provided that it does not substitute for information that could reasonably be obtained through data collection or experimentation. EPA prohibits expert judgment from being used in place of experimental data, unless DOE can justify why the necessary experiments cannot be conducted. As in 2004, the 2009 CRA did not identify any expert judgment activities that were conducted since the 1998 certification decision. Therefore, EPA determines that DOE remains in compliance with the requirements of § 194.26. (For more information regarding EPA's evaluation of compliance with § 194.26, *see* CRA CARD 26.)

7. Peer Review (§ 194.27)

Section 194.27 of the WIPP Compliance Criteria requires DOE to conduct peer review evaluations related to conceptual models, waste characterization analyses, and a comparative study of engineered barriers. A peer review involves an independent group of experts who are convened to determine whether technical work was performed appropriately and in keeping with the intended purpose. The required peer reviews for WIPP must be performed in accordance with the Nuclear Regulatory Commission's NUREG–1297, "Peer Review for High-Level Nuclear Waste Repositories," which establishes guidelines for the conduct of a peer review exercise. DOE performed two conceptual model peer reviews between the submission of the 2004 CRA and the 2009 CRA: The WIPP Revised Disturbed Rock Zone and Cuttings and Cavings Submodels Peer Review, and the Culebra Hydrogeology Conceptual Model Peer Review. Additional peer reviews of waste characterization analyses included the Los Alamos National Laboratory (LANL) Sealed Sources Peer Review, and the LANL Remote-Handled TRU Waste Visual Examination Data Verification Peer Review. EPA's review, both at the time of the peer reviews and during recertification, verified that the process DOE used to perform these peer reviews was compatible with NUREG–1297 requirements. Therefore, EPA determines that DOE remains in compliance with the requirements of § 194.27. For more information regarding EPA's evaluation of compliance with § 194.27, *see* 2009 CRA CARD 27.

E. Assurance Requirements (§§ 194.41–194.46)

The assurance requirements were included in the disposal regulations to compensate in a qualitative manner for the inherent uncertainties in projecting the behavior of natural and engineered components of the repository for many thousands of years (50 FR 38072). The assurance requirements included in the WIPP Compliance Criteria are active institutional controls (§ 194.41), monitoring (§ 194.42), passive institutional controls (§ 194.43), engineered barriers (§ 194.44), presence of resources (§ 194.45), and removal of waste (§ 194.46).

As in the 2004 CRA, the 2009 CRA did not reflect any significant changes to demonstrating compliance with the assurance requirements. DOE appropriately updated the information

for the assurance requirements in Sections 41 through 46 of the 2009 CRA, and accurately reflected EPA decisions made since the 2006 certification decision, such as reducing the safety factor for the magnesium oxide engineered barrier from 1.67 to 1.2 (§ 194.44). EPA's specific evaluation of compliance with the assurance requirements can be found in CRA CARDs 41–46.

F. Individual and Groundwater Protection Requirements (§§ 194.51 Through 194.55)

Sections 194.51 through 194.55 of the compliance criteria implement the individual protection requirements of 40 CFR 191.15 and the groundwater protection requirements of subpart C of 40 CFR part 191 at WIPP. Assessment of the likelihood that the WIPP will meet the individual dose limits and radionuclide concentration limits for groundwater is conducted through a process known as compliance assessment. Compliance assessment uses methods similar to those of the PA (for the containment requirements) but is required to address only undisturbed performance of the disposal system. That is, compliance assessment does not include human intrusion scenarios (*i.e.,* drilling or mining for resources). Compliance assessment can be considered a "subset" of performance assessment, since it considers only natural (undisturbed) conditions and past or near-future human activities (such as existing boreholes), but does not include the long-term future human activities that are addressed in the PA.

Sections 194.51 through 194.55 describe specific requirements for compliance with 40 CFR part 191 requirements at WIPP. Section 194.51 states that the protected individual must be positioned at the location where they are expected to receive the highest dose from any radioactive release. All potential exposure pathways are to be considered and compliance assessments (CAs) must assume that individuals consume two liters of water per day according to 40 CFR 194.52. 40 CFR 194.53 requires that all underground sources of drinking water be considered and that connections to surface water be factored into any CA. In 40 CFR 194.54 potential processes and events are to be considered and selected in any CA and that existing boreholes or other drilling activities be considered. 40 CFR 194.55 also requires that the impact of uncertainty on any CA analysis and that committed effective dose to individuals be calculated. Radionuclide concentrations in underground sources of drinking water (USDWs) and dose equivalent received from USDWs must also be calculated.

In the 2009 CRA, DOE reevaluated each of the individual and groundwater requirements. DOE again updated parameters related to the individual and groundwater requirements for the undisturbed scenario: For example, water use changed from 282 gallons per person per day in the CCA to 305 in the 2004 CRA, and 273 in the 2009 CRA. By updating this information for the compliance assessment and reviewing data from water wells that have been drilled since the 2004 CRA, DOE confirmed its original water source assumptions (2009 CRA Appendix IDP). DOE did not conduct new detailed bounding dose calculations for the 2009 CRA because the releases predicted by the 2009 CRA performance assessment for the undisturbed scenario were an order of magnitude lower than those used in the original CCA (Appendix IGP). EPA reviewed DOE's 2009 CRA approach to compliance with 40 CFR 194.51 to 40 CFR 194.55. EPA verified that DOE's approach to addressing the individual and groundwater requirements was the same as the original CCA (CRA CARDs 51/52, 53, 54, 55 for details), that the 2009 CRA PA results are lower than the original CCA and that the recalculation of doses was not necessary (2009 CRA Appendix IGP). Because DOE was required to correct, update, and rerun the 2009 CRA PA, called the PABC–09, EPA reevaluated the impact of these new results on compliance with 40 CFR 194.51 to 40 CFR 194.55, and found DOE showed continued compliance with this requirement, documented in the 2009 PABC summary report (Clayton *et al.* 2009, page 21).[10] Thus, the CCA bounding calculations do not need to be redone. EPA finds DOE in continued compliance with 40 CFR 194.51–194.55 requirements.

VI. How has the public been involved in EPA's WIPP recertification activities?

A. Public Information

Since the 1998 certification decision, EPA has kept the public informed of our continuing compliance activities at WIPP and our preparations for recertification. EPA's main focus has been on distributing information via the EPA Web site, and e-mail messages via its WIPP-NEWS listserv.

Throughout the recertification process, the Agency posted any pertinent new information and/or updates on its WIPP Web site (*http://www.epa.gov/radiation/wipp*). Many of our recertification documents (including DOE-submitted recertification materials, correspondence, **Federal Register** notices, outreach materials, hearings transcripts, as well as technical support documents) are available for review or download (in Adobe .pdf format), in addition to a link to our 2009 recertification docket on the regulations.gov Web site (*http://www.regulations.gov*).

Since February 2009, EPA has sent out numerous announcements regarding the recertification schedule, availability of any WIPP-related documents on the EPA WIPP Web site and its dockets, as well as details for the Agency's June 2009 and May 2010 stakeholder meetings in New Mexico.

B. Stakeholder Meetings

As discussed in the WIPP LWA, the recertification process is not a rulemaking; therefore public hearings were not required. However, EPA held a series of public meetings in New Mexico in June 2009 and May 2010 to provide information about the recertification process. In an effort to make these meetings as informative as possible to all attending parties, EPA listened to stakeholder input and concerns and tailored the meetings around the public as much as possible.

The first meetings were held on June 30, 2009, in Albuquerque, New Mexico, with both an afternoon and evening session. The main purpose of these meetings was to discuss EPA's recertification process and timeline, as well as DOE's application and important changes at WIPP since the initial recertification process began in 2004. The meetings featured brief presentations on the aforementioned topics, as well as a roundtable, facilitated discussion. In response to stakeholder suggestions, DOE staff members were also on hand to provide information and answer any stakeholder questions. Participants were encouraged to provide comments to EPA for our consideration during review of DOE's WIPP application.

The second public sessions were held on May 10, 2010, in Albuquerque, New Mexico, again with an afternoon and evening session. The main purpose of this meeting was to update the public on EPA's recertification/completeness schedule and provide more in-depth, technical information related to stakeholder questions and comments raised at the first series of meetings.

All of the issues raised at these meetings have been addressed by EPA in the Compliance Application Review

[10] "Summary Report of the CRA–2009 Performance Assessment Baseline Calculation"; Sandia National Laboratories; February 11, 2010.

Documents (CARDs) under the relevant section.

C. Public Comments on Recertification

EPA posted the recertification application on its Web site immediately following receipt. EPA formally announced receipt of the recertification application in the **Federal Register** on June 16, 2009. The notice also officially opened the public comment period on the recertification application.

For recertification, EPA sought public comments and input related to the changes in DOE's application that may have a potential impact on WIPP's ability to remain in compliance with EPA's disposal regulations.

The comment period on the recertification application closed 396 days after it opened, on August 16, 2010. This closing date was 30 days after EPA's announcement in the **Federal Register** that the recertification application was complete.

EPA received 13 sets of written public comments during the public comment period. EPA considered significant comments from the written submissions and the stakeholder meetings in its evaluation of continuing compliance. EPA addresses these comments in CARDs that are relevant to each topic. Additionally, a listing of all comments received and responses to each is included in Appendix 15–C of CARD 15.

In addition to comments on specific sections of 40 CFR part 194, EPA received comments on general issues. Some people commented on transportation concerns related to WIPP shipments (which are governed by U.S. Department of Transportation regulations, not EPA) being brought into the State of New Mexico, as well as the "expansion" of WIPP and associated nuclear energy activities.

As previously mentioned, EPA provided guidance to DOE on numerous occasions regarding its expectations for the first recertification application. In response to public comments received during the first recertification, EPA and DOE also discussed ways in which both parties could improve the overall recertification process.

One such example is the structure of the CRA–2009. Rather than being organized in a chapter format that was established with the initial CCA and the CRA–2004, DOE structured the CRA–2009 to mimic the structure of 40 CFR part 194, which is organized into topical sections of the rule. This format follows the format used by the Agency's CARDs and helped to facilitate EPA and stakeholder reviews of the application by allowing a more direct evaluation of any changed information with respect to previous applications.

After receipt of the CRA–2009 by EPA and subsequent submissions of additional information sent by DOE, the Agency promptly issued its completeness determination. Once the recertification application was deemed complete, EPA conducted its technical evaluation and is issuing the recertification decision within the six-month timeframe specified by the WIPP LWA.

EPA believes that with continued experience, future recertifications should become less lengthy. The Agency intends to continue to work with DOE and interested stakeholders to discuss and work on improving future recertification applications and processes.

VII. Where can I get more information about EPA's WIPP-related activities?

A. Supporting Documents for Recertification

The Compliance Application Review Documents, or CARDs, contain the detailed technical rationale for EPA's recertification decision. The CARDs discuss DOE's compliance with each of the individual requirements of the WIPP Compliance Criteria. The document discusses background information related to each section of the compliance criteria, restates the specific requirement, reviews the 1998 certification decision and 2006 recertification decision, summarizes changes in the 2009 CRA, and describes EPA's compliance review and decision—most notably, any changes that have occurred since the 2006 recertification decision. The CARDs also list additional EPA technical support documents and any other references used by EPA in rendering its decision on compliance. All technical support documents and references are available in the Agency's dockets, via *http://www.regulations.gov* (FDMS Docket ID No. EPA–HQ–OAR–2009–0330) or Air Docket A–98–49, with the exception of generally available references and those documents already maintained by DOE or its contractors in locations accessible to the public. For more detailed information on EPA's recertification decision, there are a number of technical support documents available, which can also be found in the aforementioned docket locations and our WIPP Web site.

B. WIPP Web Site & WIPP–NEWS E-Mail Listserv

For more general information and updates on EPA's WIPP activities, please visit our WIPP Internet homepage at *http://www.epa.gov/radiation/wipp.* A number of documents (including DOE-submitted recertification materials, letters, **Federal Register** notices, outreach materials, hearings transcripts, as well as technical support documents) are available for review or download in Adobe .pdf format. The Agency's WIPP–NEWS e-mail listserv, which automatically sends messages to subscribers with up-to-date WIPP announcements and information, is also available online. Any individuals wishing to subscribe to the listserv can join by visiting *https://lists.epa.gov/read/all_forums/subscribe?name=wipp-news* or by following the instructions listed on our WIPP Web site.

C. Dockets

In accordance with 40 CFR 194.67, EPA maintains public dockets via *http://www.regulations.gov* (FDMS Docket ID No. EPA–HQ–OAR–2009–0330) and hard copies in Air Docket A–98–49 that contain all the information used to support the Agency's decision on recertification. The Agency established and maintains the formal rulemaking docket in Washington, DC, as well as informational dockets in three locations in the State of New Mexico (Carlsbad, Albuquerque, and Santa Fe). The docket consists of all relevant, significant information received to date from outside parties and all significant information considered by EPA in reaching a recertification decision regarding whether the WIPP facility continues to comply with the disposal regulations.

As part of the eRulemaking Initiative under the President's Management Agenda, the Federal Docket Management System (FDMS) was established in November 2005. FDMS was created to better serve the public by providing a single point of access to all Federal rulemaking activities.

The final recertification decision and supporting documentation can be found on EPA's WIPP Web site (*http://www.epa.gov/radiation/wipp*) or the regulations.gov Web site (*http://www.regulations.gov*) by searching for Docket ID No. EPA–HQ–OAR–2009–0330. For more information related to EPA's public dockets (including locations and hours of operation), please refer to Section 1.A.1 of this document.

VIII. What happens next for WIPP? What is EPA's role in future WIPP activities?

EPA's regulatory role at WIPP does not end with this recertification decision. The Agency's future WIPP activities will include additional

recertifications every five years (the next being scheduled to begin in March 2014), review of DOE reports on conditions and activities at WIPP, assessment of waste characterization and QA programs at waste generator sites, announced and unannounced inspections of WIPP and other facilities, and, if necessary, modification, revocation, or suspension of the certification.

Although not required by the Administrative Procedures Act (APA), the WIPP LWA, or the WIPP Compliance Criteria, EPA intends to continue docketing all inspection or audit reports and annual reports and other significant documents on conditions and activities at WIPP.

EPA plans to conduct future recertification processes using a similar process to that completed by EPA for this recertification, as described in today's action. For example, EPA will publish a **Federal Register** notice announcing its receipt of the next compliance application and our intent to conduct such an evaluation. The application for recertification will be placed in the docket, and at least a 30-day period will be provided for submission of public comments. Following the completeness determination, EPA's decision on whether to recertify the WIPP facility will again be announced in a **Federal Register** notice (§ 194.64).

Dated: November 9, 2010.

Michael P. Flynn,

Director, Office of Radiation and Indoor Air.

[FR Doc. 2010–28806 Filed 11–17–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 45

[Docket No. USCG–1998–4623]

RIN 1625–AA17

Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a special load line regime for certain unmanned dry-cargo river barges to be exempted from the normal Great Lakes load line assignment while operating on Lake Michigan. Depending on the route, eligible barges may obtain a limited domestic service load line assignment or be conditionally exempted from any load line assignment at all. This special load line regime allows river barges operating under safe conditions to directly transport non-hazardous cargoes originating at inland river ports as far as Milwaukee and Muskegon, resulting in significant cost savings.

DATES: This final rule is effective December 20, 2010.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–1998–4623 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–1998–4623 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Thomas Jordan, Office of Design and Engineering Standards, Naval Architecture Division (CG–5212), Coast Guard; telephone 202–372–1370, e-mail *Thomas.D.Jordan@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations
II. Regulatory History
III. Basis and Purpose
IV. Background
  A. Initial Request From the Port of Milwaukee
  B. Risk Assessment of the Milwaukee Route
  C. Interim Rule and Conditional Exemption
  D. Subsequent Operational Experience
  E. Coast Guard Oversight and Concerns
V. Discussion of Comments and Changes
  A. Discussion of Interim Rule (IR) Changes
  B. Discussion of Interim Rule (IR) Comments
VI. Regulatory Analyses
  A. Regulatory Planning and Review
  B. Small Entities
  C. Assistance for Small Entities
  D. Collection of Information
  E. Federalism
  F. Unfunded Mandates Reform Act
  G. Taking of Private Property
  H. Civil Justice Reform
  I. Protection of Children
  J. Indian Tribal Governments
  K. Energy Effects
  L. Technical Standards
  M. Environment

I. Abbreviations

ABS American Bureau of Shipping
COI Collection of Information
DHS Department of Homeland Security
HazMat Hazardous Material
HP Horsepower
IR Interim Rule
ITB Integrated tug/barge
MarAd (United States) Maritime Administration
MSO Marine Safety Office
MSU Marine Safety Unit
NEPA National Environmental Policy Act of 1969
NPRM Notice of proposed rulemaking
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
OCMI Officer in Charge, Marine Inspection
SCA Small Craft Advisory
Stons Short tons
VHF Very High Frequency

II. Regulatory History

On May 29, 1992, the Coast Guard published a notice in the **Federal Register** (57 FR 22663) establishing a limited service domestic load line route on western Lake Michigan between Chicago, IL (Calumet Harbor), and Milwaukee, WI, and authorizing the American Bureau of Shipping (ABS) to issue load line certificates accordingly. The notice also requested public comment. On September 21, 1992, we published a follow-up notice (57 FR 43479) discussing the public comments that we received, and making minor revisions to the requirements.

On March 31, 1995, we published a notice in the **Federal Register** (60 FR 16693) establishing a second route along the east side of Lake Michigan between Chicago, IL, and St. Joseph, MI. In the notice, we specified that the lead barge in the tow must have a raked bow, but allowed the initial load line survey of barges that were less than 10 years old to be conducted afloat.

On September 28, 1995, we published a notice in the **Federal Register** (60 FR 50234) removing the raked bow requirement.

On August 26, 1996, we published a notice in the **Federal Register** (61 FR 43804) extending the St. Joseph route farther up the east side of Lake Michigan to Muskegon, MI.

On November 2, 1998, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** titled "Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan" (63 FR 58679). This NPRM proposed to incorporate the above-described Lake Michigan load line

provisions into the Great Lakes load line regulations in 46 CFR part 45.

On December 28, 1998, we published a follow-up notice that extended the comment deadline to March 4, 1999 (63 FR 71411). We received 51 letters commenting on the proposed rule. No public hearing was requested and none was held.

On April 23, 2002, we published an interim rule (IR) with request for comments (67 FR 19685), which established the load line regulations for river barges on Lake Michigan (*i.e.,* the special service load lines for the St. Joseph and Muskegon routes, and the conditional exemption regime for the Milwaukee route) in 46 CFR 45.171 through 45.197. These interim regulations have been in effect since 2002 and are being finalized by this final rule.

III. Basis and Purpose

The origin of this rulemaking dates back to a request from the Port of Milwaukee in 1991 to establish a special load line provision that would allow river barges to transit on Lake Michigan between Chicago (Calumet Harbor) and Milwaukee. The Coast Guard subsequently received a request to establish a similar route on the eastern side of Lake Michigan to Muskegon, MI.

The Coast Guard initially established these special routes via non-regulatory notices published in the **Federal Register**. However, it was eventually determined that these notices needed to be formally incorporated with the Great Lakes load line regulations of 46 CFR part 45. The rulemaking was initiated with publication of the NPRM on November 2, 1998.

A vessel may be granted an exemption from load line requirements by alternative means under the provisions of 46 U.S.C. 5108. The exemptions in this rule are specifically authorized under 46 U.S.C. 5108(a)(2). The provisions require regulations and a finding of good cause for the exemption.

As prescribed in 46 U.S.C. 5108(a)(2), the Coast Guard determines that good cause exists for granting a load line exemption for the Milwaukee route as specified in these final regulations. This determination is based on the relatively short transit, limitations on the distance offshore and forecasted weather conditions, the availability of nearby harbors to seek safe refuge, registration and self-examination by the barge owners and tow vessel operators, limitations on the number of barges in the tow, the requirement that the pre-departure inspection must ensure that all weathertight and watertight closures are operating properly, and limitations on the age of the barges to be used on the route.

IV. Background

Before the establishment of this special load line regime for Lake Michigan, barge cargoes originating at inland river ports and destined for Lake Michigan ports had to be transferred to a Great Lakes load-lined vessel at Calumet Harbor in Chicago. This transshipment was necessary because the existing load line regulations did not allow vessels onto the Great Lakes without a Great Lakes load line; river barges typically do not meet all the requirements for unrestricted service on the Great Lakes.

The only exception to this has been an exemption for certain river barges operating between Chicago, IL, and Burns Harbor, IN, as provided in 46 CFR 45.171–45.177.

A. Initial Request From the Port of Milwaukee

In January 1991, the Port of Milwaukee asked the Coast Guard to explore the possibility of establishing a relaxed domestic load line that would allow river barges to operate along the western shore of Lake Michigan between Chicago and Milwaukee. Later that year, a barge company made a similar request for an eastern Lake Michigan route between Chicago, IL, and Muskegon, MI. The motivation for these route requests was economic: River barges offer relatively low costs per ton-mile to move cargo and can therefore deliver cargoes to the Lake ports less expensively than can other modes of transportation.

The American Bureau of Shipping (ABS), the Coast Guard, and industry worked together to determine the appropriate operational restrictions and other requirements that would allow river barges to safely operate on Lake Michigan. In 1992, a special limited service domestic voyage load line regime was implemented for the Milwaukee route. A similar regime was established in 1996 for the Muskegon route.

Initially, 30 barges obtained the special load line and began service between Chicago and Milwaukee. From 1993 to 1996, more than 300 barge trips were made, delivering approximately 502,000 tons of grain, animal feed, steel, machinery, graphite, aggregate, and other materials. However, the cost and logistics of managing a relatively small number of load-lined barges over a large river system worked against the economics of this service and, when the original barges were sold in 1996, the new owner discontinued the Milwaukee service. Over subsequent years, no other barge operators pursued this special load line regime.

Meanwhile, the Coast Guard moved ahead with plans to formally incorporate the special load line regime into Federal regulations and, on November 2, 1998, published an NPRM (63 FR 58679). In its response to the NPRM, industry argued that the cost of obtaining the special load line was still prohibitive and discouraged barge operators from entering into this service. Industry representatives requested that a risk assessment be conducted to determine if a load line exemption could be developed for the Milwaukee route.

B. Risk Assessment of the Milwaukee Route

A risk assessment group was established, comprised of interested parties representing towboat and barge operators, port authorities, the Coast Guard, the U.S. Maritime Administration (MarAd), and port-related businesses, such as terminal operators and shippers. The group met twice, once on September 21, 2000, and again on November 9, 2000, to discuss various issues. Stakeholders submitted additional comments to the risk assessment group. The group compiled its memos, letters, and other documents into a report, "Risk Assessment for River Barges Operating between Chicago, IL and Milwaukee, WI," dated September, 2001, which is available in the docket.

Because the cost of the load line assigned by ABS was perceived as a major economic obstacle, the risk assessment group focused on how that cost could be reduced or eliminated in ways such as "self-certification" by a barge owner (similar to the existing self-registration requirements for barge operators on the Burns Harbor route). The group made several important findings:

- It is standard practice for the barge-building shipyards to build all new barges in accordance with ABS River Rules;
- New barges are not likely to seriously deteriorate during the first 7 to 10 years of service;
- Marine weather forecasting for the Great Lakes has improved since the Milwaukee route was first established in 1992; and
- A towboat operator with extensive experience on the Chicago/Milwaukee route affirmed the viability of Waukegan, IL, and Kenosha, WI, as ports-of-refuge.

On the basis of these findings, the group recommended that relatively new barges (those under 10 years of age)

should be exempted from the load line requirement.

C. Interim Rule and Conditional Exemption

On the basis of the Risk Assessment, the Coast Guard published the IR on April 23, 2002 (67 FR 19685), that established the conditional load line exemption for the Chicago/Milwaukee route and the special service load lines for the St. Joseph and Muskegon routes.

The conditional load line exemption regime principally relies on self-compliance by the barge operators, who are allowed great flexibility in selecting non-load-lined river barges for service on that route, provided that the barges meet certain age and condition requirements and are registered with the Coast Guard Marine Safety Unit (MSU), Chicago. The tows are limited to "fair weather only" conditions.

At this time, the IR has been in effect for 8½ years, and has fostered a modest but economically beneficial level of commercial activity for Milwaukee (chiefly in grain shipments and transport of oversized industrial equipment).

D. Subsequent Operational Experience

On the afternoon of August 7, 2003, a two-barge tow loaded with wheat departed from Milwaukee and traveled southbound for Chicago. Although the 48-hour weather forecast was within allowable limits, the tow encountered unexpectedly rough seas. Because the prevailing weather conditions were from the north, the towboat captain decided to continue southwards rather than turn back into rough seas, and shifted the barges to a towline. During the night, the barges were observed taking on water and listing. By morning, one barge was listing heavily with only a foot of freeboard. The captain decided to head to Waukegan for shelter, but as the tow was making the turn, one of the barges nosedived into the waves and broke free of the tow. This barge eventually sank in 117 feet of water approximately 4.7 miles offshore from Waukegan. The surviving barge was brought safely into Waukegan with significant flooding in several void compartments. The subsequent Coast Guard investigation determined that:

- Each barge was operated by a different company. Although both barge operators submitted the required barge registrations prior to departing Milwaukee, there were no previous registrations on record for their original northbound voyages from Chicago. Therefore, the Coast Guard initiated civil penalty proceedings against both barge operators for operating the barges without a valid load line exemption;
- Inspection of the surviving barge revealed that 44 of the 48 hatch securing devices (dogs) on the void hatch covers were either seized or broken. Not one of the barge's 12 void spaces had a functioning weathertight cover. A flooded stability analysis of the barge that sank determined that its voids must have been similarly compromised, since the barge should not have sunk if its voids had been dry. Therefore, the Coast Guard initiated civil penalty proceedings against both barge operators for falsely declaring on the registrations that the barges met all the required conditions for the load line exemption; and
- Although the towboat captain inspected the barges prior to departure (as required) and noticed that several of the covers were not operating properly, he proceeded with the voyage anyway. The Coast Guard initiated Suspension and Revocation proceedings against the captain's license.

Although the above-described incident resulted in a sunken barge and lost cargo, the Coast Guard views it as an overall confirmation of the environmental safety provisions incorporated in the exemption regime. The barge sank because it was clearly not up to the seaworthiness standard required by the regulations. Despite this, however, there was no adverse environmental impact since the grain cargo did not constitute a hazardous spill. Also, the tug and surviving barge found shelter in Waukegan as contemplated by the risk assessment (the three-barge tow limitation ensures that tows can be accommodated in the ports-of-refuge along the Milwaukee route). From this, the Coast Guard concludes that the current exemption requirements provide an adequate level of safety if properly complied with.

E. Coast Guard Oversight and Concerns

As discussed in the IR, the Coast Guard reviewed barge activity on Lake Michigan with three particular concerns in mind. These concerns, and our conclusions, are as follows:

(1) Industry compliance with the conditions of the load line exemption (such as barge registration, pre-departure inspections, logbook entries, etc.).

The load line exemption regime depends on self-compliance by towboat operators and barge operators, with limited Coast Guard oversight. However, there is evidence that barge operators are not fully complying with the conditions of exemption, especially the registration requirements. As noted in the casualty discussion above, neither barge had been registered for its upbound voyage to Milwaukee. Conversely, MSU Chicago reported that some operators have "registered" their barges by submitting lengthy lists of dozens of barges in their fleet. Such wholesale submittals cannot accurately reflect a proper inspection of each barge on the list. The Coast Guard has conducted spot-checks of barge names in Milwaukee against registration records in Chicago, and will continue to monitor registration compliance. However, if self-compliance is found to be unreliable, we may implement other compliance measures, such as third-party verification.

(2) The material condition of the barges.

The interim regulations allow barges up to 10 years of age to participate in the load line exemption regime. This age limit is based on the assumption that barges in freshwater service will not deteriorate so badly in 10 years as to render them unseaworthy for Lake Michigan voyages under fair weather conditions. The 2003 casualty revealed that although this might be true for the hull structure, it is not necessarily true for weathertight closures (*i.e.,* hatch covers, gaskets, and dogs).

Consequently, we are revising the regulations to clarify that all weathertight and watertight closures must be verified to be in working condition as part of the barge registration (by the barge operator) and the pre-departure inspection (by the towboat operator). This clarification is intended to ensure that the towing vessel master is fully aware of his responsibilities, already in the regulations, to verify the watertight integrity of the barge(s) prior to departure. If these verification procedures still do not prove to be effective, we may review and revise these regulations in the future as necessary.

(3) The number of tows on Lake Michigan at any given time.

The Coast Guard is concerned that participation in the load line exemption regime might grow so large that the number of barges en route between Chicago and Milwaukee on any given day will exceed the capacity of the ports-of-refuge (Kenosha and Waukegan) to accommodate them, should weather conditions deteriorate unexpectedly. A review of vessel traffic data from the Port of Milwaukee indicates that 43 river barges called at the port in 2002 (the first year of the exemption regime). In 2004, the number peaked at 91 barges. Since then, the level of activity has dropped: 36 barges in 2006 and 40

barges in 2007 (the latest year for which data is available). The bulk of cargo movements has been outbound grain, although some industrial equipment has been transported as well. The current level of barge activity is not yet a concern; however, we may establish a voyage coordination program at some future time if we deem it necessary.

(4) The use of Coast Guard resources.

The amount of enforcement resources the Coast Guard has dedicated to investigations of oftentimes avoidable marine casualties and the resulting penalty proceedings, and to ensuring that operators are in compliance with the exemption regime, is considerable. The extent of our involvement in these efforts goes against our regulatory goal of relying on self-compliant operators. We will continue to monitor barge activity on Lake Michigan. However, we may further amend the exemption regime in the future if we feel it is necessary to do so.

V. Discussion of Comments and Changes

A. Discussion of Interim Rule (IR) Changes

The Coast Guard has made the following changes to the regulations in 46 CFR 45.171 through 45.197 established in the IR based upon consideration of comments received during the rulemaking and to clarify existing requirements:

Section 45.171 Purpose: In paragraph (c), Table 45.171 has been revised to reflect the changes in this final rule, discussed below.

Paragraph (d) has been added to clarify that the provisions of this subpart pertain only to load line regulations, and do not exempt the participating barges from other applicable regulations (such as the documentation requirements of 46 CFR part 67). Although Certificates of Documentation are not required for barges operating on U.S. rivers, they are required for all vessels of 5 gross tons or more that operate on the Great Lakes. This requirement, therefore, applies to river barges operating under the provisions of 46 CFR part 45.

Section 45.173 Eligible barges: Paragraph (e) has been added stating that weathertight and watertight closures must be in proper working condition. This addition clarifies the existing requirement in § 45.191(b)(5) that manhole covers be secured watertight as part of the pre-departure inspection.

Section 45.175 Applicable routes: This section has been revised to clarify that intermediate ports are allowed on the applicable routes.

Section 45.181 Load line exemption requirements for the Burns Harbor and Milwaukee routes: Paragraph (a) has been revised to reflect the Coast Guard's organizational re-designation of Marine Safety Offices (MSOs), which includes the Officer in Charge, Marine Inspection (OCMI), as Marine Safety Units (MSUs). It also updates the MSU mailing address.

Paragraph (b)(1) has been revised to require the official documentation number of the barge in order to provide better identification of the vessel.

Section 45.185 Tow limitations: Paragraph (b) has been revised to emphasize the current requirement that the maximum number of barges on the Milwaukee, St. Joseph, and Muskegon routes is three. This limitation is necessary because of the limited dockage at the intermediate ports of refuge and the possibility that more than one tow might need to seek shelter at the same port.

Paragraph (c) now clarifies that the 5-mile limit applies to the tow as a whole, not just to the barges.

Section 45.187 Weather limitations: Because hull construction of river barges is not robust enough to operate on Lake Michigan under all weather conditions, river barges cannot operate under adverse weather conditions. The weather limits as written in the interim regulations, however, were either subjective (i.e., "fair weather only" as decided by the towing vessel master) or a complex set of limiting wind speed/directions and wave heights. These limits are now being simplified by establishing Small Craft Advisory (SCA) conditions as the limiting adverse weather condition. The National Weather Service issues special Great Lakes nearshore marine forecasts that cover all coastal lake waters within 5 miles of shore (more information can be found at *http://www.nws.noaa.gov/om/marine/zone/usamz.htm*). Lake Michigan nearshore SCAs are generally based on wind speeds of 20 knots and 4-foot waves, but also take into account wave conditions that will develop during the forecast period based on wind direction. The Coast Guard believes that these nearshore forecasts provide a clear, unequivocal "fair weather" threshold to towing vessel captains when reviewing weather conditions along the route as they prepare to sail or while they are underway. The original weather regulations in this section have been revised accordingly:

Paragraph (a) now establishes SCA conditions as the limiting adverse weather condition for all routes.

Paragraph (b) establishes that ice conditions that imperil the tow or impede its access into a port of refuge are also considered to be adverse weather conditions.

Section 45.191 Pre-departure requirements: Paragraph (a) has been revised by removing the original requirement to contact the dock operator at the destination port and replacing it with the requirement that the towing vessel master must check the Lake Michigan Nearshore Marine Forecast and confirm that adverse weather conditions (i.e., SCAs or ice conditions) are not developing.

Paragraph (b)(5) has been revised to clarify that the pre-departure inspection must confirm that hatch and manhole dogs are in proper working condition and that all covers are closed and secured, as discussed above.

Sections 45.183, 45.193, and 45.197 have been revised for grammar and other non-substantive reasons.

B. Discussion of Interim Rule (IR) Comments

The IR requested public comment on the interim regulations. Only two comments were submitted, both from the same commenter.

(1) The first comment opposed the Chicago/Milwaukee load line exemption because it eliminates third-party inspection and verification (such as by an ABS surveyor) of a barge's material condition.

The commenter also felt that there were other items in the interim regulations that should be changed; namely that the requirement for pre-departure verification of sufficient docking space should include Waukegan and Kenosha harbors, and that the special equipment and operational plan requirements should also be applied to the Milwaukee route.

With respect to the third-party verification issue, the Coast Guard recognizes the value of such verification, especially where the shipboard inspection is relatively infrequent (*e.g.,* once a year) and involves numerous watertight and weathertight closures (*e.g.,* piping penetrations of the hull, hatch and ventilation covers, doors, etc.). When inspecting such closures, professional judgment must be used when evaluating their fitness for service until the next annual inspection. However, river barges are simpler vessels, with fewer weathertight closures and watertight voids to inspect. We believe that the pre-departure inspection before each

voyage by the towboat master can provide sufficient verification of weathertight integrity for the short-haul, fair-weather transit on Lake Michigan. As explained elsewhere in this rule, we have increased certain inspection and material condition requirements in response to a marine casualty in 2003, and we reserve our right to revise the exemption regime, including imposition of third-party verification, if barge operators do not comply with these inspection measures.

With respect to the commenter's suggestion that pre-departure verification of sufficient docking space should include Waukegan and Kenosha harbors, we do not believe that this is necessary at this point, but we may implement it in the future if necessary.

(2) The second comment (from the same commenter) included a summary from a casualty report involving an integrated tug/barge (ITB) on Lake Michigan in October 2000. This incident was separate from the sinking casualty discussed elsewhere in this rule. The incident occurred under storm conditions with 12- to 15-foot waves, during which two vessels bumped into each other during an emergency disconnect from the notch, causing serious hull damage to both vessels. The commenter cited this as an example of the "extreme variableness" of weather in lower Lake Michigan, and reiterated concern for the safety of tows with barges.

The ITB mentioned above sailed under marginal weather conditions, even for load-lined vessels. As explained previously in this rule, we are now establishing SCA conditions, as issued in National Weather Service Nearshore Marine Forecasts for Lake Michigan, as the limiting weather condition. While establishing SCA conditions does not guarantee that weather conditions exceeding the forecast will not occur, we believe that the SCA forecast is the best and most consistent benchmark for weather prediction, and should generally keep the tow out of extreme conditions.

VI. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This rule finalizes the requirements of the interim rule where eligible barges may qualify for either a limited domestic service voyage load line (Burns Harbor route, St. Joseph route, and Muskegon route), or a conditional load line exemption (Milwaukee route). Under this final rule, river barge owners will continue to be able to take part in the load line regime. River barge owners that seek either a Great Lakes limited service load line or a conditionally exempted load line will continue to incur the minor costs associated with obtaining a certificate.

This final rule also revises existing load line regulations in 46 CFR 45.171 through 45.197 pertaining to certain dry-cargo river barges operating on Lake Michigan. The regulatory changes add clarifying language to the affected sections, including:

- A requirement that weathertight and watertight closures must be in proper working condition and that pre-departure inspection must confirm that hatch and manhole dogs are in proper working condition and that all covers are closed and secured.
- The establishment of SCA conditions and ice conditions that imperil the tow or impede its access to a port of refuge as the limiting adverse weather condition for all routes.

The applicable barges that operate on Lake Michigan are currently required under the IR to conduct a pre-departure inspection. This final rule clarifies that confirmation that hatch and manhole dogs are in proper working condition and that all covers are closed and secured should be part of the pre-departure inspection. A thorough pre-departure inspection should already include these activities. As such, the clarification should not result in new costs to barge owners who take part in the load line regime.

The current IR restricts operation of barges during adverse weather conditions, but either leaves the determination to the towing vessel master or involves a complex set of limiting wind speed/directions and wave heights. This final rule simplifies the determination by establishing SCA conditions as the limiting adverse weather condition. We do not have any information to indicate that using the SCA will result in any additional costs to barge owners and may, in fact, reduce ambiguity.

The remaining changes are administrative or clarifications and would not result in additional costs.

Affected Population

Based on industry information, about 35 barges annually have taken part in the load line exemption regime since 2002, and this number has remained fairly constant.

Costs

Barge owners who seek a conditional exemption must submit a one-time registration to the Coast Guard, and barge owners who seek a limited load line exemption must complete an initial survey letter and obtain a limited service certificate.

Based on data in the existing collection of information, "Plan Approval and Records for Load Lines," OMB Control Number 1625–0013, we estimate the preparation time for the application of conditional exemption and submission to the Coast Guard to be about 2 hours. We expect someone at the managerial level will prepare the conditional exemption application at a fully loaded labor rate of $83/hour. A managerial level employee of the barge company is necessary to perform this duty because this person must sign the application in order to certify the barge owner or operator will maintain the operational condition of its barges. We estimate the cost for a single barge owner or operator to prepare a conditional exemption application to be about $166 (2 hours × $83 fully loaded labor rate/hour).[1] We estimate that owners or operators of about 30 barges annually will seek conditional exemptions for a continued annual cost of about $4,980 ((2 hours × $83 fully loaded labor rate/hour) × 30 barges annually).

Also based on the existing collection of information mentioned above, for barge owners and operators who choose to seek a limited domestic service load line, we estimate it will take about 0.5 hours to complete the application. We expect a mid-level employee will prepare the limited domestic service load line application at a fully loaded labor rate of $42/× hour. A mid-level employee can perform this duty because this application contains basic design information about the barge. The application is then submitted by the barge owner or operator to the authorized classification society, who then issues the load line certificate. We estimate the cost for a single barge

[1] Source for time and labor rate: Collection of Information, OMB Control Number 1625–0013, "Plan Approval and Records for Load Lines."

owner or operator to prepare the limited domestic service load line application to be about $21 (0.5 hours × $42 fully loaded labor rate/hour). We estimate that owners or operators of about 5 barges annually will seek the limited domestic service load line for a cost of about $105 ((0.5 hours × $42 fully loaded labor rate/hour) × 5 barges annually). We estimate the total annual cost of this final rule to be about $5,000.[2]

Benefits

We expect the regulations to continue to have a positive economic impact on the local region because they will allow certain cargoes to be transported at a lower cost per ton-mile than by the alternative overland modes presently used. Also, the provisions offer increased flexibility to river barge operators that choose to operate on the Milwaukee route as well as the conditionally exempted route from the previously required limited service domestic voyage load line assignment.

As a direct benefit, river barge owners and qualified river barge operators will likely gain business and commercial opportunities as a result of having the option of continuing to take part in this regime for the movement of certain cargoes.

We also expect the regulatory changes in the affected CFR sections to have a safety benefit by reducing the risk of an accident for barge owners that take part in the load line regime as illustrated by the marine casualty incident that occurred August 7, 2003 on Lake Michigan (see the Background section of this preamble for further information on this marine casualty incident). This incident directly resulted in the regulatory changes in 46 CFR 45.191(b)(5) that require manhole and hatch dogs to be in working condition and all covers to be closed and secured watertight.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard has reviewed this final rule for its potential economic impact on small entities. This final rule affects unmanned dry-cargo river barge owners and operators who voluntarily choose to obtain a limited domestic service load line assignment or a conditional load line exemption while operating on certain routes on Lake Michigan.

We expect the costs of this rule to small entities to be minimal for river barge owners who choose to take part in the Great Lakes load line regime. We estimate that 35 river barges use the Great Lakes load line regime annually at a cost of about $140 per barge.[3] Furthermore, this rule conditionally exempts qualified barges operating on the Milwaukee route from the previously proposed limited service domestic voyage load line assignment. The estimated hour burden of preparing the submittal to the Coast Guard for exempting barges on the Milwaukee route from load line assignment is minimal for river barge owners who choose to take part in this regime. Small entities will likely choose to obtain limited domestic service load line assignments or conditional load line exemptions while operating on Lake Michigan only if they expect to gain an economic benefit by using the less costly form of water transportation as opposed to land transportation. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

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

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke and Intertanko v. Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).)

This rulemaking concerns load line assignments for vessels under U.S. jurisdiction. This is a category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations. Because the States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

[2] The figure $5,000 is rounded from $5,085 = $4,980 + $105, for the conditional exemption and the limited domestic service load line.

[3] The figure $140 is rounded from $143 = $5,000/35 barges.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(d) of the Instruction and under section 6(a) of the "Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy" (67 FR 48244, July 23, 2002). Exclusion under paragraph (34)(d) applies because this rule pertains to regulations concerning inspection of vessels (*i.e.,* load line requirements). Exclusion under 6(a) of the **Federal Register** Notice applies because this rule pertains to regulations concerning vessel operation safety standards. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 45

Great Lakes, Reporting and recordkeeping requirements, Vessels.

■ For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 45 as follows:

PART 45—GREAT LAKES LOAD LINES

■ 1. The authority citation for part 45 continues to read as follows:

Authority: 46 U.S.C. 5104, 5108; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 45.171 to revise Table 45.171 in paragraph (c) and add new paragraph (d) to read as follows:

§ 45.171 Purpose.

* * * * *

(c) * * *

BILLING CODE 9110–04–P

Table 45.171:
Load Line Requirements for Dry Cargo River Barges Operating on Lake Michigan

	Voyages between Calumet Harbor, IL and:			
	Burns Harbor, IN	**Milwaukee, WI**	**St. Joseph, MI**	**Muskegon, MI**
1) Load line requirement	Conditionally exempted from load line assignment (must meet requirements below)		"Limited service domestic voyage" load line	
2) Where to register/apply	Exempted barges must be registered with the USCG Marine Safety Unit 555A Plainfield Road Willowbrook, IL 60527 Fax: (630) 986-2120		Apply for load line to ABS Americas 16855 Northchase Dr. Houston, TX 77060	
3) Eligible barges	Dry cargo river barges Built and maintained in accordance with ABS River Rules Length-to-depth ratio less than 22 All weathertight and watertight closures are in proper working condition			
	No age limitation	Not more than 10 years old	No age limitation	
4) Freeboard requirement	All barges: freeboard must be at least 24 inches (610 mm) Open hopper barges: coaming height + freeboard must be at least 54 inches (1,372 mm)			
5) Tow limitations	Barges must be unmanned Not more than 5 nautical miles from shore			
	No limit on number of barges	Not more than 3 barges per tow		
6) Cargo limitations	Dry cargoes only. Liquid cargoes, even in drums or tank containers, are prohibited No hazardous materials. HazMats are defined in 46 CFR part 148 and 49 CFR chapter 1, subchapter C			
7) Weather limitations Voyage may not begin; or if these conditions arise during transit, voyage must be discontinued and tow must proceed to shelter	"Small Craft Advisory" conditions or worse (as issued by the NWS Lake Michigan Nearshore Marine Forecast) are not in effect or forecasted for the duration of the transit. Tow master must confirm forecast before departure. Ice conditions do not imperil tow or impede access to shelter			
8) Pre-departure preps:	Required -- as specified in § 45.191			

9) Towboat requirements	Sufficient to handle tow	Sufficient to handle tow, but at least--	
		1,000 HP	1,500 HP
(a) Power:			
(b) Communication system:	Recommended -- § 45.195(a)	Recommended -- § 45.195(a)	Required -- § 45.195(a)
(c) Cutting gear:	Recommended -- § 45.195(b)	Recommended -- § 45.195(b)	Required -- § 45.195(b)
(d) Operational plan:	Recommended -- § 45.197	Recommended -- § 45.197	Required -- § 45.197

BILLING CODE 9110–04–C

(d) The provisions in this subpart pertain only to load line regulations. Nothing here waives or exempts participating barges from other requirements for vessels operating on Lake Michigan, such as Certificate of Documentation requirements per 46 CFR part 67.

■ 3. Amend § 45.173 to revise paragraphs (c) and (d) and add new paragraph (e) to read as follows:

§ 45.173 Eligible barges.

* * * * *

(c) Barges with a length-to-depth ratio less than 22;

(d) Barges on the Milwaukee route must not be more than 10 years old; and

(e) All weathertight and watertight closures (dogs, gaskets, covers, etc.) must be in proper working condition.

■ 4. Revise § 45.175 to read as follows:

§ 45.175 Applicable routes.

This subpart applies to the following routes, including intermediate ports, on Lake Michigan, between Calumet Harbor, IL, and—

(a) Milwaukee, WI (the "Milwaukee route");

(b) Burns Harbor, IN (the "Burns Harbor route");

(c) St. Joseph, MI (the "St. Joseph route"); and

(d) Muskegon, MI (the "Muskegon route").

■ 5. Amend § 45.181 to revise paragraphs (a) and (b)(1) to read as follows:

§ 45.181 Load line exemption requirements for the Burns Harbor and Milwaukee routes.

* * * * *

(a) *Registration.* Before the barge's first voyage onto Lake Michigan, the owner or operator must register the barge in writing with the Commanding Officer, Marine Safety Unit Chicago, 555A Plainfield Road, Willowbrook, IL, 60527. The registration may be faxed to MSU Chicago in advance at (630) 986–2120, with the original following by mail. The registration may be in any form, but must be signed by the owner or operator. No load line exemption certificate will be returned. However, the registration will be kept on file.

(b) * * *

(1) Barge name and official documentation number;

* * * * *

§ 45.183 [Amended]

■ 6. Amend § 45.183 to read as follows:

■ a. In paragraph (a)(2), remove the word "five" and add, in its place, the numeral "5"; and

■ b. In paragraph (b)(2)(vi), remove the words "and be fully" and add, in their place, the words "and fully".

■ 7. Amend § 45.185 to revise paragraphs (b) and (c) to read as follows:

§ 45.185 Tow limitations.

* * * * *

(b) No more than a total of three barges per tow may operate on the Milwaukee, St. Joseph, and Muskegon routes. A mixed tow of load-lined and exempted barges is still limited to three barges on those routes.

(c) Tows must not be more than 5 nautical miles from shore.

■ 8. Revise § 45.187 to read as follows:

§ 45.187 Weather limitations.

(a) Tows may not operate under Small Craft Advisory (SCA) conditions or worse, as issued by the National Weather Service in Lake Michigan Nearshore Marine Forecasts.

(b) Tows may not operate when adverse ice conditions may imperil the tow or impede its access to shelter.

(c) If SCA conditions are forecasted to develop at any time during the voyage, the tow must not leave harbor or, if already underway, must proceed to the nearest appropriate harbor of safe refuge.

■ 9. Amend § 45.191 to revise paragraphs (a) and (b)(5) to read as follows:

§ 45.191 Pre-departure requirements.

* * * * *

(a) *Weather forecast.* Determine the Lake Michigan Nearshore Marine Forecast along the planned route, and confirm that adverse weather conditions (Small Craft Advisory or worse, or ice conditions) are not forecasted to develop.

(b) * * *

(5) All hatch and manhole dogs are in working condition, and all covers are closed and secured watertight;

* * * * *

§ 45.193 [Amended]

■ 10. In § 45.193(a), add the text "(HP)" after the word "horsepower".

§ 45.197 [Amended]

■ 11. In § 45.197, in the introductory text, remove the word "aboard" and add, in its place, the words "on board".

Dated: November 12, 2010.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2010–28993 Filed 11–17–10; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[PS Docket No. 07–114; FCC 10–176]

Wireless E911 Location Accuracy Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) amends its rules to require wireless licensees subject to standards for wireless Enhanced 911 (E911) Phase II location accuracy and reliability to satisfy these standards at either a county-based or Public Safety Answering Point (PSAP)-based geographic level. The Commission takes this step in order to ensure an appropriate and consistent compliance methodology with respect to location accuracy standards.

DATES: The rule is effective January 18, 2011, except for §§ 20.18(h)(1)(vi), 20.18(h)(2)(iii), and 20.18(h)(3), which contains information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Policy Division, Public Safety and Homeland Security Bureau, (202) 418–2413.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order* (Order) in PS Docket No. 07–114, FCC 10–176, adopted September 23, 2010, and released September 23, 2010. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. This document may also be obtained from the Commission's duplicating contractor, Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via e-mail at *FCC@BCPIWEB.COM.* Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by sending an e-mail to *FCC504@fcc.gov* or calling the Consumer and Governmental Affairs Bureau at (202) 418–0530, TTY (202) 418–0432. This document is also available on the Commission's Web site at *http://www.fcc.gov.*

I. Introduction

1. One of the most important opportunities afforded by mobile telephony is the potential for the American public to have access to emergency services personnel during times of crisis, wherever they may be. To ensure this benefit is realized, however, public safety personnel must have accurate information regarding the location of the caller. Without precise location information, public safety's ability to provide critical services in a

timely fashion becomes far more difficult, if not impossible. Accordingly, this order requires wireless carriers to take steps to provide more specific automatic location information in connection with 911 emergency calls to Public Safety Answering Points (PSAPs) in areas where they have not done so in the past. As a result of this order, emergency responders will be able to reach the site of an emergency more quickly and efficiently. In addition, in a companion Further Notice of Proposed Rulemaking and Notice of Inquiry that we adopt today, we build on the order and explore how to further enhance location accuracy for existing and new wireless voice communications technologies, including new broadband technologies associated with deployment of Next Generation 911 (NG911) networks.

2. To accomplish these goals, in this Second Report and Order, we revise section 20.18(h) of the Commission's rules, which specifies standards for wireless Enhanced 911 (E911) Phase II location accuracy and reliability. Specifically, we now require wireless licensees subject to section 20.18(h) to satisfy these standards at either a county-based or PSAP-based geographic level. We also revise the requirements of section 20.18(h) for handset-based and network-based location technologies.

II. Background

3. On June 1, 2007, the Commission released a Notice of Proposed Rulemaking (NPRM) seeking comment on the appropriate geographic area over which to measure compliance with section 20.18(h), as well as a variety of additional questions about how to improve 911 location accuracy and reliability. In the NPRM, the Commission indicated that carriers should not be permitted to average their accuracy results over vast service areas, because carriers thereby could assert that they satisfy the requirements of section 20.18(h) without meeting the accuracy requirements in substantial segments of their service areas. The Commission stated that although measuring location accuracy at the PSAP level may present challenges, the public interest demands that carriers and technology providers strive to ensure that when wireless callers dial 911, emergency responders are provided location information that enables them to reach the site of the emergency as quickly as possible. Because many carriers were not measuring and testing location accuracy at the PSAP service area level, the Commission sought comment on whether to defer enforcement of section 20.18(h) if the Commission adopted its tentative conclusion to require compliance at the PSAP level.

4. On November 20, 2007, the Commission released a Report and Order (First Report and Order) requiring wireless licensees to satisfy the E911 accuracy and reliability standards at a geographic level defined by the service area of a PSAP. The decision to adopt a PSAP-level compliance requirement was responsive to a request for declaratory ruling filed by the Association of Public-Safety Communications Officials-International, Inc. (APCO) asking that the Commission require carriers to meet the Commission's location accuracy requirements at the PSAP service area level. Specifically, the First Report and Order established interim annual requirements leading to an ultimate deadline of September 11, 2012 for achieving compliance with section 20.18(h) at the PSAP level, for both handset-based and network-based technologies. Several carriers filed with the Commission Motions for Stay of the First Report and Order, seeking a stay of the effectiveness of the rules adopted in the First Report and Order pending judicial review. Following petitions for review filed with respect to the First Report and Order, on March 25, 2008, the United States Court of Appeals for the District of Columbia Circuit (Court) stayed the First Report and Order.

5. On July 14, 2008, APCO and the National Emergency Number Association (NENA) filed an ex parte letter stating that they "are now willing to accept compliance measurements at the county level" rather than at the PSAP level. APCO and NENA added that "[p]ublic safety and wireless carriers are in current discussions on a number of other issues associated with E9–1–1, with the goal of improving information available to PSAPs. There are areas of agreement in concept; however, the details are still being developed."

6. On July 31, 2008, the Commission filed with the Court a Motion for Voluntary Remand and Vacatur, which requested remand based on the proposals contained in the July 14 ex parte letter and "[i]n light of the public safety community's support for revised rules." Following this filing with the Court, NENA, APCO, Verizon Wireless, Sprint Nextel Corporation (Sprint Nextel), and AT&T Inc. (AT&T) submitted written ex parte letters with the Commission with proposed new wireless E911 rules. On September 17, 2008, the Court granted the Commission's Motion for Voluntary Remand.

7. On September 22, 2008, the Public Safety and Homeland Security Bureau (Bureau) released a public notice seeking comment on the proposals submitted in the ex parte letters. The Bureau sought comment on the proposed changed accuracy requirements, including the benchmarks, limitations, and exclusions, for handset-based and network-based location technologies. The Bureau also sought comment on pledges to convene industry groups to explore related issues, and whether the Commission should require the provision of confidence and uncertainty data, as well as any alternative modifications to location accuracy requirements. The Bureau urged all interested parties to review the entirety of the ex parte letters.

8. On November 4, 2008, the Commission adopted two Orders approving applications for transfers of control, involving Verizon Wireless and ALLTEL Corporation, and Sprint Nextel and Clearwire Corporation, conditioned upon their voluntary agreements to abide by the conditions set forth in their respective ex parte letters, which are identical to the wireless E911 proposals they submitted in this proceeding. In each case, the Commission found that these conditions would "further ensure that consummation of the proposed merger serves the public interest, convenience and necessity."

9. On November 20, 2009, in light of the passage of time, the Bureau released a public notice seeking to refresh the record. Specifically, the Bureau sought comment on whether subsequent developments in the industry and technology may have affected parties' positions on the issues raised. A list of parties submitting comments in response to the Second Bureau Public Notice is attached as Appendix A.

10. On June 16, 2010, T-Mobile USA, Inc. (T-Mobile) filed an ex parte letter stating that it would agree to comply with the benchmarks for network-based location technologies that were proposed in the APCO/NENA/AT&T Aug. 25 Ex Parte, with several modifications. On June 30, 2010, the Rural Cellular Association (RCA) filed an ex parte letter stating that it supports the proposed modifications in the T-Mobile Ex Parte. On July 7, 2010, APCO and NENA filed an ex parte letter stating that they do not object to the proposed modifications in the T-Mobile Ex Parte and urged the Commission to proceed expeditiously to implement the modified proposals. On July 29, 2010, General Communication, Inc. (GCI) filed an ex parte letter including proposals

with specific application to rural and regional providers.

11. This Second Report and Order represents our next step in a comprehensive examination of E911 location accuracy and reliability. Taken together, the APCO, NENA, AT&T, Sprint, T-Mobile, and Verizon Wireless proposals reflect agreement among leading 911 stakeholders for new E911 accuracy requirements for both handset-based and network-based location technologies. In the context of our review of the entire record in this proceeding, we find that these consensus proposals from national public safety organizations and major industry representatives will provide public safety agencies with necessary information during emergencies, and benefit consumers, in a manner that is technologically achievable. Moreover, the timeframe for compliance and permitted exclusions will serve to minimize the economic impact on small carriers while retaining significant benefits for public safety.

III. Discussion

A. Compliance With Section 20.18(h) at the County Level or PSAP Level

12. The rule changes we are adopting today further our long-standing public safety and homeland security goals in this proceeding. First, they ensure that all stakeholders—including public safety entities, wireless carriers, technology providers, and the public—will benefit from an appropriate and consistent compliance methodology. Second, by making clear that location accuracy compliance may not be achieved on an averaged basis over large geographical areas, the revised rules ensure that PSAPs receive meaningful, accurate location information from wireless 911 callers in order to dispatch local emergency responders to the correct location. As a direct result, the new rules will minimize potentially life-threatening delays that may ensue when first responders cannot be confident that they are receiving accurate location information. As discussed below, major wireless carriers either already are subject to most elements of the ex parte proposals as a result of merger conditions, or indicate they can comply with the changed location accuracy requirements based on existing location technologies. These carriers also indicate that it is feasible for them to comply with our new requirement that they provide confidence and uncertainty data to PSAPs, which is widely supported by the public safety community. Also, as explained below, we provide for certain exclusions reflective of the technical limitations of existing location technologies. Furthermore, carriers facing unique circumstances may seek waiver relief based on certain factors.

13. As an initial matter, some commenters have urged the Commission to forego any rulemaking, advocating instead that the Commission establish an industry advisory group to draft new rules relating to location accuracy. Further, some technology companies presented alternate views. For example, Polaris Wireless, Inc. (Polaris) states that the ex parte proposals maintain the status quo for handset-based carriers and "spark a migration to predominately handset-based technologies even for network-based carriers." Therefore, Polaris argues that "this proposed framework will not drive the adoption of the best E911 Phase II technologies available today, such as hybrid systems, nor will it achieve the greatest or fastest possible outcome for the American public." S5 Wireless, Inc. (S5) "believes it is currently possible to implement newer technologies, such as that which S5 offers, and easily achieve the Commission's accuracy standards."

14. We decline to delay taking Commission action, because of the importance to public safety of minimizing the potentially life-threatening delays that may ensue when first responders cannot be confident that they are receiving accurate location information. Further, while other technologies may hold promise for enhanced location accuracy, we find that acting now to adopt clear new geographic requirements based on the existing location accuracy calculations is the best course for the near-term. In our companion proceeding adopted today, we explore how differing technology approaches may improve wireless location accuracy going forward.

15. Comments. A number of commenters generally support requiring compliance with section 20.18(h) at the county or PSAP-level. However, a few commenters held opposing views. Corr Wireless Communications, LLC (Corr) advocates using the Metropolitan Statistical Area as a "more useful measuring stick for this kind of service." Corr, however, indicates that it would support a county-based metric provided that the Commission "make an exception in its accuracy requirement to account for the impossibility or extreme difficulty in meeting that standard in rural areas." Furthermore, a number of commenters argue that complying with the county-level standard would be prohibitively expensive. For example, the National Telecommunications Cooperative Association (NTCA) argues that "it is expected that the new standards will impose prohibitive costs on many rural wireless carriers, if compliance is even possible." The Rural Telecommunications Group (RTG), citing to its August 20, 2007 comments, notes that rural carriers "may need to construct an extraordinary number of additional antenna sites," and that, "[w]ith fewer customers than large carriers serving urban areas, RTG members and other rural wireless carriers are unable to recover the substantial cost of constructing a large number of additional cell sites solely to triangulate location data." GCI argues that the county-based metric does "not take into account the technological and economic realities of providing service to low-density, topographically challenged service areas, like Alaska," adding that "strict adherence to th[e] proposed metrics [w]ould have the perverse result of stifling deployments to areas most in need of wireless infrastructure investment." NENA and APCO favor "a waiver process to the wholesale 'exceptions' for rural carriers proposed by Corr Wireless which would essentially only require Phase I in many parts of the country."

16. Discussion. Based on the complete record in this proceeding, we revise the wireless location accuracy rules to require county-level or PSAP-level compliance. We agree with APCO and NENA and find that requiring compliance at the county level reflects recent consolidation efforts by PSAPs to mirror county boundaries. In addition, we agree that counties "are more easily defined than PSAPs and are not prone to administrative boundary changes." We find that compliance at the county level can be achieved with currently available technology, particularly in conjunction with the revisions we make to section 20.18(h) discussed below, including the permitted exclusions. Accordingly, we find that a county-level compliance standard provides an appropriate, consistent, and achievable compliance methodology with respect to wireless location accuracy standards. We conclude that a county-level compliance standard will ensure that PSAPs receive accurate and meaningful location information in most cases. Moreover, nothing in the record persuades us that such costs will be prohibitive for participating wireless carriers, including smaller carriers. The commenters expressing these concerns provide no quantification of the cost of meeting these requirements. As discussed below, however, we afford certain exclusions and note that

financial considerations, among others, will be taken into account should a service provider request waiver relief.

17. We also find that there continues to be merit in a PSAP service area-based compliance standard. As APCO and NENA indicate, "county-level accuracy would in many cases be identical to PSAP-level accuracy." In many areas, PSAP service areas are coterminous with county boundaries. Where PSAP service areas are larger than counties, however, providing location accuracy at the PSAP level would be beneficial to the public safety community since the reported accuracy would match the exact boundary of the PSAP's service area. Conversely, where PSAPs are smaller than counties, providing location accuracy information at the PSAP level could be of even more value to the PSAP and the public safety community since the information would be provided on a more granular basis than that achieved at the larger county level. Various public safety organizations continue to express support for PSAP-level compliance in comments filed with the Commission.

18. We therefore find that both PSAP-level compliance and county-level compliance are beneficial towards meeting the needs of PSAPs and public safety first responders, and we will allow carriers to choose which standard better meets their needs. Such an approach will permit carriers to analyze carrier-specific factors like natural and network topographies (for example, foliage levels, terrain characteristics, cell site density, overall system technology requirements, etc.) while, in either case, ensuring that public safety responders receive timely and accurate location information.

B. Handset-Based Location Technologies

19. On August 20, 2008, NENA, APCO, and Verizon Wireless filed a joint proposal for "compliance measurements for handset-based technologies." Specifically, they propose the following new rules:

Two years after the Commission adopts new rules, on a county-by-county basis, 67% of Phase II calls must be accurate to within 50 meters in all counties; 80% of Phase II calls must be accurate to within 150 meters in all counties, provided, however, that a carrier may exclude up to 15% of counties from the 150 meter requirement based upon heavy forestation that limits handset-based technology accuracy in those counties.

Eight years after the Commission adopts new rules, on a county-by-county basis, 67% of Phase II calls must be accurate to within 50 meters in all counties; 90% of Phase II calls must be accurate to within 150 meters in all counties, provided, however, that a carrier may exclude up to 15% of counties from the 150 meter requirement based upon heavy forestation that limits handset-based technology accuracy in those counties.

20. Verizon Wireless explains that, "the greatest technical barrier to the accuracy of handset-based E911 technologies is the presence of terrain obstructions, whether natural or manmade * * * Where, for example, an area's topology is characterized by forest, the likelihood of a good location fix is reduced because the tree cover obstructs the transmission path between the satellites and the handset. The more extensive the tree cover, the greater the difficulty the system has in generating a GPS-based fix." To that end, Verizon Wireless states that its joint proposal with NENA and APCO compensates for these "technical realities."

21. The parties also pledged "to convene, within 180 days of the Commission's order, an industry group to evaluate methodologies for assessing wireless 9–1–1 location accuracy for calls originating indoors and report back to the Commission within one year." On August 21, 2008, Sprint submitted a letter in support of the NENA, APCO, and Verizon Wireless proposal, stating: The proposed accuracy standard meets the concerns of public safety while acknowledging the limitations of current technology. Although setting the accuracy standard at the county level will impose significant testing costs and require substantial time to complete, the accuracy standards articulated should be achievable. Sprint commends all those involved in the work required to produce this proposal and urges the Commission to adopt this compromise.

22. As mentioned above, the Commission previously adopted two Orders approving applications for transfers of control, involving Verizon and ALLTEL Corporation and Sprint Nextel and Clearwire Corporation, conditioned upon their voluntary agreements to abide by the conditions set forth in their respective ex parte letters, which are identical to the wireless E911 proposals they submitted in this proceeding.

23. Comments. Sprint Nextel, a handset-based carrier, continues to support the NENA, APCO, and Verizon Wireless proposal. Sprint Nextel views these benchmarks as "furthering the goals of public safety; both by holding carriers to a higher standard and by ensuring that carriers are optimizing their networks at the local level." Sprint Nextel adds that, "one of the significant benefits of the compromise will be the extensive testing required at the local level." Sprint Nextel notes that "[t]o date the Commission has adopted new accuracy requirements for two wireless carriers, Sprint and Verizon Wireless" and the Commission should therefore "work toward developing regulations to apply to the industry as a whole." NTELOS, however, expresses "concerns that any new testing and reporting requirements would be burdensome since we are a small, regional carrier and do not have the expertise within the company to accomplish this task." NTELOS notes that it "depends heavily on outside vendors for support in our accuracy testing," and "the unknown cost of reporting requirements that would accompany any rule change could have significant repercussions for smaller carriers." RCA states that "as currently proposed, the [handset based] location accuracy standards provided by Verizon Wireless and public safety groups are not technically and economically feasible for the Tier II and Tier III carriers that RCA represents. Tier II carriers will need at least an additional six months after the effective date of any new rules to meet the 67%/80% requirement proposed by Verizon Wireless. Tier III carriers will need at least an additional 12 months." SouthernLINC Wireless (SouthernLINC) maintains that the proposals "fail to give any consideration to the circumstances and operational realities faced by the nation's smaller regional and rural wireless carriers." SouthernLINC therefore argues for the "adoption of alternative benchmarks for small and mid-size Tier II and Tier III carriers," and proposes its own benchmarks in order to "provide Tier II and Tier III carriers sufficient time to implement the measures necessary to conduct county-level testing." Finally, SouthernLINC notes that "for regional and rural carriers, the impact of any new location accuracy requirements is an issue of both the cost of acquiring and deploying additional technology * * * and the cost of conducting statistically valid testing on a county-by-county basis to determine accuracy at the county level."

24. Specifically with respect to the parties' proposal to exclude fifteen percent of counties based upon heavy forestation, Sprint Nextel argues that the exclusion "acknowledges the technical limitations of current technology and does not penalize carriers for those exceptionally challenging cases." However, Motorola suggests rather than excluding 15 percent of counties based on forestation, the Commission should

adopt AT&T's requirement for network-based location technologies and allow 85 percent compliance at the final benchmark. Motorola argues that "doing so would provide carriers the flexibility for exclusions based not only on forestation, but also other situations such as urban canyons and urban/rural buildouts that limit handset-based technology accuracy." RCA argues that "the percentage of counties that can be excluded from the 150 meter requirement based upon 'heavy forestation' should be raised to twenty-five percent for purposes of meeting the 67%/80% requirement and twenty percent for the proposed 67%/90% requirement," and the Commission "should…make clear that the ['heavy forestation'] exception includes all terrain obstructions." United States Cellular Corp. (USCC) states that, "[t]o date, neither APCO, NENA nor Verizon Wireless have explained the rationale for setting the exclusion limit at 15 percent nor have they explained why this exclusion only applies in counties with heavy forestation." SouthernLINC recommends that the term "heavy forestation" be "changed to 'challenging environment' in order to clarify the nature of the of the 15-percent exclusion and avoid any confusion as to the exclusion's applicability." Verizon Wireless "supports an industry-wide rule that permits any carrier employing a handset-based solution (including Verizon Wireless) to exclude up to 15 percent of counties for any reason, not solely because of "heavy forestation." APCO and NENA disagree with including other terrain obstructions into the fifteen percent exception, arguing that this "would be unacceptable as it could lead to the exclusion of large metropolitan counties." Rather, they state that they wish to restrict the exception only to forestation "on the expectation that it would apply in most cases to very sparsely populated counties." APCO and NENA also noted that "a broader exclusion could lead to substantial areas receiving substandard location accuracy for E911 calls."

25. Discussion. We find that the consensus plan, based on the agreement of important E911 stakeholders, comprehensively addresses location accuracy criteria in connection with handset-based location technology. These proposals ensure that carriers using handset-based location technologies are subject to appropriate and consistent compliance methodology that may not be based on averaging over large geographical areas. Additionally, we believe that the important public safety issues at stake outweigh the potential cost impact of imposing these regulations. As we previously noted, SouthernLINC argues that the regulations would impose a significant strain on smaller carriers; however, SouthernLINC does not provide a quantification of the cost of meeting these requirements. Moreover, as discussed below, financial considerations, among others, will be taken into account should a service provider request waiver relief. Further, we conclude that the proposed compliance timeframes, limitations, and exemptions will provide carriers with a sufficient measure of flexibility to account for technical and cost-related concerns. Indeed, the approximately two year's passage of time since carriers first had an opportunity to raise concerns about the timing of the benchmarks negates the request of some carriers to extend the benchmarks for up to an additional year. Further, the rule changes we adopt today effectively relax the existing handset-based requirements by immediately reducing, for two years after the effective date, the 150 meter requirement from 95 percent of all calls to 80 percent of all calls. Moreover, even after eight years, the 150 meter requirement rises only to 90 percent.

26. The proposals also represent an acknowledgement by the public safety and commercial communities that they can address the critical need to provide public safety agencies with meaningful information in the event of an emergency in a technically achievable manner. The voluntary commitments to abide by the same proposals by Verizon, with respect to its transaction with ALLTEL (a Tier II wireless carrier), and Sprint, with respect to Clearwire, is further evidence of the flexibility and feasibility afforded by these criteria to enable carriers to meet these criteria even in the context of significant transactions. Thus, we require wireless licensees subject to section 20.18(h) of the Commission's rules who use handset-based location technology to satisfy these standards either at a county-based geographic level or at the PSAP service area level.

27. Because of the geographical and topographical differences that characterize different counties and PSAP service areas, we find that we should permit carriers using handset-based location technology to exclude up to 15 percent of counties or PSAP service areas from the 150 meter requirement based upon heavy forestation, consistent with the ex parte proposals. In this regard, we agree with NENA and APCO that any expansion of this exclusion, whether to an increased percentage or based on factors in addition to forestation, would excuse compliance to an unacceptable level of risk to public safety. We find that among the challenges faced by handset-based technologies, forestation is a substantial contributor and that other terrain issues typically would overlap with forestation concerns. Therefore, we expect that many of these other terrain issues will be addressed through the forestation exclusion. The more open-ended approach advocated by commenters may lead to overuse or abuse of exceptions and potentially harm public safety. The waiver process is thus much more suitable to address individual or unique problems, where we can analyze the particular circumstances and the potential impact to public safety. Some commenters recommended specific criteria for Tier III carrier waivers. We address waiver requests in more detail below.

28. In order to ensure that the public safety community and the general public are aware of these instances where carriers cannot meet the Phase II location accuracy requirements, and prevent overuse of this exclusion, we will require carriers to file a list of those specific counties or PSAP service areas where they are utilizing this exclusion, within ninety days following approval from the Office of Management and Budget (OMB) for the related information collection. This list must be submitted electronically into the docket of this proceeding, and copies sent to NENA, APCO, and the National Association of State 9–1–1 Administrators (NASNA) in paper or electronic form. Further, carriers must submit in the same manner any changes to their exclusion lists within thirty days of discovering such changes. We find that permitting this exclusion, subject to these reporting requirements, properly but narrowly accounts for the known technical limitations of handset-based location accuracy technologies, while ensuring that the public safety community and the public at large are sufficiently informed of these limitations. We expect that carriers failing to meet any particular benchmark will promptly inform the Commission and submit an appropriately supported waiver request. Further, we will monitor progress at each benchmark and may request status information if necessary.

29. We also encourage the parties to meet as a group to evaluate methodologies for assessing wireless 911 location accuracy for indoor calls. Because indoor use poses unique obstacles to handset-based location technologies, and in light of the expressed interest of both the public

safety and commercial wireless communities to further explore this issue, we clarify that these standards apply to outdoor measurements only. Further, we are seeking comment in our companion FNPRM/NOI on how best to provide automatic location identification (ALI) in technically challenging environments, including indoors.

C. Network-Based Location Technologies

30. On August 25, 2008, NENA, APCO, and AT&T submitted an ex parte letter proposing new compliance measurements specifically addressing network-based technologies. NENA, APCO, and AT&T initially explain their proposal as follows:

As network-based providers will be unable to meet the new proposed county-level accuracy standards in all areas relying solely upon current network-based technology solutions, carriers who employ network-based location solutions may be expected to deploy handset-based solutions as an overlay to existing network-based solutions in order to meet the more stringent county-level requirements set forth below. To encourage the improvements in location accuracy that may be achieved using both network and handset based solutions, this proposal provides that network-based carriers may elect to use a system of blended reporting for accuracy measurements, as defined below. Carriers also may elect to report accuracy in any county based solely on the handset-based accuracy standards.

31. The parties next propose the following as the accuracy standards for network-based carriers:

67%/100M: 67 percent of all calls, measured at the county level, shall be located within 100 meters in each county by the end of year 5, in accordance with the interim benchmarks below; and

90%/300M: 90 percent of all calls, measured at the county level, shall be located within 300 meters in 85 percent of all counties by the end of year 8, in accordance with the interim benchmarks below.

32. In complying with the above, the parties provide the following limitation:

The county-level location accuracy standards will be applicable to those counties, on an individual basis, for which a network-based carrier has deployed Phase II in at least one cell site located within a county's boundary. Compliance with the 67 percent standard and compliance with the 90 percent standard in a given county shall be measured and reported independently (i.e. the list of compliant counties for the 67 percent standard may be different than for the 90 percent standard).

33. Further, consistent with the opening explanation of their proposal, the parties propose employing a "blended" approach for meeting the above accuracy standards. Under this approach, carriers may take into account the impact of introducing "aGPS" (assisted GPS) handsets into their customer bases. Specifically, the parties state:

Accuracy data from both a network-based solution and a handset-based solution may be blended to meet the network-based standard. Such blending shall be based on weighting accuracy data in the ratio of aGPS handsets to non-aGPS handsets in the carrier's subscriber base. The weighting ratio shall be applied to the accuracy data from each solution and measured against the network-based standards.

34. In their filing, the parties offer an example of blended reporting assuming 60% penetration of aGPS devices in the network. In effect, the result of this example is a "blended average" for each county that achieves better accuracy than a network-based approach alone would achieve. AT&T states that environmental factors can "render the achievement of the current network-based location standards infeasible at the county level." However, AT&T suggests that "these challenges can be mitigated or overcome through the deployment of aGPS technology." AT&T concludes, "[a]ccordingly, using both network-based and handset-based E911 technologies in concert will allow all carriers over time to significantly improve E911 accuracy performance across the majority of service areas."

35. The NENA, APCO, and AT&T proposal also sets the following network-based solution compliance benchmarks:

36. First, for the 67%/100 meter standard:

End of Year 1: Carriers shall comply in 60% of counties, which counties shall cover at least 70% of the POPs covered by the carrier, network-wide. Compliance will be measured on a per county basis using existing network-based accuracy data.

End of Year 3: Carriers shall comply in 70% of counties, which counties shall cover at least 80% of the POPs covered by the carrier, network-wide. Compliance will be measured on a per county basis, using, at the carrier's election, either (i) network-based accuracy data; or (ii) blended reporting.

End of Year 5: Carriers shall comply in 100% of counties. Compliance will be measured on a per county basis, using, at the carrier's election, either: (i) network-based accuracy data; (ii) blended reporting; or (iii) subject to the following caveat, solely handset-based accuracy data (at handset-based accuracy standards).

A carrier may rely solely on handset-based accuracy data in any county if at least 95% of its subscribers, network-wide, use an aGPS handset, or if it offers subscribers in that county who do not have an aGPS device an aGPS handset at no cost to the subscriber.

37. Second, for the 90%/300 meter standard:

End of Year 3: Carriers shall comply in 60% of counties, which counties shall cover at least 70% of the POPs covered by the carrier, network-wide. Compliance will be measured on a per county basis using, at the carrier's election, either: (i) Network-based accuracy data; or (ii) blended reporting.

End of Year 5: Carriers shall comply in 70% of counties, which counties shall cover at least 80% of the POPs covered by the carrier, network-wide. Compliance will be measured on a per county basis using, at the carrier's election, either (i) Network-based accuracy data; or (ii) blended reporting.

End of Year 8: Carriers shall comply in 85% of counties. Compliance will be measured on a per county basis using, at the carrier's election, either: (i) Network-based accuracy data; (ii) blended reporting; or (iii) subject to the caveat above, solely handset-based accuracy data (at handset-based accuracy standards).

38. Further, similar to the NENA, APCO, and Verizon Wireless proposal regarding stakeholder efforts to address location accuracy for wireless calls originating indoors, APCO, NENA, and AT&T propose the establishment of an E911 Technical Advisory Group (ETAG) that would "work with the E911 community to address open issues within this framework (e.g., updated outdoor and indoor accuracy measurement methodologies, tactics for improving accuracy performance in challenged areas, testing of emerging technology claims, E911 responsibilities in an open-access environment, the development of hybrid network—A–GPS technologies, etc.)." AT&T continues to support the creation of an ETAG and notes that "[t]he Commission has successfully leveraged such working groups in the past to drive policy forward, particularly in the public safety area, where the Commission's objectives are clear but the technical path forward requires further research and development before implementation is possible."

39. Comments. In response to the Bureau Public Notice, T-Mobile and RCA argued that "[b]ecause as a practical matter a carrier must implement A–GPS and reach certain handset penetration levels in order to meet some of the proposed benchmarks, and because implementation of A–GPS for GSM carriers is directly tied to implementation of 3G service, several of the proposed benchmarks will not be technically and economically feasible for carriers other than AT&T unless these other carriers have a more nearly comparable period from the introduction of their own 3G services to meet the benchmarks." Specifically, T-Mobile and RCA advocated deferring the first benchmark by six months for Tier I and Tier II carriers and deferring the first benchmark by one year for Tier III carriers. In addition, they argued that "[f]or T-Mobile, * * * the second, third and fourth benchmarks need to be delayed by at least two years in order for T-Mobile to have a timeline from 3G deployment similar [to] AT&Ts. For RCA members, the second, third, and fourth benchmarks need to be delayed further as their deployment of 3G services and A–GPS handsets has not yet begun." Nokia agreed with this approach, arguing that it would "allow for a more technically and commercially feasible approach for all affected carriers, including carriers who are in initial stages of deploying 3G across their networks." RCA also noted that "Tier II and Tier III carriers do not necessarily have access to the same array or types of handsets * * * as Tier I carriers * * * due, in large part, to the growing use of exclusivity arrangements between the Nation's largest wireless carriers and handset manufacturers." NENA and APCO, however, noted that T-Mobile's plan would "probably require more than seven years [to reach the third benchmark] as they would link the start-date to the deployment of A–GPS handsets." Moreover, NENA and APCO noted that variations among carriers in their deployment of next generation technologies "might be among the factors that could be considered in a waiver process." Further, AT&T argued that "[t]he flexibility built into the joint proposal * * * will enable carriers to meet the joint proposal's ultimate requirements and interim benchmarks through a variety of means and incorporating the technologies that are best suited to their network and their particular deployment strategy * * * Particularly in light of that flexibility, AT&T is confident that the APCO/NENA/AT&T joint proposal is technically feasible for carriers that currently rely on network-based solutions."

40. In response to the Second Bureau Public Notice, T-Mobile, RCA, and RTG maintained that upon revisiting their previously submitted proposal, "with the benefit of additional experience * * * it still may not be flexible enough to recognize reality." As such, T-Mobile, RCA, and RTG requested the Commission "simply to require that all 3G handsets manufactured in or imported into the United States be A–GPS-capable after a date certain." T-Mobile, RCA, and RTG also requested the Commission to require "after an appropriate transition period, carriers [to] enable their entire network to be able to handle and to provide to PSAPs GPS-based location data from an A–GPS-capable handset, rather than locating these handsets using network-based technology." According to T-Mobile, RCA, and RTG, "[t]his handset requirement approach is simpler than the complex combinations of benchmarks and exclusions in virtually all of last year's proposals, can be easily monitored and enforced, and would ultimately produce the best technically feasible results for these "hard-to-estimate" areas." The Blooston Rural Carriers supported the T-Mobile/RCA/RTG proposal and noted that "it would help move network-based carriers toward development of handset-based technology in a rapid but realistic timeframe." NTCA believes that the T-Mobile/RCA/RTG proposal "accomplishes the Commission's objectives and makes sense for small carriers." NENA and APCO opposed the T-Mobile/RCA/RTG proposal, however, and "think the better answer is to establish a timeframe for compliance, reporting on efforts to meet elements of the timeframe and, where necessary, seek waivers based [on] current information and facts."

41. Corr Wireless proposes that the Commission "adopt the county-based metric but make an exception in its accuracy requirement to account for the impossibility or extreme difficulty of meeting that standard in a rural area." Specifically, Corr advocates that "in areas or counties where a network-solution carrier has fewer than four overlapping cell contours * * * only Phase I accuracy would be required." Corr argues that "this exception is likely to be temporary in nature since Corr agrees with AT&T that the deployment in the near future of 'A–GPS' technology will enable even network-solution carriers to achieve high levels of location accuracy." However, Corr also states that, "in order for small carriers like Corr to improve E911 accuracy through the deployment of advanced A–GPS handsets, they must have access to those handsets." Therefore, Corr argues that "the Commission should require handset manufacturers to make all handsets available on a non-discriminatory basis." T-Mobile disagrees, arguing that "this will not meaningfully accelerate deployment of A–GPS handsets. Carriers will already be driven by the benchmarks to incorporate A–GPS into their handsets * * * Thus Corr's proposed mandate is duplicative and unnecessary." GCI Communications, in a later ex parte, proposes that "Tier III carriers in Alaska be required to measure compliance with the interim and final benchmarks only for those areas within a four-mile radius circle that includes at least five cell sites, where the test location within such circle has a usable signal level greater than −104 dBm to all cell sites within the circle." GCI Communications also notes that any new benchmarks applicable to network-based carriers should "at the very least exclude any geographic area designated for measurement (like county or borough) where fewer than three cell sites are deployed and any community, or part of a community, where at least three cell sites are not viewable to a handset." Finally, a number of commenters support the creation of an industry advisory group to further study and provide recommendations related to location accuracy.

42. In a later filed ex parte, T-Mobile stated that it would agree to comply with the NENA/APCO/AT&T Aug. 25 Ex Parte for network-based carriers, with the following modifications.

First, "[w]hen using network-based measurements as a component of the county-level compliance calculation *(i.e.,* if the carrier is using network-only measurements or blending network and A–GPS measurements)," the Commission should permit the carrier to "exclude that county if it has fewer than 3 cell sites."

Second, the Commission should "[p]ermit a carrier to use "blending" as well as "network-only" measurements at the first benchmark."

Third, the Commission should "[a]llow a carrier to comply with the Year-5 (third) benchmark using only handset-based measurements so long as it has achieved at least 85% (rather than 95%) AGPS handset penetration among its subscribers."

In response, RCA "expressed its support" for the exclusion of counties with less than three cell sites, and APCO and NENA submitted a joint letter supporting T-Mobile's

modifications, and urging prompt resolution of this proceeding.

43. Discussion. As with the county level location accuracy proposal received from handset-based carriers, we find that the NENA, APCO, and AT&T proposals, as modified by the T-Mobile Ex Parte, represent a consensus from important E911 stakeholders, which comprehensively addresses location accuracy criteria in connection with network-based technologies. We find that these proposals ensure that carriers using network-based location technologies are subject to appropriate and consistent compliance methodology that no longer may be based on nationwide averaging. Also like the handset-based consensus, the proposals represent an acknowledgment by members of both the public safety and commercial communities that they can address the critical need to provide public safety agencies with meaningful information in the event of an emergency in a technically achievable manner. We reject earlier proposals by T-Mobile and RCA that would extend the compliance benchmarks. We agree with NENA and APCO, and find that extending the compliance benchmarks would disserve the important public safety goals of this proceeding. Consistent with the views of AT&T, we find that the proposed compliance timeframes, limitations, and exemptions will allow carriers a sufficient measure of flexibility to account for technical and cost-related concerns.

44. We also find that the T-Mobile Ex Parte includes modifications that are reasonable under the circumstances. First, in regard to T-Mobile's request to exclude counties with fewer than three cell sites, we note that it is not technically possible for a carrier to triangulate a caller's location with only one or two cell sites. Moreover, we are concerned that the absence of an appropriate exception may have the unintended consequence of carriers choosing to eliminate service where they are unable to triangulate position. In such circumstances, clearly the availability of wireless service to enable a caller to reach 911 in the first instance outweighs the potential lack of ALI capability, at least until blending of A–GPS-enabled handsets permits ALI. At the same time, we want to make sure that any exclusion we adopt is (1) not overly or unnecessarily employed, (2) specifically targeted to the inability, as a technical matter, to determine position through triangulation, and (3) time-limited, transparent, and regularly revisited. Simply focusing on a county-based exclusion may fail to account for all situations. A county-based exclusion may be over-inclusive by failing to account for cell sites outside a county that can be used to triangulate. Some counties, boroughs, parishes, etc. may be so large that, even though containing three or more cell sites, may still present technical challenges in achieving ALI. This can occur when cell sites are configured to provide coverage to specific communities that are at great distances from each other, or where mountainous or other terrain features prohibit triangulation of cell sites that absent such features could permit triangulation. On the other hand, triangulation may be possible in only certain portions of a county, or due to the proximity of towers available in an adjacent county. All the while, the need for this exclusion specific to network-based location technologies should diminish over time as carriers blend A–GPS handsets into their customer base.

45. Accordingly, we will permit network-based carriers to exclude from compliance particular counties, or portions of counties, where triangulation is not technically possible, such as locations where at least three cell sites are not sufficiently visible to a handset. Similar to the 15 percent county exclusion we permit for handset-based carriers above, in order to ensure that the public safety community and the general public are aware of these instances where carriers cannot meet the Phase II location accuracy requirements, and prevent overuse of this exclusion, we will require carriers to file a list of those specific counties, or portions thereof, where they are utilizing this exclusion, within ninety days following approval from OMB for the related information collection. This list must be submitted electronically into the docket of this proceeding, and copies sent to NENA, APCO, and NASNA in paper or electronic form. Further, carriers must submit in the same manner any changes to their exclusion lists within thirty days of discovering such changes.

46. At the same time, we find it appropriate to place a time limit on this exclusion, because the need for this exclusion will diminish over time as network-based carriers incorporate A–GPS handsets into their subscriber bases. Accordingly, we will sunset this exclusion eight years after the effective date of this Order. Eight years following the effective date is the period of time by which the revised network-based requirements become fully effective. Network-based carriers that continue to lack the technical ability to triangulate position in certain areas upon the sunset date may seek extended relief from the Commission at that time. We find that permitting this exclusion, subject to the initial reporting requirement, the obligation to update the list of excluded areas, and the sunset period, properly but narrowly accounts for the known technical limitations of network-based location accuracy technologies, while ensuring that the public safety community and the public at large are sufficiently informed of these limitations.

47. T-Mobile also requests that the Commission "[p]ermit a carrier to use 'blending' as well as 'network-only' measurements at the first benchmark." We find that in terms of the blending element, there is no reason to differentiate among the compliance mechanisms for the three benchmarks. Thus, we will permit a carrier to blend accuracy data from both a network-based solution and a handset-based solution to meet the network-based standard at the first benchmark. Lastly, T-Mobile requests that the Commission "[a]llow a carrier the option to comply with the Year 5 (third) benchmark using only handset-based measurements so long as it has achieved at least 85% (rather than 95%) A–GPS handset penetration among its subscribers." We agree with T-Mobile that this approach "is more consistent with a phased transition to 95% A–GPS handset penetration over the entire 8-year period." We also note that without this modification, a carrier's percentage of low-end customers could significantly affect its ability to meet the benchmarks. As T-Mobile and RCA point out, "[l]ow-end customers are less likely to move rapidly to the new 3G services and A–GPS handsets." Accordingly, we will permit a network-based carrier to comply with the third benchmark using only handset-based measurements, as long as it has achieved at least 85% A–GPS handset penetration among its subscribers.

48. Taking into consideration our goals for this proceeding and the entire record, we amend the network-based location accuracy rules consistent with the NENA, APCO and AT&T proposals, as modified by the T-Mobile Ex Parte, and as modified as discussed above with respect to the permitted exclusions where triangulation is not technically achievable. Accordingly, we require wireless licensees subject to section 20.18(h) of the Commission's rules using network-based location technology to satisfy these standards either at a county-based or PSAP-based geographic level. We clarify that these standards apply to outdoor measurements only. As described above,

and modified by the T-Mobile Ex Parte, we will also allow accuracy data from both a network-based solution and a handset-based solution to be blended to meet the network-based standard. We agree with AT&T that allowing this type of blending can mitigate perceived challenges associated with providing accurate location identification in certain areas. As before concerning the handset-based requirements, we expect that carriers failing to meet any particular benchmark will promptly inform the Commission and submit an appropriately supported waiver request. Further, we will monitor progress at each benchmark and may request status information if necessary.

49. Finally, as we previously noted, AT&T commits to creating an ETAG that would further examine related E911 issues. We encourage this effort, as well as Verizon's offer to convene an industry group to explore location accuracy for indoor calls as discussed above. Our companion FNPRM/NOI also seeks comment on these issues.

D. Confidence and Uncertainty Data

50. In the NPRM, we tentatively concluded that carriers should automatically provide accuracy data to PSAPs. We asked how and in what format that data should be transferred to each applicable PSAP. We also asked how often it should be reported or provided and whether it should be provided as part of the call information/ALI. Finally, we asked what the appropriate level of granularity for such accuracy data should be.

51. NENA, APCO, and AT&T include in their ex parte submission a proposal with respect to the provision of confidence and uncertainty data to PSAPs. Specifically:

Confidence and uncertainty data shall be provided on a per call basis upon PSAP request. This requirement shall begin at the end of Year 2, to allow testing to establish baseline confidence and uncertainty levels at the county level. Once a carrier has established baseline confidence and uncertainty levels in a county, ongoing accuracy shall be monitored based on the trending of uncertainty data and additional testing shall not be required.

52. This proposal is widely welcomed by the public safety community, as well as by representatives of industry. In its original request for declaratory ruling, APCO stated, "[r]egardless of the geographic area over which accuracy is measured, it is critical for PSAPs to know just how accurate the information is that they do receive." APCO later explained:

PSAPs need to know the level of E9–1–1 accuracy to facilitate appropriate dispatching of emergency responders. For example, responders need to know what to do if they arrive at the "wrong address" or are unable to see the emergency upon arrival. If the call was delivered with a high degree of accuracy, the search for the actual emergency can be narrowed without requiring additional personnel. However, if the accuracy levels are actually low, then responders need to be prepared for a wider area search, and additional scarce resources may need to be dispatched. APCO and NENA also stress that providing confidence and uncertainty data on a per call basis "will greatly improve the ability of PSAPs to utilize accuracy data and manage their 9–1–1 calls." Industry representatives have similarly expressed the importance of confidence and uncertainty data. In this respect, we agree with AT&T that "the delivery of confidence and uncertainty data on a per-call basis will markedly improve 911 call takers' ability to assess the validity of each call's location information and deploy public safety resources accordingly." Sprint Nextel notes that "the uncertainty factor provides PSAPs with real time information about the quality of location calculation and removes the need to make their own assessment regarding the relative reliability of any particular fix."

53. Comments. AT&T argues that "wireless carriers are well positioned to develop and transmit C/U data, and our discussions with public safety organizations have made clear that, by enabling first responders to more accurately identify the relevant search data, the data can be very useful for PSAPs that are equipped to receive and utilize it." AT&T adds that "it is important that the C/U data delivered by carriers adhere to a single, common standard * * * AT&T and other carriers have reached consensus that uncertainty estimates will be provided by carriers at a confidence level corresponding to one standard deviation ('one sigma') from the mean" (or a confidence level of approximately 68 percent). Sprint Nextel supports the proposal to transmit confidence and uncertainty data upon PSAP request, but states that this is dependent on LECs forwarding this data to PSAPs and that "the Commission must require owners of E911 networks to take the steps necessary to accommodate such data." AT&T likewise notes that, "for the data to provide value * * * the local exchange carrier must deliver that [confidence and uncertainty] data to the PSAP, and the PSAP must be equipped to receive and use it." Verizon states that "in some cases, the emergency services provider does not have the capability to transmit confidence and uncertainty information" and that the Commission should "require wireless carriers to include confidence and uncertainty information in the call location information they provide to the emergency services providers." NENA and APCO state that "[f]or those [System Service Providers] who do not pass uncertainty data to PSAPs, the burden should be on the SSP to demonstrate that they do not pass uncertainty data at the request of the PSAP or because of technical infeasibility, in which case a waiver may be warranted." However, Telecommunications Systems, Inc. states that the Commission should "reject the unspoken mandate to require extensive initial baseline ground truth testing and examine the benefits of using horizontal uncertainty as the initial and primary criteria for meeting location accuracy standards and the location information provided to PSAPs."

54. Discussion. Regardless of whether a carrier employs handset-based or network-based location technology, we require wireless carriers to provide confidence and uncertainty data on a per call basis upon PSAP request beginning at the end of year two. Although the NENA, APCO and AT&T proposal specifically applies to network-based location technologies, the record supports a finding that confidence and uncertainty data is useful for PSAPs in all cases, and that it is both technologically feasible and in the public interest to require both handset-based and network-based carriers to provide confidence and uncertainty data in the manner proposed. Further, as Telecommunications Systems, Inc. notes in its comments, implementation of its proposed alternative process would require "further cooperative study." We thus decline to adopt its proposal, but do not preclude future consideration.

55. In addition, in light of the importance and usefulness of confidence and uncertainty data to public safety as demonstrated in the record, we take additional steps to ensure that the requirements we impose on wireless carriers are meaningful. Thus, to ensure that confidence and uncertainty data is made available to requesting PSAPs, we also require entities responsible for transporting this data between the wireless carriers and PSAPs, including LECs, CLECs, owners of E911 networks, and emergency

service providers (collectively, System Service Providers (SSPs)), to implement any modifications to enable the transmission of confidence and uncertainty data provided by wireless carriers to the requesting PSAPs. Additionally, we agree with APCO and NENA that an SSP that does not pass confidence and uncertainty data to PSAPs must demonstrate in a request for waiver relief that it cannot pass this data to the PSAPs due to technical infeasibility.

E. Waiver Requests

56. Some commenters recommended specific criteria for Tier III carrier waivers. We decline at this time to adopt any changes to the Commission's existing waiver criteria, which have been sufficient to date in addressing particular circumstances on a case-by-case basis and remain available to all carriers. Further, we expect that the rule changes we adopt today should minimize the need for waiver relief. For handset-based carriers, we are permitting an exclusion of fifteen percent of counties due to heavy forestation and similar terrain features that impede the ability to obtain accurate location information. For network-based carriers, we are permitting exclusion of counties or portions of counties where cell site triangulation is not technically possible. In addition, the revised benchmarks are based on an eight-year compliance period, with the earliest benchmark not taking effect until one year following the effective date of this Order. Finally, we make clear that the revised location accuracy requirements do not apply to indoor use cases.

IV. Procedural Matters

A. Final Regulatory Flexibility Analysis

57. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Notice. The Commission sought written public comment on the possible significant economic impact on small entities regarding the proposals addressed in the Notice, including comments on the IFRA. Pursuant to the RFA, a Final Regulatory Flexibility Analysis is set forth in Appendix B of the Second Report and Order.

B. Paperwork Reduction Act of 1995 Analysis

58. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the OMB to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

C. Congressional Review Act

59. The Commission will send a copy of this Second Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

D. Accessible Formats

60. 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). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CARTS, *etc.*) by e-mail: *FCC504@fcc.gov;* phone: (202) 418–0530 (voice), (202) 418–0432 (TTY).

V. Ordering Clauses

61. Accordingly, *it is ordered,* pursuant to sections 1, 4(i), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 332, that the Second Report and Order in PS Docket No. 07 114 IS ADOPTED, and that part 20 of the Commission's rules, 47 CFR Part 20, is amended as set forth in Appendix C. The Second Report and Order shall become effective 60 days after publication in the **Federal Register,** subject to OMB approval for new information collection requirements.

62. *It is further ordered* that the Request for Declaratory Ruling filed by APCO *is granted in part* and *denied in part* to the extent indicated herein.

63. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Second Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 20

Communications common carriers, Communications equipment, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons stated in the preamble, the Federal Communications Commission amends 47 CFR part 20 as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 47 U.S.C. 154, 160, 201, 251–254, 303, and 332 unless otherwise noted.

■ 2. Section 20.18(h) is revised to read as follows:

§ 20.18 911 Service.

* * * * *

(h) *Phase II accuracy.* Licensees subject to this section shall comply with the following standards for Phase II location accuracy and reliability, to be tested and measured either at the county or at the PSAP service area geographic level, based on outdoor measurements only:

(1) *Network-based technologies:*

(i) 100 meters for 67 percent of calls, consistent with the following benchmarks:

(A) One year from January 18, 2011, carriers shall comply with this standard in 60 percent of counties or PSAP service areas. These counties or PSAP service areas must cover at least 70 percent of the population covered by the carrier across its entire network. Compliance will be measured on a per-county or per-PSAP basis using, at the carrier's election, either

(*1*) Network-based accuracy data, or

(*2*) Blended reporting as provided in paragraph (h)(1)(iv) of this section.

(B) Three years from January 18, 2011, carriers shall comply with this standard in 70 percent of counties or PSAP service areas. These counties or PSAP service areas must cover at least 80 percent of the population covered by the carrier across its entire network. Compliance will be measured on a per-county or per-PSAP basis using, at the carrier's election, either

(*1*) Network-based accuracy data, or

(*2*) Blended reporting as provided in paragraph (h)(1)(iv) of this section.

(C) Five years from January 18, 2011, carriers shall comply with this standard in 100% of counties or PSAP service areas covered by the carrier. Compliance will be measured on a per-county or

per-PSAP basis, using, at the carrier's election, either

(*1*) Network-based accuracy data,

(*2*) Blended reporting as provided in paragraph (h)(1)(iv) of this section, or

(*3*) Handset-based accuracy data as provided in paragraph (h)(1)(v) of this section.

(ii) 300 meters for 90 percent of calls, consistent with the following benchmarks:

(A) Three years from January 18, 2011, carriers shall comply with this standard in 60 percent of counties or PSAP service areas. These counties or PSAP service areas must cover at least 70 percent of the population covered by the carrier across its entire network. Compliance will be measured on a per-county or per-PSAP basis using, at the carrier's election, either

(*1*) Network-based accuracy data, or

(*2*) Blended reporting as provided in paragraph (h)(1)(iv) of this section.

(B) Five years from January 18, 2011, carriers shall comply in 70 percent of counties or PSAP service areas. These counties or PSAP service areas must cover at least 80 percent of the population covered by the carrier across its entire network. Compliance will be measured on a per-county or per-PSAP basis using, at the carrier's election, either

(*1*) Network-based accuracy data, or

(*2*) Blended reporting as provided in paragraph (h)(1)(iv) of this section.

(C) Eight years from January 18, 2011, carriers shall comply in 85 percent of counties or PSAP service areas. Compliance will be measured on a per-county or per-PSAP basis using, at the carrier's election, either

(*1*) Network-based accuracy data,

(*2*) Blended reporting as provided in paragraph (h)(1)(iv) of this section, or

(*3*) Handset-based accuracy data as provided in paragraph (h)(1)(v) of this section.

(iii) County-level or PSAP-level location accuracy standards for network-based technologies will be applicable to those counties or PSAP service areas, on an individual basis, in which a network-based carrier has deployed Phase II in at least one cell site located within a county's or PSAP service area's boundary. Compliance with the requirements of paragraph (h)(1)(i) and paragraph (h)(1)(ii) of this section shall be measured and reported independently.

(iv) Accuracy data from both network-based solutions and handset-based solutions may be blended to measure compliance with the accuracy requirements of paragraph (h)(1)(i)(A) through (C) and paragraph (h)(1)(ii)(A) through (C) of this section. Such blending shall be based on weighting accuracy data in the ratio of assisted GPS ("A–GPS") handsets to non-A–GPS handsets in the carrier's subscriber base. The weighting ratio shall be applied to the accuracy data from each solution and measured against the network-based accuracy requirements of paragraph (h)(1) of this section.

(v) A carrier may rely solely on handset-based accuracy data in any county or PSAP service area if at least 85 percent of its subscribers, network-wide, use A–GPS handsets, or if it offers A–GPS handsets to subscribers in that county or PSAP service area at no cost to the subscriber.

(vi) A carrier may exclude from compliance particular counties, or portions of counties, where triangulation is not technically possible, such as locations where at least three cell sites are not sufficiently visible to a handset. Carriers must file a list of the specific counties or portions of counties where they are utilizing this exclusion within 90 days following approval from the Office of Management and Budget for the related information collection. This list must be submitted electronically into PS Docket No. 07–114, and copies must be sent to the National Emergency Number Association, the Association of Public-Safety Communications Officials-International, and the National Association of State 9–1–1 Administrators. Further, carriers must submit in the same manner any changes to their exclusion lists within thirty days of discovering such changes. This exclusion will sunset on [8 years after effective date].

(2) *Handset-based technologies:*

(i) Two years from January 18, 2011, 50 meters for 67 percent of calls, and 150 meters for 80 percent of calls, on a per-county or per-PSAP basis. However, a carrier may exclude up to 15 percent of counties or PSAP service areas from the 150 meter requirement based upon heavy forestation that limits handset-based technology accuracy in those counties or PSAP service areas.

(ii) Eight years from January 18, 2011, 50 meters for 67 percent of calls, and 150 meters for 90 percent of calls, on a per-county or per-PSAP basis. However, a carrier may exclude up to 15 percent of counties or PSAP service areas from the 150 meter requirement based upon heavy forestation that limits handset-based technology accuracy in those counties or PSAP service areas.

(iii) Carriers must file a list of the specific counties or PSAP service areas where they are utilizing the exclusion for heavy forestation within 90 days following approval from the Office of Management and Budget for the related information collection. This list must be submitted electronically into PS Docket No. 07–114, and copies must be sent to the National Emergency Number Association, the Association of Public-Safety Communications Officials-International, and the National Association of State 9–1–1 Administrators. Further, carriers must submit in the same manner any changes to their exclusion lists within thirty days of discovering such changes.

(3) *Confidence and uncertainty data:* Two years after January 18, 2011, all carriers subject to this section shall be required to provide confidence and uncertainty data on a per-call basis upon the request of a PSAP. Once a carrier has established baseline confidence and uncertainty levels in a county or PSAP service area, ongoing accuracy shall be monitored based on the trending of uncertainty data and additional testing shall not be required. All entities responsible for transporting confidence and uncertainty between wireless carriers and PSAPs, including LECs, CLECs, owners of E911 networks, and emergency service providers (collectively, System Service Providers (SSPs)) must implement any modifications that will enable the transmission of confidence and uncertainty data provided by wireless carriers to the requesting PSAP. If an SSP does not pass confidence and uncertainty data to PSAPs, the SSP has the burden of proving that it is technically infeasible for it to provide such data.

* * * * *

[FR Doc. 2010–29007 Filed 11–17–10; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131363–0087–02]

RIN 0648–XA048

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 60 Feet (18.3 Meters) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by pot catcher vessels greater than or equal to 60 feet (18.3 meters (m)) length overall (LOA) in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2010 Pacific cod total allowable catch (TAC) specified for pot catcher vessels greater than or equal to 60 feet (18.3 m) LOA in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), November 15, 2010, through 2400 hrs, A.l.t., December 31, 2010.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2010 Pacific cod TAC allocated as a directed fishing allowance to pot catcher vessels greater than or equal to 60 feet (18.3 m) LOA in the BSAI is 12,591 metric tons as established by the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the 2010 Pacific cod TAC allocated as a directed fishing allowance to pot catcher vessels greater than or equal to 60 feet (18.3 m) LOA in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by pot catcher vessels greater than or equal to 60 feet (18.3 m) LOA in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by pot catcher vessels greater than or equal to 60 feet (18.3 m) LOA in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 12, 2010.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 15, 2010.

Brian W. Parker,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–29130 Filed 11–15–10; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 75, No. 222

Thursday, November 18, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AM32

Prevailing Rate Systems; Redefinition of the Madison, WI, and Southwestern Wisconsin Appropriated Fund Federal Wage System Wage Areas

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management is issuing a proposed rule that would redefine the geographic boundaries of the Madison, Wisconsin, and Southwestern Wisconsin appropriated fund Federal Wage System (FWS) wage areas. The proposed rule would redefine Adams and Waushara Counties, WI, from the Southwestern Wisconsin wage area to the Madison wage area. These changes are based on recent consensus recommendations of the Federal Prevailing Rate Advisory Committee to best match the counties proposed for redefinition to a nearby FWS survey area. No other changes are proposed for the Madison and Southwestern Wisconsin FWS wage areas.

DATES: We must receive comments on or before December 20, 2010.

ADDRESSES: Send or deliver comments to Jerome D. Mikowicz, Deputy Associate Director for Pay and Leave, Employee Services, U.S. Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415–8200; e-mail *pay-performance-policy@opm.gov;* or *FAX:* (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; e-mail *pay-performance-policy@opm.gov;* or FAX: (202) 606–4264.

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management (OPM) is issuing a proposed rule to redefine the Madison, WI, and Southwestern Wisconsin appropriated fund Federal Wage System (FWS) wage areas. This proposed rule would redefine Adams and Waushara Counties, WI, from the Southwestern Wisconsin wage area to the Madison wage area.

OPM considers the following regulatory criteria under 5 CFR 532.211 when defining FWS wage area boundaries:

(i) Distance, transportation facilities, and geographic features;

(ii) Commuting patterns; and

(iii) Similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

Adams County is currently defined to the Southwestern Wisconsin area of application. Based on our analysis of the regulatory criteria for defining appropriated fund FWS wage areas, we find that Adams County would be more appropriately defined as part of the Madison area of application. When measuring to cities, the distance criterion favors the Madison wage area. When measuring to host installations, the distance criterion favors the Southwestern Wisconsin wage area. The transportation facilities and geographic features criteria are indeterminate. The commuting patterns criterion slightly favors the Madison wage area. Similarities in overall population, total private sector employment, and kinds and sizes of private industrial establishments favor the Southwestern Wisconsin wage area. Although a standard review of regulatory criteria shows mixed results, the distance criterion indicates Adams County is closer to the Madison survey area. Based on this analysis, we recommend that Adams County be redefined to the Madison wage area.

Waushara County is also currently defined to the Southwestern Wisconsin area of application. Our analysis of the regulatory criteria indicates that Waushara County would be more appropriately defined as part of the Madison wage area. When measuring to cities, the distance criterion favors the Madison wage area. When measuring to host installations, the distance criterion favors the Southwestern Wisconsin wage area. The transportation facilities and geographic features criteria are indeterminate. The commuting patterns criterion is also indeterminate. Similarities in overall population, total private sector employment, and kinds and sizes of private industrial establishments favor the Southwestern Wisconsin wage area. Although a standard review of regulatory criteria shows mixed results, the distance criterion indicates Waushara County is closer to the Madison survey area. Based on this analysis, we recommend that Waushara County be redefined to the Madison wage area.

The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended these changes by consensus. These changes would be effective on the first day of the first applicable pay period beginning on or after 30 days following publication of the final regulations. FPRAC recommended no other changes in the geographic definitions of the Madison and Southwestern Wisconsin wage areas.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

John Berry,

Director.

Accordingly, the U.S. Office of Personnel Management is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix C to subpart B is amended by revising the wage area listings for the Madison, WI, and Southwestern Wisconsin wage areas to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

WISCONSIN

Madison

Survey Area

Wisconsin:
Dane

Area of Application. Survey area plus:

Wisconsin:
Adams
Columbia
Dodge
Grant
Green
Green Lake
Iowa
Jefferson
Lafayette
Marquette
Rock
Sauk
Waushara

* * * * *

Southwestern Wisconsin

Survey Area

Wisconsin:
Chippewa
Eau Claire
La Crosse
Monroe
Trempealeau

Area of Application. Survey area plus:

Wisconsin:
Barron
Buffalo
Clark
Crawford
Dunn
Florence
Forest
Jackson
Juneau
Langlade
Lincoln
Marathon
Marinette
Menominee
Oconto
Oneida
Pepin
Portage
Price
Richland
Rusk
Shawano
Taylor
Vernon
Vilas
Waupaca
Wood

Minnesota:
Fillmore
Houston
Wabasha
Winona

* * * * *

[FR Doc. 2010–29014 Filed 11–17–10; 8:45 am]

BILLING CODE 6325–39–P

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1206

Practices and Procedures, Board Meetings

AGENCY: Merit Systems Protection Board.

ACTION: Proposed rule.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) is proposing to amend its open meeting regulations at 5 CFR 1206.7 to ensure consistency with the Government in Sunshine Act.

DATES: Submit written comments on or before December 20, 2010.

ADDRESSES: Send comments to William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; (202) 653–7200, fax: (202) 653–7130 or e-mail: *mspb@mspb.gov.*

FOR FURTHER INFORMATION CONTACT: William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; (202) 653–7200, fax: (202) 653–7130 or e-mail: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION: This notice proposes to make several amendments to 5 CFR 1206.7. The title of § 1206.7 is re-named to more fully advise the reader of matters addressed therein. In section (a)(1) of the proposed regulation a new section is added to make clear that the Board may, instead of maintaining a transcript or electronic recording, maintain a set of minutes of a meeting closed pursuant to section (10) of 5 U.S.C. 552b(c). This revised section also sets forth the information that must be included in a set of minutes. Section (a)(2) of the proposed amendment states the Board's responsibility to promptly make available to the public copies of transcripts, recordings, or minutes of closed meetings, except where the Board determines that such information may be withheld pursuant to 5 U.S.C. 552b(c). Section (a)(3) of the proposed regulation addresses the Board's responsibility to retain copies of transcripts, recordings or minutes of closed meetings. Section (b) of 5 CFR 1206.7 is unchanged by the proposed amendment.

List of Subjects in 5 CFR Part 1206

Administrative practice and procedure, Board meetings.

Accordingly, the Board proposes to amend 5 CFR part 1206 as follows:

PART 1206—[AMENDED]

1. The authority citation for 5 CFR part 1206 continues to read:

Authority: 5 U.S.C. 552b.

2. Revise § 1206.7 to read as follows:

§ 1206.7 Transcripts, recordings or minutes of open and closed meetings; public availability; retention.

(a) *Closed meetings.* (1) For every meeting, or portion thereof, closed pursuant to this part the presiding officer shall prepare a statement setting forth the time and place of the meeting and the persons present, which statement shall be retained by the Board. For each such meeting, or portion thereof, the Board shall maintain a copy of the General Counsel's certification under § 1206.6(b) of this part, a statement from the presiding official specifying the time and place of the meeting and naming the persons present, a record (which may be part of the transcript) of all votes and all documents considered at the meeting, and a complete transcript or electronic recording of the proceedings, except that for meetings or portions of meetings closed pursuant to section (10) of 5 U.S.C. 552b(c), the Board may maintain either a transcript, electronic recording, or a set of minutes. In lieu of a transcript or electronic recording, a set of minutes shall fully and accurately summarize any action taken, the reasons therefor and views thereon, documents considered and the members' vote on each roll call vote, if any.

(2) The Board shall make promptly available to the public copies of transcripts, recordings or minutes maintained as provided in accordance with paragraph (a) of this section, except to the extent the items therein contain information which the Board determines may be withheld pursuant to the provisions of 5 U.S.C. 552b(c). Copies of transcripts or minutes, or transcriptions of electronic recordings including the identification of speakers, shall to the extent determined to be publicly available, be furnished to any person, subject to the payment of duplication costs or the actual cost of transcription.

(3) The Board shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two (2) years after such meeting or until one (1) year after the conclusion of any Board proceeding

with respect to which the meeting or portion was held whichever occurs later.

(b) *Open meetings*. Transcripts or other records will be made of all open meetings of the Board. Those records will be made available upon request at a fee representing the Board's actual cost of making them available.

William D. Spencer,

Clerk of the Board

[FR Doc. 2010–29019 Filed 11–17–10; 8:45 am]

BILLING CODE 7400–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 70, 170 and 171

[NRC–2009–0084]

RIN 3150–AH15

Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: extension of comment period.

SUMMARY: On July 26, 2010, the U. S. Nuclear Regulatory Commission (NRC or the Commission) published for public comment a proposed rule to amend its regulations to require that the initial distribution of source material to exempt persons or general licensees be explicitly authorized by a specific license. The proposed rule would also modify the existing possession and use requirements of the general license for small quantities of source material and revise, clarify, or delete certain source material exemptions from licensing. The public comment period for this proposed rule was to have expired on November 23, 2010. The NRC has determined a need to develop draft implementation guidance to support this proposed rule and plans to publish such draft guidance no later than early January 2011. In order to allow the public sufficient time to review and comment on the proposed rule with the benefit of review of the draft implementation guidance, the NRC has decided to extend the comment period until February 15, 2011.

DATES: The comment period has been extended and now expires on February 15, 2011. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC–2009–0084 in the subject line of your comments. For instructions on accessing documents related to this action, see "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2009–0084. Address questions about NRC dockets to Carol Gallagher, telephone: 301–492–3668, e-mail: *Carol.Gallagher@nrc.gov.*

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1677.

Hand-deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone 301–415–1677.)

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

FOR FURTHER INFORMATION CONTACT: Gary Comfort, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–8106, e-mail: *Gary.Comfort@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal Rulemaking Web site *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this proposed rule using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *PDR.resource@nrc.gov.*

Federal Rulemaking Web site: Public comments and supporting materials related to this proposed rule can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2009–0084.

Discussion

The NRC published a proposed rule that would amend its regulations in part 40 of title 10 of the Code of Federal Regulations to require that the initial distribution of source material to exempt persons or general licensees be explicitly authorized by a specific license, which would include new reporting requirements. The proposed rule is intended to provide the Commission with more complete and timely information on the types and quantities of source material distributed for use either under exemption or by general licensees. In addition, the NRC is proposing to modify the existing possession and use requirements of the general license for small quantities of source material to better align the requirements with current health and safety standards. Finally, the NRC is proposing to revise, clarify, or delete certain source material exemptions from licensing to make the exemptions more risk informed. This proposed rule would affect manufacturers and distributors of certain products and materials containing source material and certain persons using source material under general license and under exemptions from licensing.

The proposed rule was published on July 26, 2010 (75 FR 43425) and the public comment period was to have expired November 23, 2010. The NRC has determined a need to develop draft implementation guidance to support this proposed rule and plans to publish the draft implementation guidance no

later than early January 2011. In order to allow the public sufficient time to review and comment on the proposed rule with the benefit of review of the draft implementation guidance, the NRC has decided to extend the comment period until February 15, 2011.

Dated at Rockville, Maryland, this 10th day of November 2010.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2010–29108 Filed 11–17–10; 8:45 am]

BILLING CODE 7590–01–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 612, 620, and 630

RIN 3052–AC41

Standards of Conduct and Referral of Known or Suspected Criminal Violations; Disclosure to Shareholders; and Disclosure to Investors in System-Wide and Consolidated Bank Debt Obligations of the Farm Credit System; Compensation, Retirement Programs, and Related Benefits

AGENCY: Farm Credit Administration.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Farm Credit Administration (FCA, we, or our) is requesting comments on ways to clarify or otherwise enhance our regulations related to Farm Credit System (System) institutions' disclosures to shareholders and investors on compensation, retirement programs and related benefits for senior officers, highly compensated individuals, and certain individual employees or other groups of employees. We are also seeking comments on whether we should issue new regulations in related areas. In keeping with today's financial and economic environment, we believe it prudent and timely to undertake a review of our regulatory guidance on the identified areas. We intend to consider the information and suggestions we receive in response to this ANPRM when developing a rulemaking on compensation disclosures and related areas.

DATES: You may send comments on or before March 18, 2011.

ADDRESSES: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by e-mail or through the FCA's Web site. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comments multiple times via different methods. You may submit comments by any of the following methods:

- E-mail: Send us an e-mail at *reg-comm@fca.gov.*
- FCA Web site: *http://www.fca.gov.* Select "Public Commenters," then "Public Comments," and follow the directions for "Submitting a Comment."
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Gary K. Van Meter, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia or on our Web site at *http://www.fca.gov.* Once you are in the Web site, select "Public Commenters," then "Public Comments," and follow the directions for "Reading Submitted Public Comments." We will show your comments as submitted, including any supporting data provided, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove e-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

Deborah A. Wilson, Senior Accountant, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4414, TTY (703) 883–4434, or

Laura McFarland, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this ANPRM is to gather information for the development of a rulemaking that could result in:

- Enhancing the transparency and consistency of disclosures related to System institution compensation policies and practices [1] for senior officers,[2] highly compensated individuals,[3] and/or certain other groups of employees whose activities, either individually or in the aggregate, are reasonably likely to materially impact an institution's financial performance and risk profile;
- Clarifying and enhancing the authorities and responsibilities of System institution compensation committees [4] in furtherance of their oversight activities;
- Increasing user-control in System institutions' compensation policies and practices by providing for a non-binding shareholder vote on senior officer compensation;
- Requiring timely notice to interested parties of significant events, facts or circumstances occurring at a System institution between required reporting periods;
- Addressing the appropriateness of, and enhancing the disclosure of, certain payments to System institution directors; and
- Providing audit committees greater authority to access external resources when needed.

II. Background

The Farm Credit Act of 1971, as amended (Act),[5] authorizes the FCA to issue regulations implementing the provisions of the Act, including those provisions that address System institution disclosures to shareholders and investors. Our regulations are intended to ensure the safe and sound operations of System institutions and govern the disclosure of financial information to shareholders of, and investors in, the Farm Credit System.[6] Congress explained in section 514 of the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Act) [7] that disclosure of financial information and the reporting of potential conflicts of interest by institution directors, officers, and employees help ensure the financial viability of the System. In the 1992 Act, Congress required that we review our regulations to ensure that System institutions provide adequate disclosures to shareholders and other interested parties. We completed this initial review in 1993 making appropriate amendments to our

[1] 12 CFR 620.5(i).

[2] All references to senior officer(s) in this ANPRM refer to a senior officer as defined in 12 CFR 619.9310.

[3] All references to highly compensated individuals in this ANPRM refer to those officers described in 12 CFR 620.5(i)(2)(i)(B).

[4] All references to compensation committees in this ANPRM refer to compensation committees as set forth in 12 CFR 620.31 and 12 CFR 630.6(b).

[5] Public Law 92–181, 85 Stat. 583, 12 U.S.C. 2001 *et seq.*

[6] Section 5.17(a)(8), (9) and (10) of the Act. 12 U.S.C. 2252(a)(8)(9) and (10).

[7] Public Law 102–552, 106 Stat. 4131.

"Standards of Conduct" regulations (59 FR 24889, May 13, 1994), our "Disclosure to Shareholders" regulations (59 FR 37406, July 22, 1994), and our "Disclosure to Investors in System-wide and Consolidated Bank Debt Obligations of the Farm Credit System" regulations (59 FR 46742, September 12, 1994). We continue to periodically review and update our disclosure regulations to ensure they are appropriate for current business practices, that they ensure System institutions provide their shareholders with information to assist them in making informed decisions regarding the operations of the institutions, and that the disclosures provide investors with information necessary to assist them in making investment decisions.

In keeping with today's economic and business environments and in accordance with the findings of Congress under the 1992 Act, we believe it is prudent and timely to undertake a review of our regulatory guidance related to senior officer compensation. The recent turmoil within the financial industry and the ensuing decline in the economy highlight the need to ensure that shareholders and investors are informed of compensation policies and practices. Shareholders and investors need information that allows them to assess which policies and practices encourage excessive risk-taking at the expense of the institution's safety and soundness. With appropriate information, shareholders and investors can evaluate whether the institution's compensation policies and practices create an environment in which employees take imprudent risks in order to maximize their expected income at the expense of the institution's earnings performance and shareholder return. Similar efforts are in process at other regulatory agencies. For example, the Securities and Exchange Commission (SEC) recently revised its regulations to require that issuers disclose their compensation policies and practices as they relate to the company's risk management.[8] Likewise, the Board of Governors of the Federal Reserve System (FRB) has undertaken two supervisory initiatives involving a review of incentive compensation practices at certain banking organizations. The FRB has issued supervisory guidance designed to ensure that incentive compensation policies at banking organizations supervised by the FRB do not encourage imprudent risk-taking and are consistent with the safety and soundness of the organization.[9] Also, the recently enacted Dodd-Frank Wall Street Reform and Consumer Protection Act (Wall Street Reform Act)[10] includes amendments to the Securities Exchange Act of 1934 requiring, among other things, a separate resolution subject to a non-binding shareholder vote on the compensation of executive officers of a SEC issuer.[11] In addition, under the Wall Street Reform Act, each SEC issuer is required to disclose information that shows the relationship between executive compensation actually paid and the financial performance of the reporting entity.[12]

Active, effective oversight of senior officer compensation policies and practices will help align those policies and practices with safe and sound operations. Providing transparent, timely and accurate disclosures of senior officer compensation policies and practices will help ensure an institution adequately fulfills its obligation to its shareholders and investors.

III. Areas of Consideration

We are reviewing our regulations in order to identify where our disclosure regulations might be amended to enhance the transparency of an institution's compensation policies and practices and if those practices affect the safety, soundness and financial performance of the institution. Also, we are reviewing our regulations to determine if they should be amended to facilitate qualified, objective and active compensation committees that are tasked to oversee an institution's compensation programs. We are interested in public response to the questions contained in this ANPRM, including ways in which our regulations might further enhance disclosures of senior officer compensation policies and practices. We are also interested in the ways in which an institution's compensation committee might further engage in active and effective oversight of those policies and practices.

A. Enhanced Disclosures of Senior Officer Compensation

Our existing disclosure regulations at §§ 620.5(i) and 630.20(i) require that certain disclosures of compensation paid to, or earned by, senior officers and other highly compensated employees (hereinafter collectively referred to as "senior officers") be included in an institution's annual report to shareholders (or an association's annual meeting information statement). Our regulations also require disclosure of certain benefits paid to senior officers pursuant to a plan or arrangement in connection with resignation, retirement, or termination. However, depending on when an officer retires (or otherwise terminates employment with the institution), the payment may not be disclosed or it may not be disclosed in a timely manner due to the timing of the actual payment to the officer. As a result, shareholders and investors may not have all the information they need to make informed decisions on an institution's compensation policies and practices for senior officers.

We are considering whether current required disclosures should be changed to include quantitative and qualitative information on the obligations that have accrued to an institution from senior officers' supplemental retirement and deferred compensation plans. Also, we want to identify how the disclosures could provide greater clarity to the variable components of senior officers' compensation packages. We believe disclosures should provide information that assists shareholders and investors in understanding the impact of compensation programs on an institution's operations. Shareholders and investors require sufficient information to assess whether senior officers' compensation is appropriate in view of the institution's financial condition, risk profile, and business activities. This information enables shareholders to understand how an institution's board or compensation committee exercises its oversight responsibilities of ensuring a comprehensive and balanced compensation program that holds management accountable for an institution's financial performance.

Questions (1) through (8) of Section IV of this ANPRM address this topic.

B. Compensation Committees

Our existing rules at §§ 620.31 and 630.6(b) require that System institutions have compensation committees and that these committees be responsible for reviewing the compensation policies and plans for senior officers and employees, as well as approving the overall compensation program for senior officers. Compensation committee oversight is critical in ensuring compensation policies and practices do not jeopardize an institution's safety

[8] *See* SEC Release No. 33–9089, "Proxy Disclosure and Enhancements," issued February 28, 2010.

[9] Board of Governors of the Federal Reserve System, Docket No. OP–1374, "Guidance on Sound Incentive Compensation Policies," June 21, 2010.

[10] Public Law 111–203, 124 Stat. 1376.

[11] *See* section 951 of Subtitle E of Title IX, "Investor Protections and Improvements to the Regulation of Securities," of the Wall Street Reform Act.

[12] *See* section 953 of Subtitle E of Title IX, "Investor Protections and Improvements to the Regulation of Securities," of the Wall Street Reform Act.

and soundness. In FCA bookletter, "Compensation Committees" (BL–060), dated July 9, 2009, we issued guidance on how compensation committees could fulfill these duties. We are considering incorporating this guidance into our existing rules. We are also considering additional ways to enhance the authorities and responsibilities of System institution compensation committees to continue to achieve active and effective oversight of senior officers' compensation policies and practices. For example, in order for compensation committees to effectively fulfill their role, they must be specifically tasked with ensuring that compensation policies and practices do not jeopardize the safety and soundness of the institution. We are considering ways to re-emphasize that oversight responsibility. Understanding the financial commitment and total cost to the institution of the compensation programs and verifying that the institution is providing accurate and transparent disclosures on compensation are appropriate tasks for a compensation committee.

We are aware that some System institutions engage compensation consultants to make recommendations on compensation programs, plans, policies and practices. Compensation consultants can provide significant expertise to the board or compensation committee on compensation matters. These same consultants may also provide additional services, such as administration of compensation and benefit programs or actuarial services, on behalf of an institution's management. The degree of reliance placed on the consultant's expertise by the compensation committee may be a function of the consultant's independence from management influence. Therefore, we are considering requiring disclosure of the additional services provided to management by the consultant and requiring that the related fees paid to the consultant be disclosed. We are also considering if the significance of these additional services should impact whether they are included in the compensation disclosures.

Questions (9) through (13) of Section IV of this ANPRM address this topic.

C. Shareholder Approval of Senior Officers' Compensation

Recent initiatives, such as the Wall Street Reform Act, require entities that are SEC issuers to include a separate resolution in their proxy solicitations subject to shareholder vote on the compensation of the entities' executives. We are considering whether the FCA should issue regulations requiring a separate, non-binding, advisory shareholder vote on senior officer compensation and, if so, what those regulations should require. By providing for a non-binding advisory vote, shareholders would have a process through which they could express their approval or disapproval of an institution's compensation policies and practices. Board oversight and governance of compensation policies and practices may be more effective and enhanced if the board is explicitly informed of shareholder approval or disapproval. A non-binding, advisory shareholder vote would not bind the board of directors or compensation committee to any particular course of action and would not overrule any board or committee decisions related to senior officers' compensation.

Submitting senior officer compensation to a non-binding, advisory shareholder vote may be a practice that is appropriate for institutions that are cooperatively structured. One of the core cooperative principles is that those who use the cooperative should also control it. Submitting senior officer compensation to an advisory vote by System institution shareholders may promote member participation in their institution.

Question (14) of Section IV of this ANPRM addresses this topic.

D. Notice of Significant or Material Events

The FCA promotes sound governance practices. In doing so, we believe interested parties deserve timely notice and disclosure of any event, fact or circumstance that boards and management consider material or significant to the operations or financial condition of their institution. The SEC requires its registrants to file, in a timely manner, a current report to announce major events that occur between reporting periods (i.e., the Form 8–K, Current Report). We are considering requiring System institutions to provide similar current reporting on intervening events that occur between annual and quarterly reporting periods. The intervening events we are considering include enforcement actions taken by or supervisory agreements with the FCA, departure of an institution's director or an officer, results of matters an institution may submit to a vote by its shareholders, and other similar events.

Question (15) of Section IV of this ANPRM addresses this topic.

E. Remuneration to Boards of Directors in Connection With Conclusion of Services

Section 612.2130(b) of our regulations defines a conflict of interest, or the appearance thereof. The rule states that a conflict exists, or may appear to exist, when a person has a financial interest in a transaction, relationship or activity that actually affects, or has the appearance of affecting, the person's ability to perform official duties and responsibilities in a totally impartial manner and in the best interest of the institution. Payments to a director in connection with a restructuring or downsizing of the board or as a result of a merger, consolidation or other form of institutional reorganization may result in a board member having, or appearing to have, a conflict of interest or lack of total independence related to the transaction or board action. Shareholders and boards have approved such payments for economic reasons or when they wanted to recognize the contributions of directors stepping down from the board. We are considering regulating payments to directors under certain circumstances and also considering how or if these payments should be disclosed.

Question (16) of Section IV of this ANPRM addresses this issue.

F. Audit Committees

Sections 620.30(c) and 630.6(a)(3) of the FCA's regulations require a two-thirds majority vote of the full board of directors of a bank, an association or the Federal Farm Credit Banks Funding Corporation (Funding Corporation) to deny its respective audit committee's request for resources. We are considering whether we should remove the ability of the full board to deny a request from its audit committee for external resources.[13] We are considering this matter based on a May 7, 2010, request from the Funding Corporation submitted on behalf of the System Audit Committee (SAC), asking us to amend § 630.6(a)(3) of our regulations to remove the authority of the board of directors of the Funding Corporation to deny the SAC certain resources.

Question (17) of Section IV of this ANPRM addresses this request.

IV. Request for Comments

We request and encourage any interested person(s) to submit comments on the following questions and ask that you support your comments with relevant data or examples. We remind

[13] External resources may include, but not be limited to, outside advisors, consultants, or legal counsel.

commenters that comments, and data submitted in support of a comment, are available to the public through our rulemaking files.

(1) Should FCA enhance senior officer compensation disclosure requirements to improve transparency and current practices? Specifically, should the FCA consider enhancing disclosures on:

(a) The significant terms of senior officers' employment arrangements, whether or not dollar amounts are paid or earned during the reporting year, including components related to deferred compensation plans, supplemental retirement plans, performance agreements, and incentive or bonus compensation based on financial information; and

(b) The position titles of officers included in the aggregated group's compensation reported under existing § 620.5(i)(2)(i)(B) of our regulations?

(2) Should the FCA remove from § 620.5(i)(2) the option that allows associations to disclose senior officer compensation information in annual meeting information statements instead of disclosing it in annual reports?

(3) What additional disclosures (qualitative and quantitative) are needed to ensure that all compensation, including deferred compensation and supplemental retirement benefits, are fully disclosed in a timely manner and that an institution's total compensation policies, practices, and obligations for senior officers are effectively communicated in a transparent and timely manner?

(4) Should FCA require the disclosure of compensation policies and practices related to the activities of certain employees, other than senior officers, which, either individually or in the aggregate, may expose the institution to a material amount of adverse risk? If so, what disclosures are needed to ensure the compensation programs, practices, and incentives for such employees are adequately disclosed so that shareholders and investors are informed of the potential risk areas?

(5) To enhance transparency and a comprehensive understanding of the link between risk, return, and compensation incentives, should a discussion of an institution's overall risk and reward structure for senior officer compensation and benefit policies and practices be a required disclosure and, if so, what level of disclosure or qualitative information should be required?

(6) To ensure that all sources of compensation are disclosed, should institutions be required to disclose estimated payments to be made in the future to each senior officer in connection with deferred compensation arrangements, performance or incentive awards, and/or supplementary retirement benefits? If so, how should the disclosures be presented and for what periods? What other sources of senior officer compensation should be captured in current financial disclosures to shareholders?

(7) To ensure that shareholders and investors have an appropriate understanding of the assumptions used by the institution to determine estimated future payments for compensation or benefits, if disclosed, should the assumptions used to determine the future payments also be disclosed? If so, should the disclosure include why the assumptions used to determine the estimated payments are different from those used to determine the present value of dollar amounts disclosed in the Summary Compensation Table?

(8) Should institutions be required to disclose:

(a) The dollar amount of any tax reimbursements (such as Internal Revenue Code Section 280G tax gross-ups) provided by the institution to a senior officer;

(b) The business reason(s) for any material or significant change or adjustment to compensation or benefit programs from prior periods that increase or decrease salaries or compensation programs (individually or in the aggregate);

(c) Quantitative and qualitative benchmarks used to determine senior officer compensation and performance and incentive bonuses, if and why benchmarks used in the current reporting period were different from those used in prior periods, the business reason(s) for changing the benchmarks used, whether the individual officer was successful in attaining the requirements of the benchmark used, and if and how each benchmark relates to the financial performance of the institution;

(d) Significant events, trends or other information necessary to understand the institution's senior officer compensation policies and practices; and

(e) The vesting periods for long-term incentive and/or performance compensation or retirement benefits?

(9) To support the compensation committee's review and accountability processes, should compensation committees be required to certify compensation disclosures? If so, should the certification include a statement to the effect that:

(a) The compensation disclosures are true, accurate, and complete, and that the disclosures are in compliance with all applicable regulatory requirements;

(b) Comparable compensation practices used by the institution to develop its compensation policies support the valuation of senior officer compensation; and

(c) The institution's compensation policies and practices are consistent with the adverse risk-bearing capacity of the institution (as determined by the institution's board) and do not pose a threat to the safety and soundness of the institution?

(10) If compensation committees are required to certify compensation disclosures, what other areas should be addressed in the certification and what related statements should the committee certify?

(11) Would it strengthen the operation and independence of the compensation committee if the FCA required that at least one of the compensation committee members be an outside director (independent of any affiliation with the institution other than serving as a director)? What would be the benefits and/or concerns with such a requirement?

(12) If a System institution compensation committee uses the services of a compensation consultant, would the disclosure of that information be meaningful to shareholders and investors? What types of disclosures should be provided?

(13) If institution management engages the services of a compensation consultant that is also used by the compensation committee, or vice versa, should that fact be disclosed? If so, should the disclosure include a description of the additional services provided by the consultant for management that:

(a) Benefits the institution as a whole, and

(b) Are provided solely for management's benefit? Should the consultant's fees for the additional services be disclosed if those fees are in excess of de minimis amounts?

(14) To enhance transparency and shareholder understanding of compensation programs and practices, should FCA's regulations provide for a separate, non-binding advisory vote by System institution voting shareholders on senior officer compensation? If so:

(a) When and how should the vote occur;

(b) Within what timeframe should the results of the vote be reported to shareholders;

(c) Should certain System institutions be exempt from the voting requirement and, if so, what criteria should be used to exempt those institutions; and

(d) If a vote is required, should institutions be required to identify

senior officer compensation amounts on an individual basis to facilitate the vote? [14]

(15) Should System institutions be required to issue current reports on events, facts, or circumstances that management considers material or significant to the operations or financial condition of a System institution, similar to the notice on changes in capital levels described in § 620.15? [15] If so, what form should the report take, what types of events should be reported, and what timeframe would be appropriate for its issuance?

(16) To ensure that certain payments to institution directors do not create the potential for a conflict of interest, or appearance thereof, should payments made to System institution directors in connection with a restructuring or downsizing of the board, or as a result of a merger, consolidation or other form of institutional reorganization be allowed or disallowed?

(a) Under what circumstances would such payments constitute a conflict of interest or an appearance thereof?

(b) If allowed, how and when should such payments be disclosed?

(17) Should FCA remove from §§ 620.30(c) and 630.6(a)(3) the ability of a board of directors to deny a request for resources from its audit committee?

Dated: November 12, 2010.

Mary Alice Donner,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 2010–29025 Filed 11–17–10; 8:45 am]

BILLING CODE 6705–01–P

[14] 12 CFR 620.5(i)(2)(i)(B) allows aggregated disclosure in the annual report of compensation paid to senior officers.

[15] 12 CFR 620.15 provides for the notice to the FCA and shareholders by System banks and associations when an institution is not in compliance with the minimum permanent capital standards required by the FCA.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–1152; Directorate Identifier 2009–CE–026–AD]

RIN 2120–AA64

Airworthiness Directives; DORNIER LUFTFAHRT GmbH Models Dornier 228–100, Dornier 228–101, Dornier 228–200, Dornier 228–201, Dornier 228–202, and Dornier 228–212 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

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

The TC Holder received from operators, whose fleets are operated in demanding operating-conditions and with very frequent Short Take-Off and Landing (STOL) operations, reports of cracks located in the web of fuselage frame 19. On 05 February 2007, EASA issued Airworthiness Directive (AD) 2007–0028 which mandated Alert Service Bulletin (ASB) 228–266 and required an inspection of the frame 19 on all Dornier 228 aeroplanes. In addition, the TC Holder also initiated a flight-test campaign including strain measurements as well as finite element modelling and fatigue analyses to better understand the stress distribution onto the frame 19 and the associated structural components.

The results of these investigations confirmed that STOL operations diminish extensively the fatigue life of the frame 19.

Fuselage frame 19 supports the rear attachment of the Main Landing Gear (MLG). This condition, if not corrected, could cause rupture of frame 19, leading to subsequent collapse of a MLG.

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 January 3, 2011.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 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 RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Germany; *telephone:* + 49 (0) 8153–302280; *fax:* + 49 (0) 8153–303030. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4130; *fax:* (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–1152; Directorate Identifier 2009–CE–026–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On May 11, 2007, we issued AD 2007–11–03, Amendment 39–15060 (72 FR 28591; May 22, 2007). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2007–11–03, the type certificate holder initiated a series of flight-test analyses to include strain measurements as well as finite element modeling and fatigue analyses to better understand the stress distribution onto frame 19 and the associated structural components. The analyses' findings confirmed that extreme short take-off

and landing operations diminish extensively the fatigue life of frame 19. Consequently, a structure significant item inspection has been added.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2009–0085, dated April 14, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> The TC Holder received from operators, whose fleets are operated in demanding operating-conditions and with very frequent Short Take-Off and Landing (STOL) operations, reports of cracks located in the web of fuselage frame 19. On 05 February 2007, EASA issued Airworthiness Directive (AD) 2007–0028 which mandated Alert Service Bulletin (ASB) 228–266 and required an inspection of the frame 19 on all Dornier 228 aeroplanes. In addition, the TC Holder also initiated a flight-test campaign including strain measurements as well as finite element modelling and fatigue analyses to better understand the stress distribution onto the frame 19 and the associated structural components.
>
> The results of these investigations confirmed that STOL operations diminish extensively the fatigue life of the frame 19.
>
> Fuselage frame 19 supports the rear attachment of the Main Landing Gear (MLG). This condition, if not corrected, could cause rupture of frame 19, leading to subsequent collapse of a MLG.
>
> For the reasons described above, this new AD requires installation of reinforcements and butt straps on frame 19 at the lower part of the fuselage for aeroplanes used in operations where this frame may be subject to high stress and recurring inspections of that frame for all aeroplanes.

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

Relevant Service Information

DORNIER LUFTFAHRT GmbH has issued:

- RUAG Alert Service Bulletin No. ASB–228–266, dated December 1, 2006; and
- Dornier 228 Time Limits/Maintenance Checks Manual, Temporary Revision No. 05–27, dated August 4, 2008.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 17 products of U.S. registry. We also estimate that it would take about 6 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.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $8,670, or $510 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 removing Amendment 39–15060 (72 FR 28591; May 22, 2007), and adding the following new AD:

DORNIER LUFTFAHRT GmbH: Docket No. FAA–2010–1152; Directorate Identifier 2009–CE–026–AD.

Comments Due Date

(a) We must receive comments by January 3, 2011.

Affected ADs

(b) This AD supersedes AD 2007–11–03, Amendment 39–15060.

Applicability

(c) This AD applies to DORNIER LUFTFAHRT GmbH Model Dornier 228–100, Dornier 228–101, Dornier 228–200, Dornier 228–201, Dornier 228–202, and Dornier 228–212 airplanes, all serial numbers, that are certificated in any category.

Subject

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

Reason

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

The TC Holder received from operators, whose fleets are operated in demanding operating-conditions and with very frequent Short Take-Off and Landing (STOL) operations, reports of cracks located in the web of fuselage frame 19. On 05 February 2007, EASA issued Airworthiness Directive (AD) 2007–0028 which mandated Alert Service Bulletin (ASB) 228–266 and required an inspection of the frame 19 on all Dornier 228 aeroplanes. In addition, the TC Holder also initiated a flight-test campaign including strain measurements as well as finite element modelling and fatigue analyses to better understand the stress distribution onto the frame 19 and the associated structural components.

The results of these investigations confirmed that STOL operations diminish extensively the fatigue life of the frame 19.

Fuselage frame 19 supports the rear attachment of the Main Landing Gear (MLG). This condition, if not corrected, could cause rupture of frame 19, leading to subsequent collapse of a MLG.

For the reasons described above, this new AD requires installation of reinforcements and butt straps on frame 19 at the lower part of the fuselage for aeroplanes used in operations where this frame may be subject to high stress and recurring inspections of that frame for all aeroplanes.

Actions and Compliance

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

(1) For all airplanes, within 25 hours time-in-service (TIS) after June 26, 2007 (the effective date of AD 2007–11–03), visually inspect the affected fuselage frame 19 using the instructions in Dornier 228 RUAG Alert Service Bulletin No. ASB–228–266, dated December 1, 2006.

(2) If any crack is found during the inspection required in paragraph (f)(1) of this AD, before further flight, contact RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Germany; *telephone:* +49-(0)8153–30–2280; *fax:* +49-(0)8153–30–3030; *e-mail: customersupport.dornier228@ruag.com* for FAA-approved repair instructions and incorporate the repair on the airplane.

(3) After accomplishment of paragraph (f)(1) or (f)(2) of this AD, as applicable, repetitively thereafter do Structural Significant Item (SSI) Task No. 53.37 of Structure Inspection Program of Dornier 228 Time Limits/Maintenance Checks Manual, Temporary Revision No. 05–27, dated August 4, 2008, at intervals not to exceed 2,400 landings or 72 months, whichever occurs first.

(g) If the number of landings is unknown, calculate the compliance times of landings in this AD by using hours TIS. Multiply the number of hours TIS by 0.8 to come up with the number of landings. For the purpose of this AD:

(1) 800 landings equals 1,000 hours TIS; and

(2) 1,600 landings equals 2,000 hours TIS.

FAA AD Differences

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

(1) The MCAI requires different compliance times for airplanes operated in different conditions. The FAA is not able to enforce compliance times based on airplane operations since there is no way of determining the amount of operations in different conditions. To ensure the unsafe condition is addressed adequately and timely, we are requiring the inspection for all airplanes following a guideline combining number of landings and life limits.

(2) The service information allows flight with known cracks provided they do not exceed a certain limit. FAA policy does not allow flight with cracks in primary structure. Since the fuselage is considered primary structure, we are mandating repair before further flight after any crack is found.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *Attn:* Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4130; *fax:* (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(i) Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2009–0085, dated April 14, 2009; RUAG Alert Service Bulletin No. ASB–228–266, dated December 1, 2006; and Dornier 228 Time Limits/Maintenance Checks Manual, Temporary Revision No. 05–27, dated August 4, 2008, for related information. For service information related to this AD, contact RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Germany; telephone: + 49 (0) 8153–302280; fax: + 49 (0) 8153–303030. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

Issued in Kansas City, Missouri, on November 10, 2010.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–29110 Filed 11–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2520

RIN 1210–AB18

Annual Funding Notice for Defined Benefit Plans

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Proposed rule.

SUMMARY: This document contains a proposed regulation that, on adoption, would implement the annual funding notice requirement in the Employee Retirement Income Security Act of 1974 (ERISA), as amended by the Pension Protection Act of 2006 (PPA) and the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA). As amended, section 101(f) of ERISA generally requires the administrators of all defined benefit plans, not just multiemployer defined benefit plans, to furnish an annual funding notice to the Pension Benefit Guaranty Corporation (PBGC), participants, beneficiaries, and certain other persons. A funding notice must include, among other information, the plan's funding target attainment percentage or funded percentage, as applicable, over a period of time, as well as other information relevant to the plan's funded status. This document also contains proposed conforming amendments to other regulations under ERISA, such as the summary annual report regulation, which became

necessary when the PPA amended section 101(f) of ERISA. The proposed regulation would affect plan administrators and participants and beneficiaries of defined benefit pension plans, as well as labor organizations representing participants and beneficiaries and contributing employers of multiemployer plans.

DATES: Written comments on the proposed regulation should be received by the Department of Labor on or before January 18, 2011.

ADDRESSES: You may submit comments, identified by RIN 1210–AB18, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: e-ORI@dol.gov.* Include RIN 1210–AB18 in the subject line of the message.
- *Mail:* Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Annual Funding Notice for Defined Benefit Plans.

Instructions: All submissions received must include the agency name and Regulation Identifier Number (RIN) for this rulemaking. Comments received will be posted without change to *http://www.regulations.gov* and *http://www.dol.gov/ebsa,* and made available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Washington, DC 20210, including any personal information provided. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. Comments posted on the Internet can be retrieved by most Internet search engines. Comments may be submitted anonymously. Persons submitting comments electronically are encouraged not to submit paper copies.

FOR FURTHER INFORMATION CONTACT: Thomas M. Hindmarch or Stephanie L. Ward, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693–8500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

A. Background

In 2004, the Pension Funding Equity Act (PFEA '04), Public Law 108–218, amended title I of the Employee Retirement Income Security Act of 1974 (ERISA) by adding section 101(f), which required multiemployer defined benefit plans to furnish a plan funding notice annually to each participant and beneficiary, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation (PBGC).[1]

In 2006, section 501(a) of the Pension Protection Act of 2006, Public Law 109–280 (PPA), significantly amended section 101(f) of ERISA. For example, section 101(f) of ERISA now requires administrators of all defined benefit plans that are subject to title IV of ERISA, not only multiemployer plans, to furnish annual funding notices. In addition, the PPA shortened the time frame for providing funding notices and enhanced the notice content requirements. These changes are discussed in detail below. Pursuant to section 501(d) of the PPA, the amendments to section 101(f) apply to plan years beginning after December 31, 2007.[2]

On February 10, 2009, the Department issued Field Assistance Bulletin 2009–01 (FAB 2009–01) as interim guidance under section 101(f) of ERISA in order to assist plan administrators in discharging their obligations under the new annual funding notice requirements. FAB 2009–01 provides question and answer guidance on a number of issues under section 101(f) of ERISA. It also includes model funding notices. Much of the guidance in FAB 2009–01 has been incorporated into the proposed regulation contained in this document. That guidance remains in effect until the Department adopts final regulations under section 101(f) of ERISA (or if the Department were to publish any other guidance under section 101(f) other than final regulations).[3]

[1] On January 11, 2006, the Department of Labor published a final regulation implementing the requirements of section 101(f) of ERISA as amended by PFEA '04. *See* 29 CFR 2520.101–4.

[2] Prior to the applicability date of the PPA amendments to section 101(f) of ERISA, a multiemployer plan was required to furnish a funding notice consistent with § 2520.101–4 (for plan years beginning prior to January 1, 2008). For plan years beginning after December 31, 2007, multiemployer plans must comply with section 101(f) as amended, and when final, the regulations under § 2520.101–5, rather than § 2520.101–4. The Department will remove § 2520.101–4 from the Code of Federal Regulations in conjunction with the promulgation of a final rule.

[3] FAB 2009–01 is available on the Department's Web site at *http://www.dol.gov/ebsa/regs/fab2009-1.html.*

B. Overview of Proposed 29 CFR 2520.101–5—Annual Funding Notice for Defined Benefit Pension Plans

1. Scope

Paragraph (a) of the proposed regulation implements the requirements set forth in section 101(f) of ERISA. This section in general requires the administrator of a defined benefit plan to which title IV of ERISA applies to furnish annually a funding notice to the PBGC, to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan. Those persons entitled to the funding notice are further clarified in paragraph (f) of the proposed regulation.

Paragraphs (a)(2) and (3) of the proposed regulation provide limited exceptions to the requirement to furnish a funding notice.

Under the exception in paragraph (a)(2)(i) of the proposal, the plan administrator of an insolvent multiemployer plan that is in compliance with the insolvency notice requirements of sections 4245(e) or 4281(d)(3) of ERISA before the due date of the funding notice for a plan year is not, for such year, required to furnish the funding notice to the parties otherwise entitled to such notice. This exception is effectively the same as the exception that currently exists in § 2520.101–4(a)(2) for multiemployer plans receiving financial assistance from the PBGC. The rationale for the exception was articulated in the final regulation under § 2520.101–4.[4] The exception in the proposal is phrased slightly differently than the exception in § 2520.101–4 at the request of the PBGC. Inasmuch as this exception is predicated on sufficient alternative notification under sections 4245(e) and 4281(d)(3), the exception would cease to be available with respect to a plan that emerges from insolvency or ceases to comply with the insolvency notice requirements under title IV of ERISA.

Under the exception in paragraph (a)(2)(ii) of the proposal, the plan administrator of a single-employer plan is not required to furnish a funding notice for a plan year if the due date for such notice is on or after the date the PBGC is appointed trustee of the plan pursuant to section 4042 of ERISA, or the plan has distributed assets in

[4] The annual funding notice would be of little, if any, value to recipients in light of the PBGC's authority and responsibility under title IV of ERISA with respect to insolvent multiemployer plans. *See* 71 FR 1904, n.1 (Jan. 11, 2006). *See also* 70 FR 6306, n.1 (Feb. 4, 2005).

satisfaction of all benefit liabilities in a standard termination pursuant to section 4041(b) or in a distress termination pursuant to section 4041(c)(3)(B)(i), or of all guaranteed benefits in a distress termination pursuant to section 4041(c)(3)(B)(ii) of ERISA. The Department believes, because of the separate disclosure requirements applicable to such plans under title IV of ERISA, a funding notice may be unnecessary or confusing to participants where the PBGC is appointed trustee of a terminated single-employer plan or where a terminated single-employer plan has already satisfied all benefit liabilities or all guaranteed benefits.[5]

Under the exception in paragraph (a)(3) of the proposal, relief is provided in the case of a merger or consolidation of two or more plans. In such circumstances, the plan administrator of the plan that has legally transferred control of its assets to a successor plan (hereafter the "non-successor plan") shall not be required to furnish a funding notice for its final plan year that ends coincident with or immediately prior to the merger. Thus, for example, if plan A were to merge with plan B in 2010 and plan B is the successor plan (*i.e.,* the plan to which control of the assets of plan A was legally transferred), then the plan administrator of plan A is not required to furnish a funding notice for plan A for its final plan year that ends upon the occurrence of the merger in 2010. However, the funding notice of plan B (*i.e.,* the plan to which control of the assets of plan A was legally transferred) must satisfy the general content requirements in paragraph (b) of the proposed regulation and, in addition, contain a general explanation of the merger. The general explanation must include the effective date of, and identify each plan involved with, the merger or consolidation. Given that participants and beneficiaries will look to the successor plan for their pension benefits following the merger or consolidation, rather than the plan whose assets and liabilities were transferred to the successor plan, the Department believes that participants and beneficiaries would realize little, if any, benefit from receiving a funding notice from the non-successor plan. In addition, including an explanation of the merger in the funding notice of the successor plan should abate any participant confusion that might exist by virtue of not receiving a funding notice from the non-successor plan.

2. Content Requirements

a. Identifying Information (Proposed § 2520.105–1(b)(1))

Paragraph (b)(1) of the proposed regulation provides that a funding notice must include the name of the plan and the name, address and telephone number of the plan administrator (and the name, address and phone number of the plan's principal administrative officer if the principal administrative officer is different from the plan administrator). A funding notice also must include each plan sponsor's name and employer identification number and the plan number. For purposes of this requirement, employer identification numbers, name of plan sponsor, and plan numbers are the same as those used in the annual report filed in accordance with section 104(a) of ERISA.

b. Funding Percentage (Proposed § 2520.105–1(b)(2))

Paragraph (b)(2) of the proposed regulation requires disclosure of a plan's funding percentage. Specifically, in the case of a single-employer plan, paragraph (b)(2)(i) of the proposal provides that a notice must include a statement as to whether the plan's funding target attainment percentage for the plan year to which the notice relates (the "notice year"), and for each of the two preceding plan years, is at least 100 percent (and, if not, the actual percentages). The term "funding target attainment percentage" is defined in section 303(d)(2) of ERISA, which corresponds to Internal Revenue Code (Code) section 430(d)(2). Guidance issued by the Department of the Treasury under Code section 430 also applies for purposes of section 303 of ERISA. Treasury regulations under Code section 430 provide that the funding target attainment percentage of a plan for a plan year is a fraction (expressed as a percentage), the numerator of which is the value of plan assets for the plan year (determined under the rules of 26 CFR 1.430(g)–1) after subtraction of the prefunding balance and the funding standard carryover balance under section 430(f)(4)(B) of the Code and § 1.430(f)–1(c) and the denominator of which is the funding target of the plan for the plan year (determined without regard to the at-risk rules of section 430(i) of the Code and § 1.430(i)–1).[6] Thus, this percentage for a plan year is calculated by dividing the value of the plan's assets for that year (after subtracting the prefunding and funding standard carryover balances, if any) by the funding target of the plan for that year (disregarding the at-risk rules).

Similarly, in the case of a multiemployer plan, paragraph (b)(2)(ii) of the proposed regulation provides that a notice must include a statement as to whether the plan's funded percentage for the notice year, and for each of the two preceding plan years, is at least 100 percent (and, if not, the actual percentages). The term "funded percentage" is defined in section 305(i) of ERISA, which corresponds to section 432(i) of the Code. Guidance issued by the Department of the Treasury under section 432 of the Code also applies for purposes of section 305 of ERISA. Proposed Treasury regulations under Code section 432 provide that the funded percentage of a plan for a plan year is a fraction (expressed as a percentage), the numerator of which is the actuarial value of the plan's assets as determined under section 431(c)(2) of the Code and the denominator of which is the accrued liability of the plan, determined using the actuarial assumptions described in section 431(c)(3) of the Code and the unit credit funding method.[7] Thus, this percentage for a plan year is calculated by dividing the plan's assets for that year by the accrued liability of the plan for that year, determined using the unit credit funding method.

c. Assets and Liabilities (Proposed § 2520.101–5(b)(3))

(i) Single-Employer Plans—Assets and Liabilities as of the Valuation Date

In the case of a single-employer plan, paragraph (b)(3)(i)(A) of the proposed regulation requires that a funding notice include a statement of the total assets (separately stating the prefunding balance and the funding standard carryover balance) and liabilities of the plan for the notice year and each of the two preceding plan years. Like the statute, under section 101(f)(2)(B)(ii)(I)(aa), the proposed regulation provides that assets and liabilities are to be determined "in the same manner as under section 303" of ERISA. The Department interprets this reference to mean the assets and liabilities used to determine a plan's

[5] For example, under a standard termination, participants are provided a notice of intent to terminate 60 to 90 days prior to the proposed termination date (29 CFR 4041.23), a notice of plan benefits by the time PBGC Form 500 is filed with the PBGC (29 CFR 4041.24), and a notice of annuity information in the notice of intent to terminate or, in certain cases, 45 days prior to the distribution date (29 CFR 4041.23(b)(5) and 29 CFR 4041.27).

[6] *See* 26 CFR 1.430(d)–1(b)(3)(i); 74 FR 53004, 53036 (Oct. 15, 2009).

[7] *See* proposed Treasury regulation 26 CFR 1.432(a)–1(b)(7); 73 FR 14417, 14423 (March 18, 2008).

funding target attainment percentage (as well as the plan's "at-risk" liabilities pursuant to section 303(i) of ERISA, taking into account section 303(i)(5), if the plan is in "at-risk" status). This approach makes transparent the assets and liabilities used to determine the funding target attainment percentage of the plan, as well as the plan's liabilities (*i.e.,* funding target) actually used for funding purposes.

(ii) Single-Employer Plans—Assets and Liabilities as of the Last Day of the Plan Year

Section 101(f)(2)(B)(ii)(I)(bb) of ERISA states that a funding notice must include, in the case of a single-employer plan, "the value of the plan's assets and liabilities for the plan year to which the notice relates as of the last day of the plan year to which the notice relates determined using the asset valuation under subclause (II) of section 4006(a)(3)(E)(iii) and the interest rate under section 4006(a)(3)(E)(iv)[.]"

Based on the foregoing, paragraph (b)(3)(i)(B) of the proposed regulation provides that a single-employer plan must include a statement of the value of the plan's assets and liabilities determined as of the last day of the notice year. For purposes of this statement, plan administrators must report the fair market value of assets as of the last day of the plan year. In addition, a plan's liabilities as of the last day of the plan year are equal to the present value, as of the last day of the plan year, of benefits accrued as of that same date. With the exception of the interest rate assumption, the present value should be determined using the assumptions used to determine the funding target under section 303. The interest rate assumption is the segment interest rate provided under section 4006(a)(3)(E)(iv) of ERISA in effect for the last month of the notice year rather than the rate in effect for the month preceding the first month of the notice year.

The Department recognizes that in their funding notices some plans may need to estimate their year-end liability for the notice year. In this regard, the statute does not specifically set forth any standards to govern such estimations. Therefore, pending further guidance, plan administrators may, in a reasonable manner, project liabilities to year-end using standard actuarial techniques. The Department, however, specifically invites comment on this issue.

(iii) Multiemployer Plans—Assets and Liabilities as of the Valuation Date

In the case of a multiemployer plan, paragraph (b)(3)(ii)(A) of the proposed regulation requires a statement of the value of the plan's assets (determined in the same manner as under section 304(c)(2) of ERISA) and liabilities (determined in the same manner as under section 305(i)(8) of ERISA, using reasonable actuarial assumptions as required under section 304(c)(3) of ERISA) for the notice year and each of the two plan years preceding the notice year. The assets and liabilities are to be measured as of the valuation date in each of these three years. These are the same assets and liabilities used to determine the plan's funded percentage required to be disclosed under paragraph (b)(2)(ii) of the proposed regulation. Thus, the recipients of a funding notice will receive not only their plans' funded percentage, pursuant to paragraph (b)(2)(ii) of the proposal, but, pursuant to paragraph (b)(3)(ii)(A), they also will receive the numbers behind that percentage. Under section 305(i)(8) of ERISA, liabilities are determined using the unit credit funding method whether or not that actuarial method is used for the plan's actuarial valuation in general.

(iv) Multiemployer Plans—Assets as of the Last Day of the Plan Year

In the case of a multiemployer plan, paragraph (b)(3)(ii)(B) of the proposed regulation requires a statement of the fair market value of plan assets as of the last day of the notice year, and as of the last day of each of the two preceding plan years as reported in the annual report filed under section 104(a) of ERISA for each such preceding plan year.[8]

(v) Year-End Statement of Plan Assets

As discussed above, all funding notices must contain a statement of the fair market value of plan assets as of the last day of the notice year. Plans may receive contributions for the notice year after the close of that year but before the funding notice is sent to recipients. In such circumstances, these contributions may be included in the fair market value of assets. Inclusion is permissive; the proposed regulation does not require these contributions to be included in the year-end asset statement. If they are included, however, they may be included only if they are attributable to the notice year for funding purposes.

In the case of a single-employer plan, such contributions must be discounted back to the last day of the notice year using the effective interest rate. The effective interest rate is defined under section 303(h)(2)(A) of ERISA (section 430(h)(2)(A) of the Code). This approach ensures consistency with section 303(g)(4) of ERISA (section 430(g)(4) of the Code) relating to prior year contributions.[9] For example: Plan X is a calendar year plan. The plan's funding notice for 2011 was timely furnished in 2012. The year-end statement of assets was based on December 31, 2011, fair market value. The plan administrator included the present value of contributions made to the plan on February 14, 2012, in the year-end statement of assets. The "effective interest rate" for the plan was five percent in 2011 and four percent in 2012. The contributions would be discounted from February 14, 2012, to December 31, 2011, using a discount rate of five percent per annum, which was the "effective interest rate" for 2011.

In the case of a multiemployer plan, section 304(c)(8) of ERISA provides that contributions made by an employer for the plan year after the last day of the plan year, but not later than two and one-half months after such day (which may be extended for not more than six months under regulations prescribed by the Secretary of the Treasury), shall be deemed made on the last day of the plan year. Section 304(c)(8) of ERISA corresponds to section 431(c)(8) of the Code. Section 431(c)(8) of the Code is the post-PPA counterpart to former section 412(c)(10)(B) of the Code. Pursuant to the Treasury regulations under former section 412(c)(10)(B) of the Code (26 CFR 11.412(c)–12), contributions for a plan year that are made within eight and one-half months after the end of a plan year are deemed to have been made on the last day of that plan year. Therefore, consistent with section 304(c)(8) of ERISA and the corresponding section 431(c)(8) of the Code, and Treasury regulations under the former section 412(c)(10)(B) of the Code, it is not necessary for a multiemployer plan to discount such contributions for interest when stating its year-end asset value in a funding notice.

[8] *See* Joint Committee on Taxation Technical Explanation (JCX 85–08, Dec. 11, 2008) of H.R. 7327, the "Worker, Retiree, and Employer Recovery Act of 2008" explaining that section 105 of this Act amended section 101(f)(2)(B)(ii)(II) of ERISA to conform the asset and liability information provided for a multiemployer plan to the information that must be provided for a single-employer plan.

[9] This approach is consistent with the position taken by the PBGC regarding the treatment of subsequent contributions in determining the fair market value of assets under section 4006(a)(3)(E)(iii). *See* page 18 of the PBGC's 2010 Comprehensive Premium Payment Instructions.

d. Demographic Information (Proposed § 2520.101–5(b)(4))

Paragraph (b)(4) of the proposed regulation provides for disclosure of a plan's participant population based on the employment status of those participants. Specifically, it requires a statement of the number of participants who, as of the valuation date of the notice year, are: (i) Retired or separated from service and receiving benefits; (ii) retired or separated and entitled to future benefits (but currently not receiving benefits); or (iii) active participants under the plan. Plan administrators must state the number of participants in each of these categories and the sum of all such participants. For purposes of this statement, the terms "active" and "retired or separated" in relation to participants shall have the same meaning given to those terms in instructions to the latest annual report filed under section 104(a) of the Act (currently, instructions relating to lines 5 and 6 of the 2009 Form 5500 Annual Return/Report).

Neither section 101(f) of ERISA nor paragraph (b)(4) of the proposed regulation specifically address whether, or how, to account for deceased participants who have one or more beneficiaries who are receiving or are entitled to receive benefits under a plan. For purposes of the annual funding notice requirements, however, these participants would appear to be similar to retired or separated participants who are themselves receiving, or are entitled to receive, benefits under the plan in that the plan retains liability for benefits accrued by such deceased participants. Accordingly, the Department solicits comments on whether such individuals should be reflected in the participant count required under paragraph (b)(4) of the proposal and, if so, how. For example, such individuals could be included in the respective "retired or separated" categories under paragraph (b)(4) of the proposal or in a stand-alone category.[10]

The statute does not specify the date for counting the participants required by paragraph (b)(4) of the proposed regulation. The Department has chosen the valuation date of the notice year to provide consistency with the measurement date of the plan's funding target attainment percentage or funded percentage, as applicable. The Department solicits comments on whether a different date would be more appropriate, such as the last day of the notice year. Comments should explain why a different date would be more appropriate.

As explained above, the demographic information required by paragraph (b)(4) of the proposal is limited to the notice year. The Department solicits comments on whether, and to what extent, notice recipients would benefit from demographic information covering a longer period of time, such as the notice year and two preceding plan years. Commentary is requested on whether such information, in conjunction with other information required by section 101(f) and the proposed regulation would assist notice recipients in fully understanding the financial health and condition of the plan.

e. Funding and Investment Policies; Asset Allocation (Proposed § 2520.101–5(b)(5))

Section 101(f)(2)(B)(iv) of ERISA provides that a funding notice must include "a statement setting forth the funding policy of the plan and the asset allocation of investments under the plan (expressed as percentages of total assets) as of the end of the plan year to which the notice relates[.]" Paragraph (b)(5) of the proposal directly incorporates these requirements. *See* paragraphs (b)(5)(i) and (ii) of the proposal. Paragraph (b)(5) of the proposal adds the requirement that a notice also must set forth a general description of any investment policy of the plan as it relates to the funding policy and the asset allocation. *See* paragraph (b)(5)(iii) of the proposal. The purpose of this addition is to provide participants and beneficiaries with contextual information not explicitly required by section 101(f) of ERISA so that they may better understand and appreciate the plan's approach to funding benefits.[11] Use of the word "any" in paragraph (b)(5)(ii) reflects that the maintenance of a written statement of investment policy is not specifically required under ERISA, although the Department expects that it would be rare for a plan subject to section 101(f) of ERISA not to have such a policy. The Department specifically requests comment on the costs and benefits associated with the disclosure of such additional information.

A plan administrator may satisfy the asset allocation requirement in paragraph (b)(5)(ii) of the proposal by using the table of asset classes set forth in the model notice published in the appendices to this proposal. The asset classes identified in the model are based on the asset classes listed in Part 1 of the Asset and Liability Statement of the latest Schedule H of the Form 5500 Annual Return/Report (*see* Lines 1a, 1c(1)–(15), 1d(1)–(2) and 1(e) of the 2009 Schedule H).[12] With respect to each asset class, plan administrators should insert an appropriate percentage. For this purpose, a plan administrator should use the same valuation and accounting methods as for Form 5500 Schedule H reporting purposes. The master trust investment account (MTIA), common/collective trust (CCT), pooled separate account (PSA), and 103–12 investment entity (103–12IE) investment categories have the same definitions as for the Form 5500 instructions. In addition, if a plan held at year-end an interest in one or more direct filing entities (DFEs), *i.e.,* MTIAs, CCTs, PSAs, or 103–12IEs, the plan administrator should include in the model notice a statement apprising recipients how to obtain more information regarding the plan's DFE investments (*e.g.,* a plan's Schedule D and R and/or the DFE's schedule H). For this purpose, the model notice provides a statement immediately following the asset allocation table for contact information, which a plan administrator should complete and include if the plan held an interest in one or more DFEs, in order to inform participants how to get additional investment information. The Department specifically requests comment on whether this approach (*i.e.,* based on the Schedule H) to stating the asset allocation of a plan's investments as of the last day of the notice year provides sufficient information to participants regarding the plan's investments, or whether there is a more effective way of communicating this required information in the funding notice, and if so, how.

f. Endangered or Critical Status (Proposed § 2520.101–5(b)(6))

Paragraph (b)(6) of the proposed regulation, which is limited to multiemployer plans, requires that the

[10] *See, e.g.,* line 6(e) of the 2009 Form 5500 Annual Return/Report (for listing the number of deceased participants whose beneficiaries are receiving or entitled to receive benefits).

[11] A requisite feature of every employee benefit plan is a procedure for establishing a funding policy to carry out plan objectives. *See* section 402(b)(1) of ERISA. The maintenance by an employee benefit plan of a statement of investment policy is consistent with the fiduciary obligations set forth in ERISA section 404(a)(1)(A) and (B). A statement of investment policy is a written statement that provides the fiduciaries who are responsible for plan investments with guidelines or general instructions concerning various types or categories of investment management decisions. A statement of investment policy is distinguished from directions as to the purchase or sale of a specific investment at a specific time. *See* 29 CFR 2509.08–2(2) (formerly 29 CFR 2509.94–2).

[12] The asset classes identified in the models do not include any receivables reportable on Schedule H of the Form 5500 (*see* lines 1b(1)–(3) of the 2009 Schedule H).

funding notice for such plans indicate whether the plan was in endangered or critical status for the notice year. For this purpose, "endangered or critical status" is determined in accordance with section 305 of ERISA, which corresponds to section 432 of the Code. Pursuant to paragraph (b)(6)(i) of the proposal, if the plan was in endangered or critical status for the notice year, the funding notice must describe how a person may obtain a copy of the plan's funding improvement or rehabilitation plan, as appropriate, and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement. Pursuant to paragraph (b)(6)(ii) of the proposal, if the plan was in endangered or critical status for the notice year, the notice must contain a summary of the plan's funding improvement or rehabilitation plan. This summary is required to include, when applicable, a description of any updates or modifications to such funding improvement or rehabilitation plan adopted during the notice year. Paragraph (b)(6)(ii) clarifies that a summary is required not only for the notice year in which the funding improvement or rehabilitation plan was adopted, but for every plan year thereafter until the funding improvement or rehabilitation plan ceases to be in effect. This proposed clarification resolves any ambiguity in section 101(f)(2)(B)(v)(II) regarding whether a summary is only required to be included for the notice year in which the funding improvement or rehabilitation plan is first adopted and then again if subsequently modified, as opposed to every plan year the funding improvement or rehabilitation plan is in effect.

g. Material Effect Events (Proposed § 2520.101–5(b)(7))

Paragraph (b)(7) of the proposed regulation directly incorporates the requirements of section 101(f)(2)(B)(vi) of ERISA. That section of ERISA requires an explanation of any plan amendment, scheduled benefit increase or reduction, or other known event taking effect in the current plan year and having a material effect on plan liabilities or assets for the year, as well as a projection to the end of such plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities. The Department believes there is ambiguity with respect to the term "current plan year" in section 101(f)(2)(B)(vi) of ERISA. The question is whether this term refers to the notice year or the plan year following the notice year. The proposed regulation adopts the view that such term means the plan year following the notice year (*i.e.,* the plan year in which the notice is due). Thus, for a calendar year plan that must furnish its 2010 annual funding notice no later than the 120th day of 2011, the "notice year" is the 2010 plan year and the "current plan year" for purposes of paragraph (b)(7) of the proposal is the 2011 plan year. It is difficult to find meaning in the phrase "a projection to the end of such year" if "current plan year" is interpreted to mean the notice year because the notice year has already ended. On the other hand, the Department is interested in ensuring that the proposal results in all material effect events being disclosed and, therefore, specifically requests comments on the approach taken in the proposal.

Section 101(f)(2)(B)(vi) of ERISA also provides that the Department will define by regulations when an event (*i.e.,* plan amendment, scheduled benefit increase or reduction, or other known event) has a material effect on plan liabilities or assets for the year. Pursuant to this provision, paragraph (g)(1) of the proposed regulation provides that a plan amendment, scheduled benefit increase (or reduction), or other known event has a material effect on plan liabilities or assets for the current plan year if it results, or is projected to result, in an increase or decrease of five percent or more in the value of assets or liabilities from the valuation date of the notice year. For example, if the liabilities of a calendar year plan were $100 million on January 1, 2010, (the valuation date for the 2010 notice year), a scheduled increase in benefits taking effect in 2011 will have a material effect if the present value of the increase, determined using the same actuarial assumptions used to determine the $100 million in liabilities, equals or exceeds $5 million. Alternatively, an event has a material effect on plan liabilities or assets for the current plan year if, in the judgment of the plan's enrolled actuary, the event is material for purposes of the plan's funding status under section 430 or 431 of the Code, without regard to an increase or decrease of five percent or more in the value of assets or liabilities from the prior plan year. Paragraph (g)(3) of the proposal provides that, for purposes of paragraph (g)(1), assets and liabilities should be measured in the same manner that assets and liabilities are measured for purposes of establishing the plan's funding target attainment percentage or funded percentage under paragraph (b)(2) of the proposal.

Paragraph (g)(2) of the proposal provides guidance on the type of events that could constitute an "other known event" for purposes of paragraph (b)(7) of the regulation. Such events include, but are not limited to, an extension of coverage under the existing terms of the plan to a new group of employees; a plan merger, consolidation, or spinoff pursuant to regulations under section 414(l) of the Code; a shutdown of any facility, plant, store, or such other similar corporate event that creates immediate eligibility for benefits that would not otherwise be immediately payable for participants separating from service; an offer by the plan for a temporary period to permit participants to retire at benefit levels greater than that to which they would otherwise be entitled; or a cost-of-living adjustment for retirees.

In FAB 2009–01 (February 10, 2009), the Department provided interim guidance under section 101(f) of ERISA in the form of an enforcement policy. With respect to the material effect event provision in section 101(f)(2)(B)(vi) of ERISA, the Department, in addressing when an amendment, scheduled increase, or other known event would have a "material effect" on plan liabilities or assets, stated that "as part of this enforcement policy, if an otherwise disclosable event first becomes known to the plan administrator 120 days or less before the due date for furnishing the notice, such event is not required to be included in the notice." *See* Question 12 of FAB 2009–01. The rationale behind this policy is that at some close point in time before the due date for furnishing the notice, it becomes impracticable for, and unreasonable to expect, plan administrators to satisfy the detailed material effect provisions even though an otherwise disclosable event is known. In addition, the event's effect on the plan's assets and liabilities will in any event be reflected in the next annual funding notice. While the Department has not included this policy in the proposed regulation, the Department nonetheless requests comments on whether it or a similar approach should be included in the final regulation.

h. Rules on Termination, Reorganization or Insolvency (Proposed § 2520.101–5(b)(8))

Paragraph (b)(8) of the proposed regulation requires a summary of the rules under title IV of ERISA relating to plan termination, reorganization, or insolvency, as applicable. Specifically, in the case of single-employer plans, the proposal provides that a notice shall

include a summary of the rules governing termination of single-employer plans under subtitle C of title IV of ERISA. *See* proposed § 2520.101–5(b)(8)(i). In the case of multiemployer plans, the proposed regulation provides that a notice shall include a summary of the rules governing reorganization or insolvency, including limitations on benefit payments. *See* proposed § 2520.101–5(b)(8)(ii).

i. PBGC Guarantees (Proposed § 2520.101–5(b)(9))

Paragraph (b)(9) of the proposed regulation requires a funding notice to include a general description of the benefits under the plan that are eligible to be guaranteed by the PBGC, and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

j. Annual Report Information (Proposed § 2520.101–5(b)(10))

Paragraph (b)(10) of the proposed regulation provides that a funding notice shall include a statement that a person, including, in the case of a multiemployer plan, any labor organization representing plan participants and beneficiaries and any employer that has an obligation to contribute to the plan, may obtain a copy of the annual report of the plan filed under section 104(a) of ERISA upon request, through the Internet Web site of the Department of Labor (*http://www.efast.dol.gov*), or through any Intranet Web site maintained by the applicable plan sponsor (or plan administrator on behalf of the plan sponsor). Under paragraph (b)(10), a plan administrator must furnish, on request, only copies of filed annual reports. Thus, for example, if, following the receipt of a funding notice in April 2011 for the 2010 plan year a plan participant requests a copy of the plan's 2010 annual report, which is completed, but not yet filed, the plan administrator is not required under section 101(f) of ERISA to furnish the 2010 report to the requesting participant. Consistent with paragraph (b)(12) of the proposed regulation, plans may include language in a funding notice explaining that the annual report for the plan for the notice year has not yet been filed and when such report is expected to be filed.

k. Information Disclosed to PBGC (Proposed § 2520.101–5(b)(11))

Paragraph (b)(11) of the proposed regulation, which applies only to single-employer plans, provides that, if applicable, a funding notice must include a statement that the contributing sponsor of the plan, and each member of the contributing sponsor's controlled group (other than an exempt entity within the meaning of 29 CFR 4010.4(c)), was required to provide to the PBGC the information under section 4010 of ERISA for the notice year. However, if the contributing sponsor of the plan is itself an exempt entity within the meaning of 29 CFR 4010.4(c), paragraph (b)(11) instead requires a statement that each member of the contributing sponsor's controlled group (other than an exempt entity) was required to provide the information under section 4010 of ERISA for the notice year. Section 4010 of ERISA generally requires sponsors (and each member of their controlled group) of certain underfunded plans (*e.g.,* a plan with a funding target attainment percentage of less than 80 percent, a plan with a minimum funding waiver in excess of $1 million any portion of which is still outstanding, or a plan that has met the conditions for imposition of a lien for failure to make required contributions (including interest) with an unpaid balance in excess of $1 million) to report identifying, financial, and actuarial information about themselves and their plans to the PBGC. The statement required by paragraph (b)(11) of the proposed regulation is required only if there was a reporting obligation under section 4010 of ERISA for the notice year. In this regard, the Department specifically requests comment on whether, and to what extent, the differences in the timing requirements under sections 4010 and 101(f) of ERISA present any compliance problems for plan administrators, *e.g.,* circumstances where, because of the potential differences between a plan year and an information year, as defined in 29 CFR 4010.5, a plan administrator will not know of the plan sponsor's 4010 reporting obligation for a particular information year by the deadline for furnishing the annual funding notice for a plan year that ends within such information year. Commenters are encouraged to provide specific examples of any compliance problems presented by paragraph (b)(11) of the proposal, as well as suggestions on how to address such problems.

l. Additional Information (Proposed § 2520.101–5(b)(12))

Paragraph (b)(12) of the proposed regulation permits the plan administrator to include in a funding notice any additional information that the administrator determines would be necessary or helpful to understanding the information required to be contained in the notice. Paragraph (b)(12) of the proposal does not include the rule in 29 CFR 2520.101–4(b)(9) (the Department's regulation implementing the pre-PPA annual funding notice requirements for multiemployer plans, which ceased being effective for plan years beginning after December 31, 2007) that required additional information, even if necessary or helpful, to be posted at the end of the funding notice under the heading "Additional Explanation." This rule is not being included in the proposed regulation because of negative feedback received by the Department on the former rule following its promulgation. Representatives of plans commented that placing additional or explanatory information at the end of a funding notice disconnects the information being explained from the explanation itself, often making it more difficult, instead of making it easier, for participants to understand the information being explained. These individuals also commented that the rule is being viewed by some as an obstruction to furnishing a funding notice along with, or as part of, other plan disclosures or communications, resulting in stand-alone disclosure of the annual funding notice and increased administrative expenses to the plan.

In addition to information that is "necessary or helpful," paragraph (b)(12) of the proposed regulation also provides for inclusion of information that is "otherwise permitted by law." This clause reflects the fact that some plan administrators may elect to satisfy the requirements of section 101(f) and other disclosure requirements through a combined notification. For example, where a plan elects the waiver described in 29 CFR 2520.104–46 (small pension plan audit waiver regulation), the plan administrator must include specified information about the waiver in the funding notice in order to satisfy the requirements of § 2520.104–46. *See* section C of this preamble discussing § 2520.104–46, as amended.

3. Form and Manner Requirements (Proposed § 2520.101–5(c) and (e))

Paragraphs (c) and (e) of the proposed regulation, respectively, set forth the style and format requirements and the manner of furnishing requirements relating to the funding notice. Paragraph (c) of the proposed regulation provides that funding notices shall be written in a manner that is consistent with the style and format requirements of 29 CFR 2520.102–2. Thus, notices shall be written in a manner calculated to be understood by the average plan participant and in a format that does not have the effect of misleading or misinforming recipients.

Paragraph (e) of the proposal relates to how annual funding notices must be furnished to recipients, with paragraph (e)(1) addressing how notices must be furnished to participants and beneficiaries and paragraph (e)(2) addressing how notices must be furnished to the PBGC. The Department, however, has decided to reserve paragraph (e)(1) of the proposal for the same reason the Department reserved the manner of furnishing requirements in the recently published final participant-level disclosure regulation, § 2550.404a–5 (75 FR 64910, October 20, 2010). In the preamble to the final participant-level disclosure regulation, the Department explained that, given the differing views on the use of and standards for electronic disclosure, it would be undertaking a review of the safe harbor applicable to the use of electronic media for furnishing information to plan participants and beneficiaries (29 CFR 2520.104b–1(c)). The Department further indicated that, in the very near future, it will be publishing a **Federal Register** notice requesting public comments, views, and data relating to the electronic distribution of plan information to plan participants and beneficiaries.

Accordingly, as with the final participant-level disclosure regulation, pending the completion of its review and the issuance of further guidance, the general disclosure regulation at 29 CFR 2520.104b–1 applies to annual funding notices required to be furnished to participants and beneficiaries, including the safe harbor for electronic disclosures at paragraph (c) of the general disclosure regulation. The Department anticipates that resolution of the issues involved with the electronic disclosure of plan information will directly affect the manner in which the annual funding notice may be furnished to participants and beneficiaries. Accordingly, interested persons are encouraged to participate in the Department's forthcoming solicitation of comments on the use of electronic media for furnishing plan information.

Paragraph (e)(2) of the proposal provides that funding notices shall be furnished to the PBGC consistent with the requirements of 29 CFR part 4000. The PBGC has advised the Department that it will accept electronic or hard copies of funding notices at the following postal and e-mail addresses: (1) For single-employer plans, hard copies of funding notices may be mailed to Pension Benefit Guaranty Corporation, ATTN: Single-Employer AFN Coordinator, 1200 K Street, NW., Suite 270, Washington, DC 20005–4026. Electronic copies of funding notices may be e-mailed to *Single-employerAFN@PBGC.gov.* (2) For multiemployer plans, hard copies of funding notices may be mailed to Pension Benefit Guaranty Corporation, ATTN: Multiemployer Data Coordinator, 1200 K Street, NW., Suite 930, Washington, DC 20005–4026. Electronic copies of funding notices may be e-mailed to *Multiemployerprogram@PBGC.gov.*

4. Timing Requirements (Proposed § 2520.101–5(d))

Paragraph (d) of the proposed regulation describes when a funding notice must be furnished to recipients. Paragraph (d)(1) of the proposal provides that notices generally must be furnished not later than 120 days after the end of the notice year. However, paragraph (d)(2) of the proposal provides that in the case of small plans, notices must be furnished no later than the earlier of the date on which the annual report is filed or the latest date the report could be filed (with granted filing extensions). For this purpose, a plan is a small plan if it had 100 or fewer participants on each day during the plan year preceding the notice year. *See* section 101(f)(3)(B) of ERISA (referencing section 303(g)(2)(B) of ERISA). Although section 303(g)(2)(B) of ERISA relates to single-employer plans only, the Department interprets section 101(f)(3)(B) of ERISA as applying the 100 or fewer participant standard in section 303(g)(2)(B) of ERISA to both single-employer and multiemployer plans.

5. Persons Entitled to Notice (Proposed § 2520.101(5)(f))

Paragraph (f) of the proposed regulation defines a person entitled to receive a funding notice as: Each participant covered under the plan on the last day of the notice year, each beneficiary receiving benefits under the plan on the last day of the notice year, each labor organization representing participants under the plan on the last day of the notice year, the PBGC, and, in the case of a multiemployer plan, each employer that, as of the last day of the notice year, is a party to the collective bargaining agreement(s) pursuant to which the plan is maintained or who otherwise may be subject to withdrawal liability pursuant to section 4203 of ERISA.

6. Model Notices (Proposed § 2520.101–5(h))

The appendices to § 2520.101–5 include two model notices (one for single-employer plans and one for multiemployer plans) that may be used by plan administrators for section 101(f) of ERISA purposes. The model in Appendix A is for single-employer plans (including multiple employer plans) and the model in Appendix B is for multiemployer plans. These models are intended to assist plan administrators in discharging their notice obligations under section 101(f) of ERISA and the regulation. Use of a model notice is not mandatory. However, the proposed regulation provides that use of a model notice will be deemed to satisfy the content requirements in paragraph (b) of the regulation, as well as the style and format requirements in paragraph (c) of the regulation. To the extent a plan administrator elects to include in a model notice additional information described in paragraph (b)(12) of the proposed regulation, such additional information must be consistent with the style and format requirements in paragraph (c) of the proposed regulation. Thus, such additional information should not have the effect of misleading or misinforming recipients.

In drafting the models, the Department attempted to develop and organize the models in a manner that will help the average plan participant understand and comprehend the information mandated by section 101(f) of ERISA, some of which is technical in nature. Nonetheless, the Department solicits comments on whether, and if so, how, the organization of the proposed models could be improved to enhance understandability and comprehensibility. For example, if a plan's funding percentage is the most important information for participants, does the chart format of the model adequately highlight this information or could other presentation techniques more effectively highlight this information?

7. Limited Alternative Method of Compliance for Furnishing Notice to PBGC (Proposed § 2520.101–5(i))

Section 101(f)(1) of ERISA provides that a plan administrator of a defined benefit plan to which title IV of ERISA applies shall, for each plan year, provide a funding notice to the PBGC, to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer with an obligation to contribute to the plan. Pursuant to section 110 of ERISA, paragraph (i) of the proposed regulation includes an alternative method of compliance pertaining to the requirement to furnish

notice to the PBGC. Under this alternative, the plan administrator of a single-employer plan with liabilities that do not exceed plan assets by more than $50 million is not required to furnish a funding notice to the PBGC provided that the administrator furnishes the latest available funding notice to the PBGC within 30 days of receiving a written request from the PBGC. In determining whether a plan's liabilities exceed its assets by more than $50 million, the proposed regulation provides that plan administrators should subtract the plan's total assets from its liabilities, using the assets and liabilities disclosed in the funding notice in accordance with paragraph (b)(3)(i)(A) of this proposed regulation.

The Department has created this alternative method of compliance after consulting with the PBGC. The PBGC has determined that, in light of the extended funding notice due date for small plans, it will have electronic access to the information included on the funding notice for most single-employer plans as a result of ERISA's annual reporting requirement under section 104(a) on or around the time it would receive a copy of a funding notice under section 101(f) of ERISA and the proposed regulation. In addition, under the PBGC's Reportable Events regulation (29 CFR part 4043), the PBGC typically would receive information about certain events that might indicate increased exposure or risk before it would receive information under either ERISA section 101(f) or 104(a). Also, the Department believes the alternative method of compliance will reduce administrative burden for plans that meet the conditions of paragraph (i) of the proposed regulation.

At the request of the PBGC, the Department has limited the scope of the alternative method of compliance to single-employer plans. Because multiemployer plans are not subject to ERISA section 4043 and because very few multiemployer plans will qualify for the extended annual funding notice due date, the annual funding notice will provide a useful and non-duplicative source of information to the PBGC. The alternative method of compliance does not have any effect on the plan administrator's obligation to furnish notices to parties other than the PBGC.

Section 110 of ERISA permits the Department to prescribe alternative methods of complying with any of the reporting and disclosure requirements of ERISA if it finds: (1) That the use of the alternative is consistent with the purposes of ERISA and that it provides adequate disclosure to plan participants and beneficiaries and to the Department; (2) that application of the statutory reporting and disclosure requirements would increase the costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan; and (3) that the application of the statutory reporting and disclosure requirements would be adverse to the interests of plan participants in the aggregate. Based on the discussion above, the Department finds these three conditions to be satisfied in this context.

8. Plans Not Immediately Subject to New Funding Rules or to Which Special Funding Rules Apply

Sections 104, 105, and 106 of the PPA defer the effective date of the amendments made by title I of the PPA for certain plans described in those sections, *i.e.* certain plans of cooperatives, plans affected by settlement agreements with the PBGC, and plans of government contractors.[13] Section 402 of the PPA applies special funding rules to certain plans of commercial passenger airlines and airline caterers. Section 402 of the PPA was amended by the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Public Law 110–28. None of these provisions affects the applicability of the PPA amendments to section 101(f) of ERISA. Accordingly, the funding notice requirements of section 101(f) of ERISA apply to these plans for plan years beginning on or after January 1, 2008. These plans should disclose their funding target attainment percentage (and related asset and liability information) in accordance with guidance provided by the Secretary of the Treasury. For example, for a plan described in section 104, 105, or 106 of the PPA, the funding target attainment percentage of such plan is determined in accordance with paragraph (b)(2)(i) of the proposed regulation, except that the value of plan assets is determined without subtraction of the funding standard carryover balance or prefunding balance (credit balance under the funding standard account). *See* 26 CFR 1.430(d)–1(b)(3)(ii). The model in Appendix A is available to such plans, but the portions of the model entitled "Credit Balances" and "At-Risk Status" should be deleted from the model before use for notice years beginning prior to the delayed effective date.

The Department requests comment on whether, and to what extent, these plans would need special rules under section 101(f) of ERISA, if applicable, to reflect the delayed effective dates (in sections 104, 105, or 106 of the PPA) or special funding rules (in section 402 of the PPA). Comments on this issue should explain why the delayed effective dates or special funding rules under the PPA necessitate a special rule or rules under section 101(f) of ERISA and the regulation being adopted herein, and whether, and how, the model notices in the appendices to the regulation could be modified for use by these plans.

9. Multiemployer Plans Terminated by Mass Withdrawal

The proposed regulation does not provide an exemption or other relief for multiemployer plans that terminate by mass withdrawal pursuant to section 4041A(a)(2) of ERISA. Section 4041A(a)(2) provides that the termination of a multiemployer plan occurs as a result of the withdrawal of every employer from the plan or the cessation of the obligation of all employers to contribute under the plan.

Plans that terminate in this fashion typically continue to pay benefits from a declining trust as payments come due and have no new contributions other than withdrawal liability payments. Therefore, the Department recognizes that some information required by the regulation may not be relevant (*e.g.,* the plan's funded percentages) for plans that have terminated by mass withdrawal. Other mandated information, such as PBGC benefit guarantee levels, assets and liabilities, numbers and status of participants, and insolvency information, however, may be very important to participants and beneficiaries receiving benefits from such plans. Accordingly, the Department solicits comment on whether the final regulation should provide special rules for such plans. Comments should be specific regarding what, if any, information otherwise required by the regulation should not be included in the funding notice, and why, and what, if any, alternative information might be disclosed in its place. Comments should provide any data that would demonstrate cost savings to such plans as a result of alternative reporting under special rules.

10. Code Section 412(e)(3) Insurance Contract Plans

The proposed regulation does not provide an exemption or any other relief

[13] Section 202(b) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, Public Law 111–192, amended section 104 of the Pension Protection Act of 2006, Public Law 109–280, by expanding the group of plans that is eligible for a deferred effective date under section 104 to include eligible charity plans.

for certain insurance contract plans to which section 412(e)(3) of the Code applies. "Code section 412(e)(3) insurance contracts" are contracts that provide retirement benefits under a plan that are guaranteed by an insurance carrier. In general, such contracts must provide for level premium payments over the individual's period of participation in the plan (to retirement age), premiums must be timely paid as currently required under the contract, no rights under the contract may be subject to a security interest, and no policy loans may be outstanding. If a plan is funded exclusively by the purchase of such contracts, the otherwise applicable minimum funding requirements of section 412 of the Code and section 302 of ERISA do not apply for the year and neither the Schedule MB nor the Schedule SB is required to be filed.[14]

Therefore, the Department recognizes that information regarding a plan's funded status required in the proposed regulation (*e.g.,* the plan's funding target attainment percentage or funded percentage) may not be applicable to certain of these plans. Other required information, such as PBGC benefit guarantee levels, termination rules, fair market value of assets, and numbers and status of participants, however, may be important to participants and beneficiaries receiving benefits from such plans. Other information not required by section 101(f) of ERISA and this proposed regulation could be important to persons receiving the funding notice of these plans. Accordingly, the Department solicits comment on whether the final regulation should provide special rules for such plans. Comments should be specific regarding what information otherwise required by the proposed regulation should not be included in the funding notice, and why, and what, if any, alternative information might be disclosed in its place. Comments should explain the benefit to plan participants and provide any data that would demonstrate cost savings to such plans as a result of alternative reporting under special rules.

11. Multiple Employer Pension Plans

After the Department issued FAB 2009–01, a number of plan administrators of multiple employer plans raised questions regarding whether, and how, the new annual funding notice requirements apply to such plans. The central question was whether all participants in such a plan must receive the same funding notice containing funding data at the plan level or whether each participant must receive a notice that reflects funding information relevant to his employer. It is the view of the Department that if all assets of the multiple employer pension plan are, on an ongoing basis, available to pay benefits to all plan participants and beneficiaries covered under the plan, then the information in the funding notice should be reflective of the plan as a whole. The plan administrator need not create a separate funding notice for the employees of each participating employer in the multiple employer plan containing the funding information (assets, liabilities, *etc.*) pertaining to that employer in the case of a multiple employer plan to which section 413(c)(4)(A) of the Code applies. Based on the foregoing, the proposal does not contain any special rules for multiple employer pension plans. Nonetheless, comments are requested on whether funding notices for such plans should alert participants to the fact that some funding rules under the Code, *e.g.,* benefit restrictions under Code section 436, may apply on an employer-by-employer basis. Thus, a participant in a multiple employer pension plan could have his benefits restricted even though the plan as a whole has a funding target attainment percentage well above what one would consider to be close to a percentage that would trigger a benefit restriction under Code section 436.

C. Overview of Amendments to 29 CFR 2520.104–46—Waiver of Examination and Report of an Independent Qualified Public Accountant for Employee Benefit Plans With Fewer Than 100 Participants

Department of Labor regulation 29 CFR 2520.104–46 governs the circumstances under which small pension plans (plans with fewer than 100 participants at the beginning of the plan year) are exempt from the requirements to engage an independent qualified public accountant (IQPA) and to include a report of the accountant as part of the plan's annual report under title I of ERISA. The waiver of the requirement to engage an accountant is conditioned on, among other things, the disclosure of certain information to participants and beneficiaries. A requirement of § 2520.104–46 is that such disclosure must be included in the summary annual report (SAR) of a plan electing the waiver. However, section 503(c) of the PPA amended section 104(b)(3) of ERISA by repealing the SAR requirement for defined benefit plans to which the annual funding notice requirements of section 101(f) of ERISA apply.[15] Therefore, in conjunction with the annual funding notice regulation (29 CFR 2520.101–5), discussed in section B of this preamble, above, the Department is adopting conforming amendments to § 2520.104–46 to enable plans subject to section 101(f) of ERISA to elect to use the waiver provision in § 2520.104–46. Under § 2520.104–46, as amended, a plan subject to section 101(f) of ERISA must include the information in § 2520.104–46(b)(1)(i)(B)(1)–(4) in the plan's annual funding notice. Model language is included in the Appendix to § 2520.104–46 and provided on the Department's Web site at *http://www.dol.gov/ebsa/faqs/faq_auditwaiver.html.*

D. Overview of Amendments to 29 CFR 2520.104b–10—Summary Annual Report

As discussed in section C of this preamble, the PPA repealed the summary annual report (SAR) requirement for plans subject to section 101(f) of ERISA, effective for plan years beginning after December 31, 2007. The Department, therefore, is making technical conforming amendments to the SAR regulation (§ 2520.104b–10) to give effect to the repeal. Specifically, a new paragraph (g)(9) is being added to provide that an SAR is not required to be furnished with respect to a plan to which title IV of ERISA applies. In this rulemaking, the Department is not making conforming changes to the form prescribed in paragraph (d)(3) of § 2520.104b–10, or to the appendix of the regulation, to reflect paragraph (g)(9), because such form and appendix continue to be applicable for plans not subject to title IV of ERISA. Nonetheless, the Department recognizes that some items and language in the form and appendix became irrelevant on and after the effective date of the repeal and, therefore, is requesting comments on how best to revise the form and appendix to eliminate unnecessary information.

E. Regulatory Impact Analysis

Summary

The proposed rule contains a model notice and other guidance necessary to implement section 101(f) of ERISA as amended by PPA and WRERA. Section 101(f) and the proposed rule increase the transparency of information about the funding status of plans, affording all parties interested in the financial viability of these plans with a greater opportunity to monitor their funding

[14] *See* the Instructions to the latest Form 5500 Annual Return/Report of Employee Benefit Plan.

[15] The repeal is effective for plan years beginning after December 31, 2007.

status and take action where necessary. In addition, the rule offers a model notice to administrators of single-employer and multiemployer defined benefit pension plans, which is expected to mitigate burden and contribute to the efficiency of compliance. Another benefit is that the rule would afford plan administrators greater certainty that they have discharged their notice obligation under section 101(f) by clarifying certain terms used in the statute. The Department has concluded that the benefits of the rule justify their costs. These benefits—increased transparency, greater efficiency, certainty, and clarity—are expected to be substantial, but cannot be specifically quantified.

The cost of the proposed rule is expected to amount to $57.2 million in the year of implementation, and $52.8 million in each subsequent year.[16] The total estimated cost includes the one-time development of a notice by each plan and the annual preparation and mailing of the notices to the required recipients.[17] The first year estimate is higher to account for the time required for plan administrators to adapt and review the model notice. The Department also makes the following additional estimates regarding the cost of the proposal:

—The total mailing costs are estimated to be about $20.0 million annually in the first three years;

—In addition to the mailing costs, the Department estimates that firms will spend about $37.2 million in the year of implementation and $32.9 million in subsequent years on labor costs.[18]

The Department has attempted to provide guidance in the proposed rule to assist administrators in meeting their responsibilities in the most economically efficient manner possible. Because the costs of the rule arise only from notice provisions in PPA, the data and methodology used in developing these estimates are more fully described in the Paperwork Reduction Act section of this analysis of regulatory impact.

The cost estimates of the proposal are based on the informational content requirements in paragraph (b) of the proposal. The Department is accepting comment on whether there is information or indicators, not already included in paragraph (b) of the proposal, that help explain a plan's financial condition and that may be helpful to notice recipients, *e.g.,* the ratio of plan assets to the present value of retired participants' benefits. Comments should be specific as to what other information or indicators could be included in the funding notice, the reasons why, and a cost/benefit analysis.

Executive Order 12866

Under Executive Order 12866 (58 FR 51735), the Department must determine whether a regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB). Section 3(f) of the Executive Order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. It has been determined that this action is significant under section 3(f)(4) of the Executive Order; therefore, OMB has reviewed this regulatory action pursuant to the Executive Order.

Paperwork Reduction Act

As part of its continuing effort to reduce paperwork and respondent burden, the Department of Labor conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, EBSA is soliciting comments concerning the information collection request (ICR) included in the Proposed Rule on the Annual Funding Notice for Defined Benefit Plans. A copy of the ICR may be obtained by contacting the PRA addressee shown below.

The Department has submitted a copy of the proposed rule to OMB in accordance with 44 U.S.C. 3507(d) for review of its information collections. The Department and OMB are particularly interested in comments that:

- Evaluate 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;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for the Employee Benefits Security Administration. OMB requests that comments be received within 30 days of publication of the proposed rule to ensure their consideration.

PRA Addressee: Address requests for copies of the ICR to G. Christopher Cosby, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N–5718, Washington, DC 20210. Telephone (202) 693–8410; Fax: (202) 219–5333. These are not toll-free numbers. ICRs submitted to OMB also are available at *http://www.RegInfo.gov*.

The proposed rule implements the disclosure requirements of section

[16] All numbers used in this Regulatory Impact Analysis have been rounded to the nearest thousand.

[17] As discussed earlier in this preamble, this proposed regulation, when finalized, will implement the statutory requirement for defined benefit pension plan administrators to provide an annual funding notice that meets the requirements of ERISA section 101(f). Because plans were required to comply with ERISA section 101(f) before the issuance of implementing regulations, and taking into account guidance previously issued by the Department in Field Assistance Bulletin 2009–01, this regulatory impact analysis includes a small initial cost for plans to make adjustments that would be necessary to ensure compliance with implementing regulations. These estimates then take into account the ongoing annual costs for plan administrators to create and send the annual funding notices.

[18] The total hour burden is estimated to be about 1,046,000 hours in the year of implementation and 1,003,000 hours in each subsequent year.

101(f) of ERISA, as amended by section 501 of the PPA. As described earlier in the preamble, section 101(f) of ERISA requires the administrator of a defined benefit plan to which title IV of ERISA applies to furnish an annual funding notice to the PBGC, each participant and beneficiary, each labor organization representing participants and beneficiaries, and for multiemployer plans only, each employer with an obligation to contribute to the plan.

The information collection provisions of the proposed rule are found in section 2520.101–5(b). Model notices are provided in the appendices to the rule to facilitate compliance and moderate the burden attendant to supplying notices to participants and beneficiaries, labor organizations, contributing employers, and PBGC. Use of the model notice is not mandatory; however, use of the model will be deemed to satisfy the requirements for content, style, and format of the notice, except with respect to any other information the plan administrator elects to include. The proposed rule also is intended to clarify several statutory requirements with respect to content, style and format, manner of furnishing, and persons entitled to receive the annual funding notice. Increasing the transparency of information about the funding status of defined benefit plans for participants and beneficiaries, labor organizations, contributing employers, and the PBGC will afford all parties interested in the financial viability of these plans greater opportunity to monitor their funding status.

In order to estimate the potential costs of the notice provisions of section 101(f) of ERISA and the proposed rule, the Department estimated the number of single-employer and multiemployer defined benefit plans, and the numbers of participants, beneficiaries receiving benefits, labor organizations representing participants, and employers with an obligation to contribute to these plans.

The PBGC Pension Insurance Data Book 2008 indicates that there are about 1,500 multiemployer defined benefit plans with approximately 10.1 million participants and beneficiaries receiving benefits. These estimates are based on premium filings with PBGC for 2007, projected by PBGC to 2008, generally the most recent information currently available. This total has been adjusted slightly to reflect the exception from the requirement to furnish annual funding notices to plans that are receiving financial assistance from PBGC.[19] The PBGC Pension Insurance Data Book 2008 also indicates that there are approximately 28,000 single-employer defined benefit plans with approximately 33.8 million participants.

The Department is not aware of a direct source of information as to the number of labor organizations that represent participants of multiemployer defined benefit plans and that would be entitled to receive notice under section 101(f). As a proxy for this number, the Department has relied on information supplied by the Department's Employment Standards Administration, Office of Labor Management Standards, as to the number of labor organizations that filed required annual reports for their most recent fiscal year, generally 2008, at this time. The Department adjusted the number provided by excluding labor organizations that appeared to represent only State, local, and Federal governmental employees to account for the fact that such employees are generally unlikely to be participants in plans covered under title I of ERISA. The resulting estimate of labor organizations that could be entitled to receive notice is almost 18,500.

The Department also is unaware of a source of information for the current number of employers obligated to contribute to multiemployer defined benefit plans. PBGC assisted with development of an estimate of this number by providing the Department with a tabulation on their 1987 premium filings of the number of employers contributing to multiemployer defined benefit plans at that time. This was the last year this data element was required to be reported on the Form 5500. The Department has attempted to validate that 1987 figure by dividing the number of participants in multiemployer defined benefit plans in the industries in which these plans are most concentrated, such as construction, trucking, and retail food sales,[20] by the average number of employees per firm in those industries based on data published by the Office of Advocacy, U.S. Small Business Administration for 2001. This computation resulted in a figure that was similar in magnitude, but somewhat higher than the 277,600 employers reported in the 1987 PBGC premium filing data. As a result, the Department has used 300,000 for its conservative estimate of the number of contributing employers to whom the required notice will be sent.

For purposes of its estimates of regulatory impact, the Department has assumed that each plan will develop a notice, and that each year approximately 44.3 million notices will be prepared and sent. The 44.3 million estimate breaks down as follows: 10.1 million notices to participants and beneficiaries of close to 1,500 multiemployer defined benefit plans; 33.8 million notices to participants and beneficiaries of close to 28,000 single employer plans; 39,000 notices to labor organizations; 300,000 notices to contributing employers of multiemployer plans; and 30,000 notices to the PBGC.

Estimates of notice preparations are based on the assumption that plan service providers, actuaries, lawyers, and financial professionals will produce the notices. It is assumed that the availability of a model notice will lessen the time otherwise required by a plan administrator to draft a required notice. The Department has made the following estimate regarding preparation of the notice: Actuaries will spend three hours in the first year and two hours in each succeeding year for single-employer plans and two hours in the first year and one hour in each succeeding year for multiemployer plans making specific calculations for information that must be provided in the notice; legal professionals will spend one hour in the first year and 0.5 hours in each succeeding year reviewing the notice; and financial professionals will spend one hour in the first year and thereafter drafting the notice for single-employer plans and two hours per year for multiemployer plans. The final preparation and distribution of the notice will be done by a clerical professional using an estimated two minutes per notice mailed. The Department welcomes comments regarding these estimates.

Assuming 44.3 million notices are distributed,[21] the burden hours for that initial year of implementation are 87,000 actuarial hours, 31,000 financial professional hours, and 29,000 legal professional hours. Total clerical professional hours are calculated based on the total number of notices mailed and the preparation time of 2 minutes per notice resulting in 915,000 hours. The total hour burden for the year of implementation is 1,061,000 hours.

[19] According to the PBGC Pension Insurance Data Book 2008, there were 1,513 multiemployer defined benefit plans in 2006. This number was reduced by 42 in order to account for the 42 plans that received financial assistance.

[20] *See* GAO–04–423 Private Pensions: Multiemployer Plans Face Short- and Long-Term Challenges. U.S. General Accounting Office, March 2004. The General Accounting Office's name changed to the Government Accountability Office effective July 7, 2004.

[21] The Department assumes that 38 percent of notices are sent electronically and result in only a de minimis cost.

Each subsequent year requires 57,000 actuarial hours, 915,000 clerical hours, 31,000 financial professional hours, and 15,000 legal professional hours for a total of 1,018,000 hours.[22]

Hourly labor rates were calculated using the rates based on the Bureau of Labor Statistics, National Occupational Employment Survey (May 2008) and the Bureau of Labor Statistics, Employment Cost Index (June 2009).[23] Calculations of the 2010 hourly labor costs were $26.14 for a clerical professional, $62.81 for a financial professional, $91.56 for an actuary, and $119.03 for plan legal counsel.

Based on the foregoing, the total equivalent cost for the initial year is estimated at approximately $7,937,000 for actuarial services, $23,915,000 for clerical services, $1,942,000 for financial professional services, and $3,409,000 for legal professional services. The total equivalent cost is approximately $37,203,000 in the initial year.

The total equivalent cost in each subsequent year is estimated at approximately $5,245,000 for actuarial services, $23,915,000 for clerical services, $1,942,000 for financial professional services, and $1,750,000 for legal professional services. The total equivalent cost is estimated at approximately $32,852,000 in each subsequent year.

The cost of mailing the notices was based on the assumption that each notice would be six pages for single-employer plans and five pages for multiemployer plans, with printing costs of 5 cents per page and postage of 44 cents resulting in an estimated 74 cent cost per paper notice for single-employer plans and a 69 cent cost per paper notice for multiemployer plans. It was further assumed that 38 percent of notices would be sent electronically. The Department has not estimated any additional burden for preparation or distribution of notices via electronic means because the Department assumes that plans will utilize pre-existing electronic communications systems and e-mail lists for these purposes and the process of preparation and distribution involves only a de minimis additional effort, *e.g.,* a few computer key strokes or the equivalent. This assumption will result in a total of approximately 16.8 million notices being sent electronically by multiemployer and single-employer plans. Single-employer plans will mail out approximately 21.0 million paper notices and multiemployer plans will mail out approximately 6.5 million paper notices. Total annual paper mailing costs are estimated to be approximately $20.0 million.

These paperwork burden estimates are summarized as follows:

Type of Review: Revised collection.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Annual Funding Notice for Defined Benefit Plans.

OMB Control Number: 1210–0126.

Affected Public: Business or other for-profit; not-for-profit institutions.

Respondents: 29,000.

Responses: 44,269,000.

Frequency of Response: Annually.

Estimated Total Annual Burden Hours: 1,032,000 (average over first three years); 1,061,000 (first year) (1,018,000 subsequent years).

Estimated Total Annual Burden Cost: $19,988,000 (first year and subsequent years).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and which are likely to have a significant economic impact on a substantial number of small entities. Unless the head of an agency certifies that a proposed rule is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires that the agency present an initial regulatory flexibility analysis at the time of the publication of the notice of proposed rulemaking describing the impact of the rule on small entities and seeking public comment on such impact.

For purposes of the RFA, the Department continues to consider a small entity to be an employee benefit plan with fewer than 100 participants.[24] Further, while some large employers may have small plans, in general small employers maintain most small plans. Thus, the Department believes that assessing the impact of this proposed rule on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business that is based on size standards promulgated by the Small Business Administration (SBA) (13 CFR 121.201) pursuant to the Small Business Act (15 U.S.C. 631 *et seq.*). The Department therefore requests comments on the appropriateness of the size standard used in evaluating the impact of this proposed rule on small entities.

By this standard, data from the 2007 Form 5500 (the latest available data) indicates that for over 88 percent of small affected plans, the average per plan compliance cost would be $1,265 ($37 million/29,400 plans) plus plan specific mailing cost (74 cents per participant, which cannot exceed $74 per plan because small plans have less than 100 participants). This amount is less than one percent of plan assets.

Based on the foregoing, the Department has preliminarily determined that while the rule is likely to impact a substantial number of small entities, the economic impact on such entities will not be significant. Therefore, pursuant to section 605(b) of RFA, the Assistant Secretary of the Employee Benefits Security Administration hereby certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The Department invites comments on this certification and the potential impact of the rule on small entities.

Congressional Review Act

The proposed rule is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and, if finalized, will be transmitted to Congress and the Comptroller General for review. The proposed rule is not a "major rule" as that term is defined in 5 U.S.C. 804, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, or Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as well as Executive Order 12875, the proposed rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments in the aggregate of

[22] The average Total Annual Burden Hours over the first three years is 1,032,000.

[23] EBSA estimates of labor rates include wages, other benefits, and overhead.

[24] The basis for this definition is found in section 104(a)(2) of the Act, which permits the Secretary of Labor to prescribe simplified annual reports for pension plans that cover fewer than 100 participants.

more than $100 million, adjusted for inflation, or increase expenditures by the private sector of more than $100 million, adjusted for inflation.

Federalism Statement

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism, and requires the adherence to specific criteria by Federal agencies in the process of their formulation and implementation of policies that have substantial direct effects on the States, the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. The proposed rule does not have federalism implications because it has no 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. Section 514 of ERISA provides, with certain exceptions specifically enumerated, that the provisions of titles I and IV of ERISA supersede any and all laws of the States as they relate to any employee benefit plan covered under ERISA. The requirements that would be implemented in the proposed rule do not alter the fundamental reporting and disclosure requirements of the statute with respect to employee benefit plans, and as such have no implications for the States or the relationship or distribution of power between the national government and the States.

List of Subjects in 29 CFR Part 2520

Accounting, Employee benefit plans, Employee Retirement Income Security Act, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Labor proposes to amend 29 CFR part 2520 as follows:

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

1. The Authority citation for part 2520 is revised to read as follows:

Authority: 29 U.S.C. 1021–1025, 1027, 1029–31, 1059, 1134 and 1135; and Secretary of Labor's Order 1–2003, 68 FR 5374 (Feb. 3, 2003). Sec. 2520.101–2 also issued under 29 U.S.C. 1132, 1181–1183, 1181 note, 1185, 1185a–b, 1191, and 1191a–c. Secs. 2520.102–3, 2520.104b–1 and 2520.104b–3 also issued under 29 U.S.C. 1003, 1181–1183, 1181 note, 1185, 1185a–b, 1191, and 1191a–c. Secs. 2520.104b–1 and 2520.107 also issued under 26 U.S.C. 401 note, 111 Stat. 788. Sec. 2520.101–4 also issued under sec. 103 of Pub. L. 108–218, 118 Stat. 596. Sec. 2520.101–5 also issued under sec. 503 of Pub. L. 109–280, 120 Stat. 780 and sec. 105(a), Pub. L. 110–458, 122 Stat. 5104.

2. Add § 2520.101–5 to subpart A to read as follows:

§ 2520.101–5 Annual funding notice for defined benefit pension plans.

(a) *In general.* (1) Except as provided in paragraphs (a)(2) and (3) of this section, pursuant to section 101(f) of the Act, the administrator of a defined benefit plan to which title IV of the Act applies shall furnish annually to each person specified in paragraph (f) of this section a funding notice that conforms to the requirements of this section.

(2) A plan administrator shall not be required to furnish a funding notice—

(i) In the case of a multiemployer plan, for a plan year if the due date for such notice is on or after the date the plan complies with the insolvency notice requirements of section 4245(e) or 4281(d)(3) of the Act and regulations thereunder.

(ii) In the case of a single-employer plan, for a plan year if the due date for such notice is on or after the date:

(A) The Pension Benefit Guaranty Corporation is appointed as trustee of the plan pursuant to section 4042 of the Act; or

(B) The plan has distributed assets in satisfaction of all benefit liabilities in a standard termination pursuant to section 4041(b) or in a distress termination pursuant to section 4041(c)(3)(B)(i) or of all guaranteed benefits in a distress termination pursuant to section 4041(c)(3)(B)(ii) of the Act.

(3) In the case of a merger or consolidation of two or more plans—

(i) The plan administrator of a non-successor plan shall not be required to furnish a funding notice for the plan year in which the merger occurred, and

(ii) The funding notice of the successor plan, for the plan year in which the merger occurred, must, in addition to the requirements of paragraph (b) of this section, contain a general explanation, including the effective date, of the merger and an identification of each plan (*e.g.,* name and plan number) involved in the merger or consolidation.

(b) *Content of notice.* A funding notice shall include the following information:

(1) *Identifying information.* The name of the plan, the name, address, and phone number of the plan administrator and the plan's principal administrative officer (if different than the plan administrator), each plan sponsor's name and employer identification number, and the plan number.

(2) *Funding percentage.* (i) *Single-employer plans.* For single-employer plans, a statement as to whether the plan's funding target attainment percentage (as defined in section 303(d)(2) of the Act) for the notice year, and for each of the two preceding plan years, is at least 100 percent (and, if not, the actual percentages).

(ii) *Multiemployer plans.* For multiemployer plans, a statement as to whether the plan's funded percentage (as defined in section 305(i) of the Act) for the notice year, and for each of the two preceding plan years, is at least 100 percent (and, if not, the actual percentages).

(3) *Assets and liabilities.* (i) *Single-employer plans.* For single-employer plans—

(A) A statement of the total assets (separately stating the prefunding balance and the funding standard carryover balance) and liabilities of the plan, determined in the same manner as under section 303 of the Act as of the valuation date of the notice year and for each of the two preceding plan years, as reported in the annual report filed under section 104 of the Act for each such preceding plan year, and

(B) A statement of the value of the plan's assets and liabilities determined as of the last day of the notice year. For purposes of this statement, the value of the plan's assets is the fair market value of plan assets. Plan liabilities are equal to the present value of benefits accrued through the last day of the notice year determined in the same manner as liabilities are calculated under section 303 of the Act (including actuarial assumptions and methods), but using the interest rate under section 4006(a)(3)(E)(iv) of the Act in effect for the last month of the notice year.

(ii) *Multiemployer plans.* For multiemployer plans—

(A) A statement of the value of the plan's assets (determined in the same manner as under section 304(c)(2) of the Act) and liabilities (determined in the same manner as under section 305(i)(8) of the Act, using reasonable actuarial assumptions as required under section 304(c)(3) of the Act) as of the valuation date of the notice year and each of the two preceding plan years, and

(B) A statement of the fair market value of plan assets as of the last day of the notice year, and as of the last day of each of the two preceding plan years as reported in the annual report filed under section 104(a) of the Act for each such preceding plan year.

(4) *Demographic information.* A statement of the number of participants who, as of the valuation date of the notice year, are: retired or separated from service and receiving benefits; retired or separated from service and

entitled to future benefits (but currently not receiving benefits); and active participants under the plan. The statement shall indicate the number of participants in each such category and the sum of all such participants. The terms "active" and "retired or separated" shall have the same meaning given to those terms in instructions to the annual report filed under section 104(a) of the Act.

(5) *Funding policy.* A statement setting forth—

(i) The funding policy of the plan;

(ii) The asset allocation of investments under the plan (expressed as percentages of total assets) as of the end of the notice year; and

(iii) A general description of any investment policy of the plan as it relates to the funding policy in paragraph (b)(5)(i) of this section and the asset allocation of investments under paragraph (b)(5)(ii) of this section.

(6) *Endangered or critical status.* In the case of a multiemployer plan, a statement whether the plan was in endangered or critical status under section 305 of the Act for the notice year and, if so—

(i) A statement describing how a person may obtain a copy of the plan's funding improvement plan or rehabilitation plan, as appropriate, adopted under section 305 of the Act and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement, and

(ii) A summary of the plan's funding improvement plan or rehabilitation plan, including any update or modification of such funding improvement or rehabilitation plan adopted under section 305 of the Act during the notice year.

(7) *Events having a material effects on liabilities or assets.* In the case of any plan amendment, scheduled benefit increase or reduction, or other known event taking effect in the current plan year and having a material effect on plan liabilities or assets for the year (as defined in paragraph (g) of this section), an explanation of the amendment, scheduled increase or reduction, or event, and a projection to the end of such plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities.

(8) *Rules on termination, reorganization or insolvency.* (i) *Single-employer plans.* In the case of a single-employer plan, a summary of the rules governing termination of single-employer plans under subtitle C of title IV of the Act.

(ii) *Multiemployer plans.* In the case of a multiemployer plan, a summary of the rules governing reorganization or insolvency, including the limitations on benefit payments.

(9) *PBGC guarantees.* A general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

(10) *Annual report information.* A statement that a person entitled to notice under paragraph (f) of this section may obtain a copy of the annual report of the plan filed under section 104(a) of the Act upon request, through the Internet Web site of the Department of Labor, or through any Intranet Web site maintained by the applicable plan sponsor (or plan administrator on behalf of the plan sponsor).

(11) *Information disclosed to PBGC.* In the case of a single-employer plan, if applicable, a statement that the contributing sponsor of the plan, and each member of the contributing sponsor's controlled group (other than an exempt entity within the meaning of 29 CFR 4010.4(c)), was required to provide the information under section 4010 of the Act for the notice year. If the contributing sponsor of the plan is itself an exempt entity within the meaning of 29 CFR 4010.4(c), in lieu of the preceding sentence, a statement that each member of the contributing sponsor's controlled group (other than an exempt entity within the meaning of 29 CFR 4010.4(c)) was required to provide the information under section 4010 of the Act for the notice year.

(12) *Additional information.* Any additional information that the plan administrator elects to include, provided that such information is necessary or helpful to understanding the mandatory information in the notice, or is otherwise permitted by law.

(c) *Style and format of notice.* Funding notices shall be written in a manner that is consistent with the style and format requirements of § 2520.102–2 of this chapter.

(d) *When to furnish notice.* (1) Except as provided in paragraph (d)(2) of this section, a funding notice shall be provided not later than 120 days after the end of the notice year.

(2) In the case of a small plan, a funding notice shall be provided not later than the earlier of the date on which the annual report is filed under section 104(a) of the Act or the latest date the annual report must be filed under that section (including extensions). For this purpose, a single-employer plan is a small plan if it meets the exception in section 303(g)(2)(B) of the Act, and a multiemployer plan is a small plan if it had 100 or fewer participants on each day during the plan year preceding the notice year.

(e) *Manner of furnishing notice.* (1) [Reserved].

(2) A funding notice must be furnished to the Pension Benefit Guaranty Corporation in a manner consistent with the requirements of part 4000 of this title. The date that the notice is furnished to the Pension Benefit Guaranty Corporation is determined consistent with that part.

(f) *Persons entitled to notice.* Persons entitled to a funding notice under this section are:

(1) Each participant covered under the plan on the last day of the notice year;

(2) Each beneficiary receiving benefits under the plan on the last day of the notice year;

(3) Each labor organization representing participants under the plan on the last day of the notice year;

(4) In the case of a multiemployer plan, each employer that, as of the last day of the notice year, is a party to the collective bargaining agreement(s) pursuant to which the plan is maintained or who otherwise may be subject to withdrawal liability pursuant to section 4203 of the Act; and

(5) The Pension Benefit Guaranty Corporation.

(g) *Material effect definition.* (1) For purposes of paragraph (b)(7) of this section, a plan amendment, scheduled benefit increase (or reduction), or other known event has a material effect on plan liabilities or assets for the current plan year (*i.e.,* plan year following the notice year) if such amendment, benefit increase (or reduction), or event—

(i) Results, or is projected to result, in an increase or decrease of five percent or more in the value of assets or liabilities from the valuation date of the notice year; or

(ii) In the judgment of the plan's enrolled actuary, is material for purposes of the plan's funding status under section 430 or 431, as applicable, of the Internal Revenue Code, without regard to paragraph (g)(1)(i) of this section.

(2) For purposes of paragraph (b)(7) of this section, the term "other known event" includes, but is not limited to—

(i) An extension of coverage under the existing terms of the plan to a new group of employees;

(ii) A plan merger, consolidation, or spinoff pursuant to regulations under section 414(l) of the Internal Revenue Code;

(iii) A shutdown of any facility, plant, store, or such other similar corporate event that creates immediate eligibility for benefits that would not otherwise be

immediately payable for participants separating from service;

(iv) An offer by the plan for a temporary period to permit participants to retire at benefit levels greater than that to which they would otherwise be entitled; or

(v) A cost-of-living adjustment for retirees.

(3) For purposes of paragraph (g)(1)(i) of this section, calculate assets and liabilities in the same manner as under paragraph (b)(2) of this section.

(h) *Model notices.* (1) The appendices to this section contain a model notice for single-employer plans and a model notice for multiemployer plans. These models are intended to assist plan administrators in discharging their notice obligations under this section. Use of a model notice is not mandatory. However, subject to paragraph (h)(2) of this section, use of a model notice will be deemed to satisfy the requirements of paragraphs (b)(1) through (11) and paragraph (c) of this section.

(2) To the extent a plan administrator elects to include in a model notice information described in paragraph (b)(12) of this section, such additional information must be consistent with the style and format requirements in paragraph (c) of this section.

(i) *Limited alternative method of compliance for furnishing notice to PBGC.* Notwithstanding any other provision of this section, the plan administrator of a single-employer plan is not required to furnish a notice to the Pension Benefit Guaranty Corporation annually if, based on the data described in paragraph (b)(3)(i)(A) of this section for the notice year, plan liabilities do not exceed total plan assets by more than $50 million, provided that the plan administrator furnishes the latest available funding notice to the Pension Benefit Guaranty Corporation within 30 days of a written request.

(j) *Notice year.* For purposes of this section, the term "notice year" means the plan year to which the notice relates. For example, for a calendar year plan that must furnish its 2010 funding notice no later than the 120th day of 2011, the "notice year" is the 2010 plan year.

BILLING CODE 4510–29–P

APPENDIX A TO §2520.101-5-- SINGLE-EMPLOYER PLANS

ANNUAL FUNDING NOTICE
For
[*insert name of pension plan]*

Introduction

This notice includes important information about the funding status of your pension plan ("the Plan") and general information about the benefit payments guaranteed by the Pension Benefit Guaranty Corporation ("PBGC"), a federal insurance agency. All traditional pension plans (called "defined benefit pension plans") must provide this notice every year regardless of their funding status. This notice does not mean that the Plan is terminating. It is provided for informational purposes and you are not required to respond in any way. This notice is for the plan year beginning [*insert beginning date*] and ending [*insert ending date*] ("Plan Year").

How Well Funded Is Your Plan

Under federal law, the plan must report how well it is funded by using a measure called the "funding target attainment percentage." This percentage is obtained by dividing the Plan's Net Plan Assets by Plan Liabilities on the Valuation Date for the plan year. In general, the higher the percentage, the better funded the plan. Your Plan's funding target attainment percentage for the Plan Year and each of the two preceding plan years is shown in the chart below, along with a statement of the value of the Plan's assets and liabilities for the same period.

Funding Target Attainment Percentage			
	[insert Plan Year, e.g., 2011]	[insert plan year preceding Plan Year, e.g., 2010]	[insert plan year 2 years preceding Plan year, e.g., 2009]
1. Valuation Date	[insert date]	[insert date]	[insert date]
2. Plan Assets			
a. Total Plan Assets	[insert amount]	[insert amount]	[insert amount]
b. Funding Standard Carryover Balance	[insert amount]	[insert amount]	[insert amount]
c. Prefunding Balance	[insert amount]	[insert amount]	[insert amount]
d. Net Plan Assets (a) – (b) – (c) = (d)	[insert amount]	[insert amount]	[insert amount]
3. Plan Liabilities	[insert amount]	[insert amount]	[insert amount]
4. At-Risk Liabilities	[insert amount]	[insert amount]	[insert amount]

5. Funding Target Attainment Percentage (2d)/(3)	**[insert percentage]**	**[insert percentage]**	**[insert percentage]**

{Instructions: Report Valuation Date entries in accordance with section 303(g)(2) of ERISA. Report Total Plan Assets in accordance with section 303(g)(3) of ERISA. Report credit balances (i.e., funding standard carryover balance and prefunding balance) in accordance with section 303(f) of ERISA. Report Net Plan Assets, Plan Liabilities (i.e., funding target), and Funding Target Attainment Percentage in accordance with section 303(d)(2) of ERISA. The amount reported as "Plan Liabilities" should be the funding target determined without regard to at-risk assumptions, even if the plan is in at-risk status. At-Risk Liabilities are determined under section 303(i) of ERISA (taking into account section 303(i)(5) of ERISA). Report At-Risk Liabilities for any year covered by this chart in which the Plan was in "at-risk" status within the meaning of section 303(i) of ERISA, only if At-Risk Liabilities are greater than Plan Liabilities; otherwise delete the entire row designated as number 4. Round off all amounts in this notice to the nearest dollar.}

Plan Assets and Credit Balances

Total Plan Assets is the value of the Plan's assets on the Valuation Date (see line 2 in the chart above). Credit balances were subtracted from Total Plan Assets to determine Net Plan Assets (line 2 d) used in the calculation of the funding target attainment percentage shown in the chart above. While pension plans are permitted to maintain credit balances (also called "funding standard carryover balances" or "prefunding balances" see 2 b & c in the chart above) for funding purposes, they may not be taken into account when calculating a plan's funding target attainment percentage. A plan might have a credit balance, for example, if in a prior year an employer made contributions to the plan above the minimum level required by law. Generally, the excess contributions are counted as "credits" and may be applied in future years toward the minimum level of contributions a plan sponsor is required to make by law.

Plan Liabilities

Plan Liabilities shown in line 3 of the chart above are the liabilities used to determine the Plan's Funding Target Attainment Percentage. This figure is an estimate of the amount of assets the Plan needs on the Valuation Date to pay for promised benefits under the plan.

At-Risk Liabilities

If a plan's funding target attainment percentage for the prior plan year is below a specified legal threshold, the plan is considered under law to be in "at-risk" status. This means that the plan is required to use actuarial assumptions that result in a higher value of plan liabilities and, as a consequence, requires the employer to contribute more money to the plan. For example, plans in "at-risk" status are required to assume that all workers eligible to retire in the next 10 years will do so as soon as they can, and that they will take their distribution in whatever form would create the highest cost to the plan, without regard to whether those workers actually do so. The additional funding that results from "at-risk" status may then remove the plan from this status. The Plan has been determined to be in "at-risk" status in [*enter year or years covered by the chart above*]. The increased liabilities to the Plan as a result of being in "at-risk" status are reflected in the At-Risk Liabilities row in the chart above.

{Instructions: Include the preceding discussion, entitled At-Risk Liabilities, only in the case of a plan required to report At-Risk Liabilities. Delete the entire row designated as number 4 in the chart above if the At-Risk Liabilities discussion is not being included in the notice.}

Year-End Assets and Liabilities

The asset values in the chart above are measured as of the first day of the Plan Year and are actuarial values. Because market values can fluctuate daily based on factors in the marketplace, such as changes in the stock market, pension law allows plans to use actuarial values that are designed to smooth out those fluctuations for funding purposes. The asset values below are market values and are measured as of the last day of the plan year. Market values tend to show a clearer picture of a plan's funded status as of a given point in time. As of [*enter the last day of the Plan Year*], the fair market value of the Plan's assets was [*enter amount*]. On this same date, the Plan's liabilities were [*enter amount*].

{Instructions: Insert the fair market value of the plan's assets as of the last day of the plan year. You may include contributions made after the end of the plan year to which the notice relates and before the date the notice is timely furnished but only if such contributions are attributable to such plan year for funding purposes. A plan's liabilities as of the last day of the plan year are equal to the present value, as of the last day of the plan year, of benefits accrued as of that same date. With the exception of the interest rate assumption, the present value should be determined using assumptions used to determine the funding target under section 303. The interest rate assumption is the rate provided under section 4006(a)(3)(E)(iv), but using the last month of the year to which the notice relates rather than the month preceding the first month of the year to which the notice relates. If, consistent with section 303(g)(2) of ERISA, the plan's valuation date is not the first day of the plan year, make appropriate modifications to the preceding paragraph, e.g., replace "first day of" with "valuation date for."}

{Instructions: If, pursuant to section 303(g)(3) of ERISA, the value of the plan's assets in the chart above is fair market value, include the paragraph below rather than the paragraph above, but otherwise follow the instructions above.}

The asset values in the chart above are measured as of the first day of the Plan Year. As of [*enter the last day of the Plan Year*], the fair market value of the Plan's assets was [*enter amount*]. On this same date, the Plan's liabilities were [*enter amount*].

Participant Information

The total number of participants in the Plan as of the Plan's valuation date was [*insert number*]. Of this number, [*insert number*] were active participants, [*insert number*] were retired or separated from service and receiving benefits, and [*insert number*] were retired or separated from service and entitled to future benefits.

Funding & Investment Policies

Every pension plan must have a procedure for establishing a funding policy to carry out plan objectives. A funding policy relates to the level of assets needed to pay for promised benefits. The funding policy of the Plan is [*insert a summary statement of the Plan's funding policy*].

Once money is contributed to the Plan, the money is invested by plan officials, called fiduciaries, who make specific investments in accordance with the Plan's investment policy. Generally speaking, an investment policy is a written statement that provides the fiduciaries who are responsible for plan investments with guidelines or general instructions concerning investment management decisions. The investment policy of the Plan is [*insert a summary statement of the Plan's investment policy*].

Under the Plan's investment policy, the Plan's assets were allocated among the following categories of investments, as of the end of the Plan Year. These allocations are percentages of total assets:

Asset Allocations	**Percentage**
1. Cash (interest bearing and non-interest bearing)	_____
2. U.S. Government securities	_____
3. Corporate debt instruments (other than employer securities):	
Preferred	_____
All other	_____
4. Corporate stocks (other than employer securities):	
Preferred	_____
Common	_____
5. Partnership/joint venture interests	_____
6. Real estate (other than employer real property)	_____
7. Loans (other than to participants)	_____
8. Participant loans	_____
9. Value of interest in common/collective trusts	_____
10. Value of interest in pooled separate accounts	_____
11. Value of interest in master trust investment accounts	_____
12. Value of interest in 103-12 investment entities	_____
13. Value of interest in registered investment companies (e.g., mutual funds)	_____
14. Value of funds held in insurance co. general account (unallocated contracts)	_____
15. Employer-related investments:	
Employer Securities	_____
Employer real property	_____
16. Buildings and other property used in plan operation	_____
17. Other	_____

For information about the plan's investment in any of the following types of investments as described in the chart above – common/collective trusts, pooled separate accounts, master trust investment accounts, or 103-12 investment entities – contact [*insert the name, telephone number, email address or mailing address of the plan administrator or designated representative*].

Instructions: If a plan holds an interest in one or more of the direct filing entities (DFEs) noted above, i.e., MTIAs, CCTs, PSAs, or 103-12IEs, immediately following the asset allocation chart include the paragraph above informing recipients how to obtain more information regarding the plan's DFE investments (e.g., the plan's Schedule D and/or the DFE's Schedule H). If a plan does not hold an interest in a DFE, do not include the above paragraph.

Events Having a Material Effect on Assets or Liabilities

Federal law requires the plan administrator to provide in this notice a written explanation of events, taking effect in the current plan year, which are expected to have a material effect on plan liabilities or assets. Material effect events are occurrences that tend to have a significant impact on a plan's funding condition. An event is material if it, for example, is expected to increase or decrease Total Plan Assets or Plan Liabilities by five percent or more. For the plan year beginning on [*insert the first day of the current plan year (i.e., the year after the notice year)*] and ending on [*insert the last day of the current plan year*], the following events are expected to have such an effect: [*insert explanation of any plan amendment, scheduled benefit increase or reduction, or other known event taking effect in the current plan year and having a material effect on plan liabilities or assets for the year, as well as a projection to the end of the current plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities*].

{Instructions: Include the preceding discussion, entitled Events having a Material Effect on Assets or Liabilities, only if applicable.}

Right to Request a Copy of the Annual Report

A pension plan is required to file with the US Department of Labor an annual report called the Form 5500 that contains financial and other information about the plan. Copies of the annual report are available from the US Department of Labor, Employee Benefits Security Administration's Public Disclosure Room at 200 Constitution Avenue, NW, Room N-1513, Washington, DC 20210, or by calling 202.693.8673. For 2009 and subsequent plan years, you may obtain an electronic copy of the plan's annual report by going to www.efast.dol.gov and using the Form 5500 search function. Or you may obtain a copy of the Plan's annual report by making a written request to the plan administrator. [*If the Plan's annual report is available on an Intranet website maintained by the plan sponsor (or plan administrator on behalf of the plan sponsor), modify the preceding sentence to include a statement that the annual report also may be obtained through that website and include the website address.*] Individual information, such as the amount of your accrued benefit under the plan, is not contained in the annual report. If you are seeking information regarding your benefits under the plan, contact the plan administrator identified below under "Where To Get More Information."

Summary of Rules Governing Termination of Single-Employer Plans

If a plan is terminated, there are specific termination rules that must be followed under federal law. A summary of these rules follows.

There are two ways an employer can terminate its pension plan. First, the employer can end the plan in a "standard termination" but only after showing the PBGC that the plan has enough money to pay all benefits owed to participants. Under a standard termination, the plan must either purchase an annuity from an insurance company (which will provide you with periodic retirement benefits, such as monthly, for life or for a set period of time when you retire) or, if your plan allows, issue one lump-sum payment that covers your entire benefit. Your plan administrator must give you advance notice that identifies the insurance company (or companies) that your employer

may select to provide the annuity. The PBGC's guarantee ends when your employer purchases your annuity or gives you the lump-sum payment.

Second, if the plan is not fully-funded, the employer may apply for a distress termination. To do so, however, the employer must be in financial distress and prove to a bankruptcy court or to the PBGC that the employer cannot remain in business unless the plan is terminated. If the application is granted, the PBGC will take over the plan as trustee and pay plan benefits, up to the legal limits, using plan assets and PBGC guarantee funds.

Under certain circumstances, the PBGC may take action on its own to end a pension plan. Most terminations initiated by the PBGC occur when the PBGC determines that plan termination is needed to protect the interests of plan participants or of the PBGC insurance program. The PBGC can do so if, for example, a plan does not have enough money to pay benefits currently due.

Benefit Payments Guaranteed by the PBGC

When the PBGC takes over a plan, it pays pension benefits through its insurance program. Only benefits that you have earned a right to receive and that cannot be forfeited (called vested benefits) are guaranteed. Most participants and beneficiaries receive all of the pension benefits they would have received under their plan, but some people may lose certain benefits that are not guaranteed.

The amount of benefits that PBGC guarantees is determined as of the plan termination date. However, if a plan terminates during a plan sponsor's bankruptcy and the bankruptcy proceeding began on or after September 16, 2006, then the amount guaranteed is determined as of the date the sponsor entered bankruptcy.

The PBGC maximum benefit guarantee is set by law and is updated each calendar year. For a plan with a termination date or sponsor bankruptcy date, as applicable in [*insert current calendar year*], the maximum guarantee is [*insert amount from PBGC web site, www.pbgc.gov, applicable for the current calendar year*] per month, or [*insert amount from PBGC web site, www.pbgc.gov, applicable for the current calendar year*] per year, for a benefit paid to a 65-year-old retiree with no survivor benefit. If a plan terminates during a plan sponsor's bankruptcy, and the bankruptcy proceeding began on or after September 16, 2006, the maximum guarantee is fixed as of the calendar year in which the sponsor entered bankruptcy. The maximum guarantee is lower for an individual who begins receiving benefits from PBGC before age 65; the maximum guarantee by age can be found on PBGC's website, www.pbgc.gov. [*If the Plan does not provide for commencement of benefits before age 65, you may omit this sentence*.] The guaranteed amount is also reduced if a benefit will be provided to a survivor of the plan participant.

The PBGC guarantees "basic benefits" earned before a plan is terminated, which includes [*Include the following guarantees that apply to benefits available under the Plan.*]:

- pension benefits at normal retirement age;

- most early retirement benefits;
- annuity benefits for survivors of plan participants; and
- disability benefits for a disability that occurred before the date the plan terminated or the date the sponsor entered bankruptcy, as applicable.

The PBGC does not guarantee certain types of benefits [*Include the following guarantee limits that apply to the benefits available under the Plan.*]:

- The PBGC does not guarantee benefits for which you do not have a vested right, usually because you have not worked enough years for the company.
- The PBGC does not guarantee benefits for which you have not met all age, service, or other requirements.
- Benefit increases and new benefits that have been in place for less than one year are not guaranteed. Those that have been in place for less than five years are only partly guaranteed.
- Early retirement payments that are greater than payments at normal retirement age may not be guaranteed. For example, a supplemental benefit that stops when you become eligible for Social Security may not be guaranteed.
- Benefits other than pension benefits, such as health insurance, life insurance, death benefits, vacation pay, or severance pay, are not guaranteed.
- The PBGC generally does not pay lump sums exceeding $5,000.

In some circumstances, participants and beneficiaries still may receive some benefits that are not guaranteed. This depends on how much money the terminated plan has and how much the PBGC recovers from employers for plan underfunding.

Corporate and Actuarial Information on File with PBGC

A plan sponsor must provide the PBGC with financial information about itself and actuarial information about the plan under certain circumstances, such as when the funding target attainment percentage of the plan (or any other pension plan sponsored by a member of the sponsor's controlled group) falls below 80 percent (other triggers may also apply). The sponsor of the Plan, [*enter name of plan sponsor*], and members of its controlled group, if any, were subject to this requirement to provide corporate financial information and plan actuarial information to the PBGC. The PBGC uses this information for oversight and monitoring purposes.

{Instructions: Insert the preceding paragraph entitled "Corporate and Actuarial Information on File with PBGC" only if a reporting under section 4010 of ERISA was required for the Plan Year. Modify the preceding paragraph, as appropriate, if the plan sponsor (as distinguished from the members of its controlled group) is exempt from the ERISA 4010 reporting requirement pursuant to 29 CFR 4010.4(c).}

Where to Get More Information

For more information about this notice, you may contact [*enter name of plan administrator and if applicable, principal administrative officer*], at [*enter phone number and address and insert email address if appropriate*]. For identification purposes, the official plan number is [*enter plan number*] and the plan sponsor's name and employer identification number or "EIN" is [*enter name and EIN of plan sponsor*]. For more information about the PBGC, go to PBGC's website, www.pbgc.gov.

APPENDIX B TO §2520.101-5--MULTIEMPLOYER PLANS

ANNUAL FUNDING NOTICE

For
[*insert name of pension plan]*

Introduction

This notice includes important information about the funding status of your pension plan ("the Plan") and general information about the benefit payments guaranteed by the Pension Benefit Guaranty Corporation ("PBGC"), a federal insurance agency. All traditional pension plans (called "defined benefit pension plans") must provide this notice every year regardless of their funding status. This notice does not mean that the Plan is terminating. It is provided for informational purposes and you are not required to respond in any way. This notice is for the plan year beginning [*insert beginning date*] and ending [*insert ending date*] ("Plan Year").

How Well Funded Is Your Plan

Under federal law, the plan must report how well it is funded by using a measure called the "funded percentage." This percentage is obtained by dividing the Plan's assets by its liabilities on the Valuation Date for the plan year. In general, the higher the percentage, the better funded the plan. Your Plan's funded percentage for the Plan Year and each of the two preceding plan years is set forth in the chart below, along with a statement of the value of the Plan's assets and liabilities for the same period.

Funded Percentage			
	[insert Plan Year, e.g., 2011]	[insert plan year preceding Plan Year, e.g., 2010]	[insert plan year 2 years preceding Plan Year, e.g., 2009]
Valuation Date	[insert date]	[insert date]	[insert date]
Funded Percentage	[insert percentage]	[insert percentage]	[insert percentage]
Value of Assets	[insert amount]	[insert amount]	[insert amount]
Value of Liabilities	[insert amount]	[insert amount]	[insert amount]

{Instructions: The plan's "funded percentage" is equal to a fraction, the numerator of which is the actuarial value of the plan's assets (determined in the same manner as under section 304(c)(2) of ERISA) and the denominator of which is the accrued liability of the plan (under section 305(i)(8) of ERISA, using reasonable actuarial assumptions as required under section 304(c)(3) of ERISA). Report the value of the plan's assets and liabilities in the same manner as under section 304 of ERISA (but determining the plan's liabilities under section 305(i)(8) of ERISA, using reasonable actuarial assumptions as required under section 304(c)(3) of ERISA) as of the plan's valuation date for the plan year.}

Year-End Fair Market Value of Assets

The asset values in the chart above are measured as of the Valuation Date for the plan year and are actuarial values. Because market values can fluctuate daily based on factors in the marketplace, such as changes in the stock market, pension law allows plans to use actuarial values that are designed to smooth out those fluctuations for funding purposes. The asset values below are market values and are measured as of the last day of the plan year, rather than as of the Valuation Date. Substituting the market value of assets for the actuarial value used in the above chart would show a clearer picture of a plan's funded status as of the Valuation Date. The fair market value of the Plan's assets as of the last day of the Plan Year and each of the two preceding plan years is shown in the following table:

	[insert last day of Plan Year, e.g., 2011]	[insert last day of plan year preceding Plan Year, e.g., 2010]	[insert last day of plan year 2 years preceding Plan Year, e.g., 2009]
Fair Market Value of Assets	[insert amount]	[insert amount]	[insert amount]

{Instructions: Insert the fair market value of the plan's assets as of the last day of the plan year. You may include contributions made after the end of the plan year to which the notice relates and before the date the notice is timely furnished but only if such contributions are attributable to such plan year for funding purposes. For each of the two preceding plan years, you may use the fair market value of assets on the last day of the plan year as reported in the annual report for such plan year.}

Critical or Endangered Status

Under federal pension law a plan generally will be considered to be in "endangered" status if, at the beginning of the plan year, the funded percentage of the plan is less than 80 percent or in "critical" status if the percentage is less than 65 percent (other factors may also apply). If a pension plan enters endangered status, the trustees of the plan are required to adopt a funding improvement plan. Similarly, if a pension plan enters critical status, the trustees of the plan are required to adopt a rehabilitation plan. Rehabilitation and funding improvement plans establish steps and benchmarks for pension plans to improve their funding status over a specified period of time.

{Instructions: Select and complete the appropriate option below.}

{Option one}
The Plan was not in endangered or critical status in the Plan Year.

{Option two}
The Plan was in *[insert* "endangered" *or* "critical"*]* status in the Plan Year ending [*insert last day of Plan Year*] because [*insert summary description of why plan was in this status based on statutory factors*]. In an effort to improve the Plan's funding situation, the trustees adopted [*insert summary of Plan's funding improvement or rehabilitation plan, including when adopted and expected duration, and a description of any modification or update to the plan*

adopted during the plan year to which the notice relates]. You may obtain a copy of the Plan's funding improvement or rehabilitation plan and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement by contacting the plan administrator. [*If applicable, insert: "*Or you may obtain this information at [*insert Intranet address of plan sponsor (or plan administrator on behalf of the plan sponsor)*].]

If the Plan is in endangered or critical status for the plan year ending [*insert the last day of the plan year following the Plan Year*], separate notification of that status has or will be provided.

Participant Information

The total number of participants in the Plan as of the Plan's valuation date was [*insert number*]. Of this number, [*insert number*] were active participants, [*insert number*] were retired or separated from service and receiving benefits, and [*insert number*] were retired or separated from service and entitled to future benefits.

Funding & Investment Policies

Every pension plan must have a procedure for establishing a funding policy to carry out plan objectives. A funding policy relates to the level of assets needed to pay for benefits promised under the plan currently and over the years. The funding policy of the Plan is [*insert a summary statement of the Plan's funding policy*].

Once money is contributed to the Plan, the money is invested by plan officials called fiduciaries, who make specific investments in accordance with the Plan's investment policy. Generally speaking, an investment policy is a written statement that provides the fiduciaries who are responsible for plan investments with guidelines or general instructions concerning investment management decisions. The investment policy of the Plan is [*insert a summary statement of the Plan's investment policy*].

Under the Plan's investment policy, the Plan's assets were allocated among the following categories of investments, as of the end of the Plan Year. These allocations are percentages of total assets:

Asset Allocations	**Percentage**
1. Cash (Interest bearing and non-interest bearing)	_____
2. U.S. Government securities	_____
3. Corporate debt instruments (other than employer securities):	
Preferred	_____
All other	_____
4. Corporate stocks (other than employer securities):	
Preferred	_____
Common	_____
5. Partnership/joint venture interests	_____
6. Real estate (other than employer real property)	_____
7. Loans (other than to participants)	_____

8. Participant loans	_____
9. Value of interest in common/collective trusts	_____
10. Value of interest in pooled separate accounts	_____
11. Value of interest in master trust investment accounts	_____
12. Value of interest in 103-12 investment entities	_____
13. Value of interest in registered investment companies (e.g., mutual funds)	_____
14. Value of funds held in insurance co. general account (unallocated contracts)	_____
15. Employer-related investments:	
Employer Securities	_____
Employer real property	_____
16. Buildings and other property used in plan operation	_____
17. Other	_____

For information about the plan's investment in any of the following types of investments as described in the chart above – common/collective trusts, pooled separate accounts, master trust investment accounts, or 103-12 investment entities – contact [*insert the name, telephone number, email address or mailing address of the plan administrator or designated representative*].

Instructions: If a plan holds an interest in one or more of the direct filing entities (DFEs) noted above, i.e., MTIAs, CCTs, PSAs, or 103-12IEs, immediately following the asset allocation chart include the paragraph above informing recipients how to obtain more information regarding the plan's DFE investments (e.g., the plan's Schedule D and/or the DFE's Schedule H). If a plan does not hold an interest in a DFE, do not include the above paragraph.

Events Having a Material Effect on Assets or Liabilities

Federal law requires the plan administrator to provide in this notice a written explanation of events, taking effect in the current plan year, which are expected to have a material effect on plan liabilities or assets. Material effect events are occurrences that tend to have a significant impact on a plan's funding condition. An event is material if it, for example, is expected to increase or decrease Total Plan Assets or Plan Liabilities by five percent or more. For the plan year beginning on [*insert the first day of the current plan year (i.e., the year after the notice year)*] and ending on [*insert the last day of the current plan year*], the following events are expected to have such an effect: [*insert explanation of any plan amendment, scheduled benefit increase or reduction, or other known event taking effect in the current plan year and having a material effect on plan liabilities and assets for the year, as well as a projection to the end of the current plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities*].

{Instructions: Include the preceding discussion, entitled Events having a Material Effect on Assets or Liabilities, only if applicable.}

Right to Request a Copy of the Annual Report

A pension plan is required to file with the US Department of Labor an annual report called the Form 5500 that contains financial and other information about the plan. Copies of the annual report are available from the US Department of Labor, Employee Benefits Security Administration's Public Disclosure Room at 200 Constitution Avenue, NW, Room N-1513, Washington, DC 20210, or by calling 202.693.8673. For 2009 and

subsequent plan years, you may obtain an electronic copy of the plan's annual report by going to www.efast.dol.gov and using the Form 5500 search function. Or you may obtain a copy of the Plan's annual report by making a written request to the plan administrator. [*If the Plan's annual report is available on an Intranet website maintained by the plan sponsor (or plan administrator on behalf of the plan sponsor), modify the preceding sentence to include a statement that the annual report also may be obtained through that website and include the website address.*] Individual information, such as the amount of your accrued benefit under the plan, is not contained in the annual report. If you are seeking information regarding your benefits under the plan, contact the plan administrator identified below under "Where To Get More Information."

Summary of Rules Governing Plans in Reorganization and Insolvent Plans

Federal law has a number of special rules that apply to financially troubled multiemployer plans. The plan administrator is required by law to include a summary of these rules in the annual funding notice. Under so-called "plan reorganization rules," a plan with adverse financial experience may need to increase required contributions and may, under certain circumstances, reduce benefits that are not eligible for the PBGC's guarantee (generally, benefits that have been in effect for less than 60 months). If a plan is in reorganization status, it must provide notification that the plan is in reorganization status and that, if contributions are not increased, accrued benefits under the plan may be reduced or an excise tax may be imposed (or both). The plan is required to furnish this notification to each contributing employer and the labor organization.

Despite these special plan reorganization rules, a plan in reorganization could become insolvent. A plan is insolvent for a plan year if its available financial resources are not sufficient to pay benefits when due for that plan year. An insolvent plan must reduce benefit payments to the highest level that can be paid from the plan's available resources. If such resources are not enough to pay benefits at the level specified by law (see Benefit Payments Guaranteed by the PBGC, below), the plan must apply to the PBGC for financial assistance. The PBGC will loan the plan the amount necessary to pay benefits at the guaranteed level. Reduced benefits may be restored if the plan's financial condition improves.

A plan that becomes insolvent must provide prompt notice of its status to participants and beneficiaries, contributing employers, labor unions representing participants, and PBGC. In addition, participants and beneficiaries also must receive information regarding whether, and how, their benefits will be reduced or affected, including loss of a lump sum option. This information will be provided for each year the plan is insolvent.

Benefit Payments Guaranteed by the PBGC

The maximum benefit that the PBGC guarantees is set by law. Only benefits that you have earned a right to receive and that can not be forfeited (called vested benefits) are guaranteed. Specifically, the PBGC guarantees a monthly benefit payment equal to 100

percent of the first $11 of the Plan's monthly benefit accrual rate, plus 75 percent of the next $33 of the accrual rate, times each year of credited service. The PBGC's maximum guarantee, therefore, is $35.75 per month times a participant's years of credited service.

Example 1: If a participant with 10 years of credited service has an accrued monthly benefit of $500, the accrual rate for purposes of determining the PBGC guarantee would be determined by dividing the monthly benefit by the participant's years of service ($500/10), which equals $50. The guaranteed amount for a $50 monthly accrual rate is equal to the sum of $11 plus $24.75 (.75 x $33), or $35.75. Thus, the participant's guaranteed monthly benefit is $357.50 ($35.75 x 10).

Example 2: If the participant in Example 1 has an accrued monthly benefit of $200, the accrual rate for purposes of determining the guarantee would be $20 (or $200/10). The guaranteed amount for a $20 monthly accrual rate is equal to the sum of $11 plus $6.75 (.75 x $9), or $17.75. Thus, the participant's guaranteed monthly benefit would be $177.50 ($17.75 x 10).

The PBGC guarantees pension benefits payable at normal retirement age and some early retirement benefits. In calculating a person's monthly payment, the PBGC will disregard any benefit increases that were made under the plan within 60 months before the earlier of the plan's termination or insolvency (or benefits that were in effect for less than 60 months at the time of termination or insolvency). Similarly, the PBGC does not guarantee pre-retirement death benefits to a spouse or beneficiary (e.g., a qualified pre-retirement survivor annuity) if the participant dies after the plan terminates, benefits above the normal retirement benefit, disability benefits not in pay status, or non-pension benefits, such as health insurance, life insurance, death benefits, vacation pay, or severance pay.

Where to Get More Information

For more information about this notice, you may contact [*enter name of plan administrator and if applicable, principal administrative officer*], at [*enter phone number and address and insert email address if appropriate*]. For identification purposes, the official plan number is [*enter plan number*] and the plan sponsor's name and employer identification number or "EIN" is [*enter name and EIN of plan sponsor*]. For more information about the PBGC, go to PBGC's website, www.pbgc.gov.

BILLING CODE 4510–29–C

3. Amend § 2520.104–46 by revising paragraph (b)(1)(i)(B) introductory text to read as follows:

§ 2520.104–46 Waiver of examination and report of an independent qualified public accountant for employee benefit plans with fewer than 100 participants.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(B) The summary annual report (described in § 2520.104b–10) or, in the case of plans subject to section 101(f) of the Act, the annual funding notice (described in § 2520.101–5), includes, in addition to any other required information:

* * * * *

4. Amend § 2520.104b–10, by revising paragraphs (g)(7) and (g)(8) and adding paragraph (g)(9) to read as follows:

§ 2520.104b–10 Summary Annual Report.

* * * * *

(g) * * *

(7) A dues financed welfare plan which meets the requirements of 29 CFR 2520.104–26;

(8) A dues financed pension plan which meets the requirements of 29 CFR 2520.104–27; and

(9) A plan to which title IV of the Act applies.

* * * * *

Signed at Washington, DC, on November 8, 2010.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

[FR Doc. 2010–28890 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2005–TX–0013; FRL–9228–4]

Approval and Promulgation of Air Quality Implementation Plans; Texas; System Cap Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to disapprove severable portions of two revisions to the Texas State Implementation Plan (SIP) submitted by the State of Texas on May 1, 2001, and August 16, 2007, that create and amend the System Cap Trading (SCT) Program at Title 30 of the Texas Administrative Code, Chapter 101—General Air Quality Rules, Subchapter H—Emissions Banking and Trading, Division 5, sections 101.380, 101.382, 101.383, and 101.385. EPA is proposing disapproval of the SCT program because the program lacks several necessary components for emissions trading programs as outlined in EPA's Economic Incentive Program Guidance. This action is being taken under section 110 and parts C and D of the Federal Clean Air Act (the Act or CAA).

DATES: Comments must be received on or before December 20, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2005–TX–0013, by one of the following methods:

(1) *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

(2) *E-mail:* Mr. Jeff Robinson at *robinson.jeffrey@epa.gov.* Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below.

(3) *U.S. EPA Region 6* "*Contact Us*" *Web site: http://epa.gov/region6/r6coment.htm.* Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

(4) *Fax:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), at fax number 214–665–6762.

(5) *Mail:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

(6) *Hand or Courier Delivery:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2005–TX–0013. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means that 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 along with any disk or CD–ROM submitted. 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 and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information 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 Air Permits Section (6PD–R), 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 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. A 15 cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh floor at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittals related to this SIP revision, and which are part of the EPA docket, are also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning today's proposed rule, please contact Ms. Adina Wiley (6PD–R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–R), Suite 1200, Dallas, TX 75202–2733. The telephone number is (214) 665–2115. Ms. Wiley can also be reached via electronic mail at *wiley.adina@epa.gov.*

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

Table of Contents

I. What action is EPA proposing?
II. What did Texas submit?
III. What is the System Cap Trading Program?
IV. What is EPA's evaluation of the System Cap Trading Program?
V. TCEQ's Planned Withdrawal of the System Cap Trading Program
VI. Proposed Action
VII. Statutory and Executive Order Reviews

I. What action is EPA proposing?

EPA is proposing to disapprove severable portions of two revisions to the Texas SIP submitted by the State of Texas on May 1, 2001, and August 16, 2007, specific to the System Cap Trading (SCT) Program. Specifically, we are proposing to disapprove 30 TAC sections 101.380, 101.382, 101.383, and 101.385 submitted on May 1, 2001; and the amendments to 30 TAC sections 101.383 and 101.385 submitted on August 16, 2007. Our analysis as presented in this proposed rulemaking action finds the SCT Program to be inconsistent with EPA's Economic Incentive Program Guidance, "Improving Air Quality with Economic Incentive Programs" (EPA–452/R–01–001, January 2001) and our past

approval actions on Texas trading programs.

II. What did Texas submit?

We are proposing to disapprove severable portions of two revisions to the Texas SIP specific to the SCT Program. The first SIP submission we are proposing to disapprove was adopted by the Texas Commission on Environmental Quality (TCEQ) on March 21, 2001, and submitted to EPA on May 1, 2001, at 30 TAC sections 101.380, 101.382, 101.383, and 101.385. The second revision upon which we are proposing disapproval was adopted by the TCEQ on July 25, 2007, and submitted to EPA on August 16, 2007, at 30 TAC sections 101.383 and 101.385. The May 1, 2001, and August 16, 2007, SIP submittals create and amend the SCT Program.

In addition to the sections identified above as the subject of today's proposed disapproval, the TCEQ's submissions on May 1, 2001, and August 16, 2007, also included other provisions for which we are not proposing action today. Specifically, on May 1, 2001, the TCEQ also adopted and submitted revisions to 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds, sections 117.109, 117.110, and 117.139. We are not proposing action today on the revisions to Chapter 117 because these revisions are severable from the SCT Program and EPA has already taken a separate approval action (see 73 FR 73562 on December 3, 2008). On August 16, 2007, the TCEQ also adopted and submitted revisions to the general air quality definitions, the Emission Credit Banking and Trading Program (referred to as the Emission Reduction Credit (ERC) Program elsewhere in this document) and the Discrete Emission Credit Banking and Trading Program (referred to as the Discrete Emission Reduction Credit (DERC) Program elsewhere in this document). We are not proposing action today upon revisions to the general air quality definitions at 30 TAC Chapter 101, Subchapter A, section 101.1 because the SCT Program does not rely upon them (therefore the revisions are severable from the SCT Program) and previous revisions to section 101.1 are still pending for review by EPA. We are not proposing action today upon the revisions to the ERC Program at 30 TAC Chapter 101, Subchapter H, Division 1, sections 101.302 and 101.306 because these revisions are severable from the SCT Program and EPA has already taken a separate approval action (see 75 FR 27647 on May 15, 2010). We are also not proposing action today upon the revisions to the DERC Program at 30 TAC Chapter 101, Subchapter H, Division 4, sections 101.372 and 101.376 because these revisions are severable from the SCT Program and EPA has already taken a separate approval action (*see* 75 FR 27644 on May 15, 2010).

A copy of the May 1, 2001, and August 16, 2007, SIP submittals can be obtained from the Docket, as discussed in the "Docket" section above. A discussion of the specific Texas rule changes that we are proposing to disapprove is included below.

III. What is the System Cap Trading Program?

The SCT Program was designed by the TCEQ to provide additional compliance flexibility to source owners and operators subject to the system caps established in 30 TAC Chapter 117. Under this program, sources under common ownership or control may be voluntarily grouped together in a system with a system cap on total emissions from the sources in the system. The Chapter 117 system caps establish daily, rolling 30-day average, and annual average emission caps depending upon the source's location. The Chapter 117 system caps enable participating sources to transfer emission allowables (the amount greater than zero that a source owner or operator's allowable emissions exceed the actual emissions over the applicable averaging time period) from source to source within the same system, provided the overall cap is not exceeded. The SCT Program at 30 TAC Chapter 101 provides an additional layer of compliance flexibility by allowing owners or operators of units subject to the Chapter 117 system caps to trade surplus emission allowables (the amount greater than zero that a source owner or operator's allowable emissions in a system cap emission limit specified in Chapter 117 is greater than the actual emissions in that system over the applicable averaging time period) with other system caps within the same attainment or nonattainment area to exceed the applicable Chapter 117 system cap limits. The SCT Program also streamlined the reporting requirements for the participating sources by only requiring notification to the TCEQ after the trades of surplus emission allowables between system caps were completed. The SCT Program has not been used by any source since the program was established in March 2001.

IV. What is EPA's evaluation of the System Cap Trading Program?

We reviewed the SCT program with respect to EPA's EIP Guidance "Improving Air Quality with Economic Incentive Programs" (EPA–452/R–01–001, January 2001) (EIP Guidance) (available in the docket for this rulemaking) and for consistency with our past approval actions on the Texas SIP-approved trading programs. Our analysis finds that the SCT Program is not consistent with the EIP Guidance or with our past actions on Texas trading programs. Namely, the SCT Program fails to:

- Satisfy the fundamental element of Surplus at 4.1(a) and (b) of the EIP Guidance because the participating sources are not clearly identified, and therefore EPA and the public are unable to determine that all emission reductions under the SCT program are surplus. It is essential that a trading program have a clearly identified group of participating sources to ensure that the reductions from these sources are surplus to all federal and state requirements, and to facilitate trading among participating sources to promote a robust market. Therefore, the SCT Program must clearly identify sources subject to the program. Currently, 30 TAC section 101.380(2) includes an incorrect citation and 30 TAC section 101.382 broadly references all of 30 TAC Chapter 117 instead of identifying the subject sections.
- Satisfy the fundamental element of Enforceability at 4.1(a) and (b) of the EIP Guidance because the SCT Program does not clearly identify violations and outline the penalties for the participating sources as described in Sections 5.1(c) and 6.1 of the EIP Guidance. Currently 30 TAC section 101.385 requires a source owner or operator to notify the TCEQ when a Chapter 117 system cap emission limit is exceeded as a result of participating in the SCT Program. However, there are no penalty provisions or other mechanisms to provide a disincentive for violating the emission limits.
- Provide an environmental benefit as described in Sections 5.1(a) and 6.5 of the EIP Guidance.
- Provide a program evaluation as described in Section 5.3(b) of the EIP Guidance. Such a program evaluation must occur every 3 years and provide remedies if the trading program does not have the intended results, per Section 5.3(c) of the EIP Guidance. A program evaluation or audit is an essential feature of a trading program because it provides the TCEQ the time and authority to review the functionality of the program and suggest remedies. Additionally, EPA has SIP-approved audit provisions in the ERC, Mass Emissions Cap and Trade (MECT), and DERC programs that specifically require

the TCEQ to evaluate the impact of the program on the state's ozone attainment demonstrations and authorizes the TCEQ to suspend trading in whole or in part if problems are identified. Because the SCT Program operates in attainment and nonattainment areas, we find that analysis of the program impacts on the state's ozone attainment demonstrations is an essential feature that must be included.

- Address requirements for monitoring, recordkeeping, and reporting consistent with Section 5.3(a) of the EIP Guidance.
- Provide TCEQ visibility of the trading process or establish reliable tracking mechanism for emissions trading consistent with Section 6.5(d) of the EIP Guidance. Participating sources in the SCT Program only notify the TCEQ after the trades between system caps occur. The TCEQ must have knowledge and visibility of the trading under this program to anticipate and respond to issues that result from trading between system caps.

V. TCEQ's Planned Withdrawal of the System Cap Trading Program

During the preparation of this proposed rule notice, Region 6 staff had several discussions with TCEQ staff about the SCT program, EPA's evaluation of it, and the possibility of EPA proposing a conditional approval of the program under section 110(k)(4) of the Clean Air Act.[1] In response, Mr. Mark Vickery, the TCEQ Executive Director, submitted a letter to EPA Region 6 on November 2, 2010, available in the docket for this rulemaking. In this letter, the TCEQ stated that they are unable to address EPA's concerns with the SCT Program through rulemaking action within the time period specified under section 110(k)(4) of the Clean Air Act. Moreover, TCEQ noted that its review of the SCT Program indicated no use of the program by affected companies. Finally, the TCEQ stated that it will seek approval from the Commissioners to withdraw the SCT Program SIP submittals from EPA's consideration and complete rulemaking to repeal the rules.

Notwithstanding TCEQ's planned withdrawal, because that withdrawal may not occur before December 31, 2010 (when EPA is scheduled to take final action on these submissions under the consent decree in *BCCA Appeal Group* v. *EPA,* No. 3–08CV1491 (N.D. Tex.)), EPA is proposing action on these submissions at this time. If the submissions are not withdrawn, and if the December 31, 2010 deadline remains in place, EPA will take final action in December 2010.

VI. Proposed Action

EPA is proposing to disapprove severable revisions to the Texas SIP submitted on May 1, 2001, and August 16, 2007. Specifically from the May 1, 2001, submittal, EPA is disapproving 30 TAC sections 101.380, 101.382, 101.383, and 101.385 that create the SCT Program. EPA is also proposing to disapprove provisions revisions to the SCT Program at 30 TAC sections 101.383 and 101.385 as submitted on August 16, 2007. We note that if TCEQ formally withdraws these two SCT Program SIP submittals as discussed in the November 2, 2010, letter from TCEQ, before EPA takes final action we will not need to take final action on these submissions.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a mandatory requirement of the Act starts a sanctions clock and a Federal Implementation Plan (FIP) clock. The provisions in May 1, 2001, and August 16, 2007, SIP submittals creating and amending the SCT Program were not submitted to meet a mandatory requirement of the Act. Therefore, if EPA takes final action to disapprove the submitted SCT Program SIP submittals, no sanctions and FIP clocks will be triggered.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

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

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* because this proposed SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of itself create any new information collection burdens but simply disapproves certain State requirements for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This proposed SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of itself create any new requirements but simply disapproves certain State requirements for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the Clean Air Act prescribes that various consequences (*e.g.,* higher offset requirements) may, or will flow from this disapproval does not mean that EPA either can or must conduct a regulatory flexibility analysis for this action. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 "for State, local, or tribal governments or the private sector." EPA has determined that the proposed disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This action proposes to disapprove pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no

[1] Section 110(k)(4) authorizes EPA to approve a plan revision based on a commitment by a state to adopt specific enforceable measures by a date certain, but not later than one year after the date of the conditional approval.

additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely disapproves certain State requirements for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (59 FR 22951, November 9, 2000), because the SIP EPA is proposing to disapprove would not 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. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This proposed SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of itself create any new regulations but simply disapproves certain State requirements for inclusion into the SIP.

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

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The EPA believes that this action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

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

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

EPA lacks the discretionary authority to address environmental justice in this proposed action. In reviewing SIP submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the Clean Air Act. Accordingly, this action merely proposes to disapprove certain State requirements for inclusion into the SIP under section 110 and subchapter I, part D of the Clean Air Act and will not in-and-of itself create any new requirements. Accordingly, it 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: November 10, 2010.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 2010–29146 Filed 11–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2010–0932, FRL–9228–5]

Approval and Promulgation of Implementation Plans; Kansas: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a draft revision to the State Implementation Plan (SIP), submitted by the Kansas Department of Health and Environment (KDHE) on October 4, 2010 for parallel processing. The proposed SIP revision (Kansas Administrative Regulation 28–29–350) to Kansas's Prevention of Significant Deterioration (PSD) program provides the state of Kansas with authority to regulate GHG emissions under the PSD program. The proposed SIP revision also establishes appropriate emission thresholds and time-frames for which stationary sources and modification projects become subject to Kansas's PSD permitting requirements for their GHG emissions, in accordance with the provisions of the "PSD and Title V Greenhouse Gas Tailoring Final Rule" published June 3, 2010, in the **Federal Register** at 75 FR 31514. EPA is proposing approval through a parallel processing action.

DATES: Comments must be received on or before December 20, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2010–0932, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail: gonzalez.larry@epa.gov.*
3. *Fax:* (913) 551–7844.
4. *Mail:* Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101.
5. *Hand Delivery or Courier:* Mr. Larry Gonzalez, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2010–0932. 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 through *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* 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 in *http://www.regulations.gov* or in hard copy at the Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Kansas SIP, contact Mr. Larry Gonzalez, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. Mr. Gonzalez's telephone number is (913) 551–7041; *e-mail address: gonzalez.larry@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What action is EPA proposing in today's notice?
II. What is the background for the action proposed by EPA in today's notice?
III. What is the relationship between today's proposed action and EPA's proposed GHG SIP Call and GHG FIP?
IV. What is EPA's analysis of Kansas's proposed SIP revision?
V. Proposed Action
VI. Statutory and Executive Order Reviews

I. What action is EPA proposing in today's notice?

On October 4, 2010, KDHE submitted draft revisions to Kansas Administrative Regulations to EPA for approval into the state of Kansas's SIP to (1) provide the state with the authority to regulate GHGs under its PSD program; and (2) establish appropriate emission thresholds and time-frames for determining which new or modified stationary sources become subject to Kansas's PSD permitting requirements for GHG emissions. These thresholds and time-frames are consistent with the "PSD and Title V Greenhouse Gas Tailoring Final Rule" (75 FR 31514) hereafter referred to as the "Tailoring Rule." Final approval of Kansas's October 4, 2010, SIP revision will make Kansas's SIP adequate with respect to PSD requirements for GHG-emitting sources. Furthermore, final approval of Kansas's October 4, 2010, SIP revision will put in place the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule, ensuring that smaller GHG sources emitting less than these thresholds will not be subject to permitting requirements when these requirements begin applying to GHGs on January 2, 2011. Pursuant to section 110 of the CAA, EPA is proposing to approve this revision into the Kansas SIP.

Due to the fact that this proposed rule revision is not yet state-effective, Kansas requested that EPA "parallel process" the revision. Under this procedure, the EPA Regional Office works closely with the state while developing new or revised regulations. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA reviews this proposed state action and prepares a notice of proposed rulemaking. EPA publishes this notice of proposed rulemaking in the **Federal Register** and solicits public comment in approximately the same time frame during which the state is holding its public hearing. The state and EPA thus provide for public comment periods on both the state and the Federal actions in parallel.

After Kansas submits the formal state-effective rule and SIP revision request (including a response to all public comments raised during the state's public participation process), EPA will prepare a final rulemaking notice for the SIP revision. If changes are made to the state's proposed rule after EPA's notice of proposed rulemaking, such changes must be acknowledged in EPA's final rulemaking action. If the changes are significant, then EPA may be obliged to re-propose the action. In addition, if the changes render the SIP revision not approvable, EPA's re-proposal of the action would be a disapproval of the revision.

II. What is the background for the action proposed by EPA in today's notice?

Today's proposed action on the Kansas SIP relates to three Federal rulemaking actions. The first rulemaking is EPA's "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule," Final Rule, (the Tailoring Rule). 75 FR 31514

(June 3, 2010). The second rulemaking is EPA's "Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call," Proposed Rule, (GHG SIP Call). 75 FR 53892 (September 2, 2010). The third rulemaking is EPA's "Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan," Proposed Rule, 75 FR 53883 (September 2, 2010) (GHG FIP), which serves as a companion rulemaking to EPA's proposed GHG SIP Call. A summary of each of these rulemakings is described below.

In the first rulemaking, the Tailoring Rule, EPA establishes appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources. In the second rulemaking, the GHG SIP Call (which is not yet final), EPA proposed to find that the EPA-approved PSD programs in 13 states (including Kansas) are substantially inadequate to meet CAA requirements because they do not appear to apply PSD requirements to GHG-emitting sources. For each of these states, EPA proposes to require the state (through a "SIP Call") to revise its SIP as necessary to correct such inadequacies. EPA is proposing an expedited schedule for these states to submit their SIP revision, in light of the fact that as of January 2, 2011, certain GHG-emitting sources will become subject to the PSD requirements and may not be able to obtain a PSD permit in order to construct or modify. In the third rulemaking, the proposed GHG FIP, EPA is proposing a FIP to apply in any state that is unable to submit, by its deadline, a SIP revision to ensure that the state has authority to issue PSD permits for GHG-emitting sources. Kansas is now seeking to revise its SIP to make it adequate with respect to PSD requirements for GHG-emitting sources. Furthermore, Kansas is seeking to revise its SIP to put in place the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule, thereby ensuring that smaller GHG sources emitting less than these thresholds will not be subject to permitting requirements when these requirements begin applying to GHGs on January 2, 2011.

Below is a brief overview of GHGs and GHG-emitting sources, the CAA PSD program, minimum SIP elements for a PSD program, and EPA's recent actions regarding GHG permitting. Following this section, EPA discusses, in sections III and IV, the relationship between the proposed Kansas SIP revision and EPA's other national rulemakings as well as EPA's analysis of Kansas's SIP revision.

A. What are GHGs and their sources?

A detailed explanation of GHGs, climate change and the impact on health, society, and the environment is included in EPA's technical support document for EPA's GHG endangerment finding final rule (Document ID No. EPA–HQ–OAR–2009–0472–11292 at *http://www.regulations.gov*). The endangerment finding rulemaking is discussed later in this rulemaking. A summary of the nature and sources of GHGs is provided below.

GHGs trap the Earth's heat that would otherwise escape from the atmosphere into space and form the greenhouse effect that helps keep the Earth warm enough for life. GHGs are naturally present in the atmosphere and are also emitted by human activities. Human activities are intensifying the naturally occurring greenhouse effect by increasing the amount of GHGs in the atmosphere, which is changing the climate in a way that endangers human health, society, and the natural environment.

Some GHGs, such as carbon dioxide (CO_2), are emitted to the atmosphere through natural processes as well as human activities. Other gases, such as fluorinated gases, are created and emitted solely through human activities. The well-mixed GHGs of concern directly emitted by human activities include CO_2, methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6), hereafter referred to collectively as "the six well-mixed GHGs," or, simply, GHGs. Together these six well-mixed GHGs constitute the "air pollutant" upon which the GHG thresholds in EPA's Tailoring Rule are based. These six gases remain in the atmosphere for decades to centuries where they become well-mixed globally in the atmosphere. When they are emitted more quickly than natural processes can remove them from the atmosphere, their concentrations increase, thus increasing the greenhouse effect.

In the U.S., the combustion of fossil fuels (*e.g.,* coal, oil, gas) is the largest source of CO_2 emissions and accounts for 80 percent of the total GHG emissions by mass. Anthropogenic CO_2 emissions released from a variety of sources, including through the use of fossil fuel combustion and cement production from geologically stored carbon (*e.g.,* coal, oil, and natural gas) that is hundreds of millions of years old, as well as anthropogenic CO_2 emissions from land-use changes such as deforestation, perturb the atmospheric concentration of CO_2, and the distribution of carbon within different reservoirs readjusts. More than half of the energy-related emissions come from large stationary sources such as power plants, while about a third come from transportation. Of the six well-mixed GHGs, four (CO_2, CH_4, N_2O, and HFCs) are emitted by motor vehicles. In the U.S., industrial processes (such as the production of cement, steel, and aluminum), agriculture, forestry, other land use, and waste management are also important sources of GHGs.

Different GHGs have different heat-trapping capacities. The concept of Global Warming Potential (GWP) was developed to compare the heat-trapping capacity and atmospheric lifetime of one GHG to another. The definition of a GWP for a particular GHG is the ratio of heat trapped by one unit mass of the GHG to that of one unit mass of CO_2 over a specified time period. When quantities of the different GHGs are multiplied by their GWPs, the different GHGs can be summed and compared on a carbon dioxide equivalent (CO_2e) basis. For example, CH_4 has a GWP of 21, meaning each ton of CH_4 emissions would have 21 times as much impact on global warming over a 100-year time horizon as 1 ton of CO_2 emissions. Thus, on the basis of heat-trapping capability, 1 ton of CH_4 would equal 21 tons of CO_2e. The GWPs of the non-CO_2 GHGs range from 21 (for CH_4) up to 23,900 (for SF_6). Aggregating all GHGs on a CO_2e basis at the source level allows a facility to evaluate its total GHG emissions contribution based on a single metric.

B. What are the general requirements of the PSD program?

1. Overview of the PSD Program

The PSD program is a preconstruction review and permitting program applicable to new major stationary sources and major modifications at existing stationary sources. The PSD program applies in areas that are designated "attainment" or "unclassifiable" for a national ambient air quality standard (NAAQS). The PSD program is contained in part C of title I of the CAA. The "nonattainment NSR" program applies in areas not in attainment of a NAAQS or in the Ozone Transport Region, and it is implemented under the requirements of part D of title I of the CAA. Collectively, EPA commonly refers to these two programs as the major NSR program. The governing EPA rules are generally contained in 40 CFR 51.165, 51.166,

52.21, 52.24, and part 51, Appendices S and W. There is no NAAQS for CO_2 or any of the other well-mixed GHGs, nor has EPA proposed any such NAAQS; therefore, unless and until EPA takes further such action, the nonattainment NSR program does not apply to GHGs.

The applicability of PSD to a particular source must be determined in advance of construction or modification and is pollutant-specific. The primary criterion in determining PSD applicability for a proposed new or modified source is whether the source is a "major emitting facility," based on its predicted potential emissions of regulated pollutants within the meaning of CAA section 169(1), that either constructs or undertakes a modification. EPA has implemented these requirements in its regulations, which use somewhat different terminology than the CAA does, for determining PSD applicability.

a. Major Stationary Source

Under PSD, a "major stationary source" is any source belonging to a specified list of 28 source categories that emits or has the potential to emit 100 tpy or more of any air pollutant subject to regulation under the CAA, or any other source type that emits or has the potential to emit such pollutants in amounts equal to or greater than 250 tpy. We refer to these levels as the 100/250-tpy thresholds. A new source with a potential to emit (PTE) at or above the applicable "major stationary source threshold" is subject to major NSR. These limits originate from section 169 of the CAA, which applies PSD to any "major emitting facility" and defines the term to include any source that emits or has a PTE of 100 or 250 tpy, depending on the source category. Note that the major source definition incorporates the phrase "subject to regulation," which, as described later, will begin to include GHGs on January 2, 2011, under our interpretation of that phrase as discussed in the recent memorandum entitled, "Reconsideration of Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs." 75 FR 17004 (April 2, 2010).

b. Major Modifications

PSD also applies to existing sources that undertake a "major modification," which occurs when: (1) There is a physical change in, or change in the method of operation of, a "major stationary source;" (2) the change results in a "significant" emissions increase of a pollutant subject to regulation (equal to or above the significance level that EPA has set for the pollutant in 40 CFR 52.21(b)(23)); and (3) there is a "significant net emissions increase" of a pollutant subject to regulation that is equal to or above the significance level (defined in 40 CFR 52.21(b)(23)). Significance levels, which EPA has promulgated for criteria pollutants and certain other pollutants, represent a *de minimis* contribution to air quality problems. When EPA has not set a significance level for a regulated NSR pollutant, PSD applies to an increase of the pollutant in any amount (that is, in effect, the significance level is treated as zero).

2. General Requirements for PSD

This section provides a very brief summary of the main requirements of the PSD program. One principal requirement is that a new major source or major modification must apply best available control technology (BACT), which is determined on a case-by-case basis taking into account, among other factors, the cost effectiveness of the control and energy and environmental impacts. EPA has developed a "top-down" approach for BACT review, which involves a decision process that includes identification of all available control technologies, elimination of technically infeasible options, ranking of remaining options by control and cost effectiveness, and then selection of BACT. Under PSD, once a source is determined to be major for any regulated NSR pollutant, a BACT review is performed for each attainment pollutant that exceeds its PSD significance level as part of new construction or for modification projects at the source, where there is a significant increase and a significant net emissions increase of such pollutant.[1]

In addition to performing BACT, the source must analyze impacts on ambient air quality to assure that sources do not cause or contribute to violation of any NAAQS or PSD increments and must analyze impacts on soil, vegetation, and visibility. In addition, sources or modifications that would impact Class I areas (*e.g.,* national parks) may be subject to additional requirements to protect air quality related values (AQRVs) that have been identified for such areas. Under PSD, if a source's proposed project may impact a Class I area, the Federal Land Manager is notified and is responsible for evaluating a source's projected impact on the AQRVs and recommending either approval or disapproval of the source's permit application based on anticipated impacts. There are currently no NAAQS or PSD increments established for GHGs, and therefore these PSD requirements would not apply for GHGs, even when PSD is triggered for GHGs. However, if PSD is triggered for a GHG-emitting source, all regulated NSR pollutants that the new source emits in significant amounts would be subject to PSD requirements. Therefore, if a facility triggers NSR for non-GHG pollutants for which there are established NAAQS or increments, the air quality, additional impacts, and Class I requirements would apply to those pollutants.

Pursuant to existing PSD requirements, the permitting authority must provide notice of its preliminary decision on a source's application for a PSD permit and must provide an opportunity for comment by the public, industry, and other interested persons. After considering and responding to comments, the permitting authority must issue a final determination on the construction permit. Usually NSR permits are issued by a state or local air pollution control agency that has its own authority to issue PSD permits under a permit program that has been approved by EPA for inclusion in its SIP. In some areas, EPA has delegated its authority to issue PSD permits under federal regulations to the state or local agency. In other areas, EPA issues the permits under its own authority.

C. What are the CAA requirements to include the PSD program in the SIP?

The CAA contemplates that the PSD program be implemented in the first instance by the states and requires that states include PSD requirements in their SIPs. CAA section 110(a)(2)(C) requires that—

Each implementation plan * * * shall * * * include a program to provide for * * * regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in part [ ] C * * * of this subchapter.

CAA section 110(a)(2)(J) requires that—

Each implementation plan * * * shall * * * meet the applicable requirements of * * * part C of this subchapter (relating to significant deterioration of air quality and visibility protection).

CAA section 161 provides that—

[1] EPA notes that the PSD program has historically operated in this fashion for all pollutants—when new sources or modifications are "major," PSD applies to all pollutants that are emitted in significant quantities from the source or project. This rule does not alter that for sources or modifications that are major due to their GHG emissions.

Each applicable implementation plan shall contain emission limitations and such other measures as may be necessary, as determined under regulations promulgated under this part [C], to prevent significant deterioration of air quality for such region * * * designated * * * as attainment or unclassifiable.

These provisions, read in conjunction with the PSD applicability provisions—which, as noted above, applies, by its terms, to "any air pollutant," and which EPA has, through regulation, interpreted more narrowly as any "NSR regulated pollutant"—and read in conjunction with other provisions, such as the BACT provision under CAA section 165(a)(4), mandate that SIPs include PSD programs that are applicable to, among other things, any air pollutant that is subject to regulation, including, as discussed below, GHGs on and after January 2, 2011.[2]

A number of states do not have PSD programs approved into their SIPs. In those states, EPA's regulations at 40 CFR 52.21 govern, and either EPA or the state as EPA's delegatee acts as the permitting authority. On the other hand, most states have PSD programs that have been approved into their SIPs, and these states implement their PSD programs and act as the permitting authority. Kansas has a SIP-approved PSD program.

D. What actions has EPA taken concerning PSD requirements for GHG-emitting sources?

1. What are the Endangerment Finding, the Light Duty Vehicle Rule, and the Johnson Memo Reconsideration?

By notice dated December 15, 2009, pursuant to CAA section 202(a), EPA issued, in a single final action, two findings regarding GHGs that are commonly referred to as the "Endangerment Finding" and the "Cause or Contribute Finding." "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," 74 FR 66496. In the Endangerment Finding, the Administrator found that six long-lived and directly emitted GHGs—CO_2, CH_4, N_2O, HFCs, PFCs, and SF_6—may reasonably be anticipated to endanger public health and welfare. In the Cause or Contribute Finding, the Administrator "define[d] the air pollutant as the aggregate group of the same six * * * greenhouse gases," 74 FR 66536, and found that the combined emissions of this air pollutant from new motor vehicles and new motor vehicle engines contribute to the GHG air pollution that endangers public health and welfare.

By notice dated May 7, 2010, EPA and the National Highway Traffic Safety Administration published what is commonly referred to as the "Light-Duty Vehicle Rule" (LDVR), which for the first time established Federal controls on GHGs emitted from light-duty vehicles. "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule." 75 FR 25324. In its applicability provisions, the LDVR specifies that it "contains standards and other regulations applicable to the emissions of six greenhouse gases," including CO_2, CH_4, N_2O, HFCs, PFCs, and SF_6. 75 FR 25686 (40 CFR 86.1818–12(a)). Shortly before finalizing the LDVR, by notice dated April 2, 2010, EPA published a notice commonly referred to as the Johnson Memo Reconsideration. On December 18, 2008, EPA issued a memorandum, "EPA's Interpretation of Regulations that Determine Pollutants Covered by Federal Prevention of Significant Deterioration (PSD) Permit Program" (known as the "Johnson Memo" or the "PSD Interpretive Memo," and referred to in this preamble as the "Interpretive Memo"), that set forth EPA's interpretation regarding which EPA and state actions, with respect to a previously unregulated pollutant, cause that pollutant to become "subject to regulation" under the Act. Whether a pollutant is "subject to regulation" is important for the purposes of determining whether it is covered under the federal PSD permitting program. The Interpretive Memo established that a pollutant is "subject to regulation" only if it is subject to either a provision in the CAA or regulation adopted by EPA under the CAA that requires actual control of emissions of that pollutant (referred to as the "actual control interpretation"). On February 17, 2009, EPA granted a petition for reconsideration on the Interpretive Memo and announced its intent to conduct a rulemaking to allow for public comment on the issues raised in the memorandum and on related issues. EPA also clarified that the Interpretive Memo would remain in effect pending reconsideration.

On March 29, 2010, EPA signed a notice conveying its decision to continue applying (with one limited refinement) the Interpretive Memo's interpretation of "subject to regulation" ("Reconsideration of Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs"). 75 FR 17004. EPA concluded that the "actual control interpretation" is the most appropriate interpretation to apply given the policy implications. However, EPA refined the Agency's interpretation in one respect: EPA established that PSD permitting requirements apply to a newly regulated pollutant at the time a regulatory requirement to control emissions of that pollutant "takes effect" (rather than upon promulgation or the legal effective date of the regulation containing such a requirement). In addition, based on the anticipated promulgation of the LDVR, EPA stated that the GHG requirements of the vehicle rule would take effect on January 2, 2011, because that is the earliest date that a 2012 model year vehicle may be introduced into commerce. In other words, the compliance obligation under the LDVR does not occur until a manufacturer may introduce into commerce vehicles that are required to comply with GHG standards, which will begin with model year 2012 and will not occur before January 2, 2011.

2. What is EPA's Tailoring Rule?

On June 3, 2010 (effective August 2, 2010), EPA promulgated a final rulemaking for the purpose of relieving overwhelming permitting burdens that would, in the absence of the rule, fall on permitting authorities and sources, *i.e.,* the Tailoring Rule. 75 FR 31514. EPA accomplished this by tailoring the applicability criteria that determine which GHG emission sources become subject to the PSD program[3] of the CAA. In particular, EPA established in the Tailoring Rule a phase-in approach for PSD applicability and established the first two steps of the phase-in for the largest GHG-emitters. Additionally, EPA committed to certain follow-up actions regarding future steps beyond the first two, discussed in more detail later.[4]

[2] In the Tailoring Rule, EPA noted that commenters argued, with some variations, that the PSD provisions applied only to NAAQS pollutants, and not GHG, and EPA responded that the PSD provisions apply to all pollutants subject to regulation, including GHG. *See* 75 FR 31560–62 (June 3, 2010). EPA is not re-opening that issue in this rulemaking, and does not solicit comment on it.

[3] The Tailoring Rule also applies to the title V program, which requires operating permits for existing sources. However, today's action does not affect Kansas's title V program.

[4] EPA adopted the Tailoring Rule after careful consideration of numerous public comments. On October 27, 2009 (74 FR 55292), EPA proposed the Tailoring Rule. EPA held two public hearings on the proposed rule, and received over 400,000 written public comments. The public comment period ended on December 28, 2009. The comments provided detailed information that helped EPA understand better the issues and potential impacts of the Tailoring Rule. The preamble of EPA's Tailoring Rule describes in detail the comments received and how some of these comments were

Continued

For the first step of the Tailoring Rule, which will begin on January 2, 2011, PSD requirements will apply to major stationary source GHG emissions only if the sources are subject to PSD anyway due to their emissions of non-GHG pollutants. Therefore, in the first step, EPA will not require sources or modifications to evaluate whether they are subject to PSD requirements solely on account of their GHG emissions. Specifically, for PSD, Step 1 requires that as of January 2, 2011, the applicable requirements of PSD, most notably, the BACT requirement, will apply to projects that increase net GHG emissions by at least 75,000 tpy CO_2e, but only if the project also significantly increases emissions of at least one non-GHG pollutant.

The second step of the Tailoring Rule, beginning on July 1, 2011, will phase in additional large sources of GHG emissions. New sources that emit, or have the potential to emit, at least 100,000 tpy CO_2e will become subject to the PSD requirements. In addition, sources that emit or have the potential to emit at least 100,000 tpy CO_2e and that undertake a modification that increases net GHG emissions by at least 75,000 tpy CO_2e will also be subject to PSD requirements. For both steps, EPA notes that if sources or modifications exceed these CO_2e-adjusted GHG triggers, they are not covered by permitting requirements unless their GHG emissions also exceed the corresponding mass-based triggers in tpy.

EPA believes that the costs to the sources and the administrative burdens to the permitting authorities of PSD permitting will be manageable at the levels in these initial two steps and that it would be administratively infeasible to subject additional sources to PSD requirements at those times. However, EPA also intends to issue a supplemental notice of proposed rulemaking in 2011, in which the Agency will propose or solicit comment on a third step of the phase-in that would include more sources, beginning on July 1, 2013. In the Tailoring Rule, EPA established an enforceable commitment that the Agency will complete this rulemaking by July 1, 2012, which will allow for 1 year's notice before Step 3 would take effect.

In addition, EPA committed to explore streamlining techniques that may well make the permitting programs much more efficient to administer for GHG, and that therefore may allow their expansion to smaller sources. EPA expects that the initial streamlining techniques will take several years to develop and implement.

In the Tailoring Rule, EPA also included a provision, that no source with emissions below 50,000 tpy CO_2e, and no modification resulting in net GHG increases of less than 50,000 tpy CO_2e, will be subject to PSD permitting before at least 6 years (*i.e.,* April 30, 2016). This is because EPA has concluded that at the present time the administrative burdens that would accompany permitting sources below this level would be so great that even with the streamlining actions that EPA may be able to develop and implement in the next several years, and even with the increases in permitting resources that EPA can reasonably expect the permitting authorities to acquire, it would be impossible to administer the permit programs for these sources until at least 2016.

As EPA explained in the Tailoring Rule, the threshold limitations are necessary because without them, PSD would apply to all stationary sources that emit or have the potential to emit more than 100 or 250 tons of GHG per year beginning on January 2, 2011. This is the date when EPA's recently promulgated LDVR takes effect, imposing control requirements for the first time on CO_2 and other GHGs. If this January 2, 2011, date were to pass without the Tailoring Rule being in effect, PSD requirements would apply to GHG emissions at the 100/250 tpy applicability levels provided under a literal reading of the CAA as of that date. From that point forward, a source owner proposing to construct any new major source that emits at or higher than the applicability levels (and which therefore may be referred to as a "major" source) or modify any existing major source in a way that would increase GHG emissions would need to obtain a permit under the PSD program that addresses these emissions before construction or modification could begin.

Under these circumstances, many small sources would be burdened by the costs of the individualized PSD control technology requirements and permit applications that the PSD provisions, absent streamlining, require. Additionally, state and local permitting authorities would be burdened by the extraordinary number of these permit applications, which are orders of magnitude greater than the current inventory of permits and would vastly exceed the current administrative resources of the permitting authorities. Permit gridlock would result since the permitting authorities would likely be able to issue only a tiny fraction of the permits requested.

In the Tailoring Rule, EPA adopted regulatory language codifying the phase-in approach. As explained in that rulemaking, many state, local and tribal area programs will likely be able to immediately implement the approach without rule or statutory changes by, for example, interpreting the term "subject to regulation" that is part of the applicability provisions for PSD permitting. EPA has requested permitting authorities to confirm that they will follow this implementation approach for their programs, and if they cannot, then EPA has requested that they notify the Agency so that we can take appropriate follow-up action to narrow federal approval of their programs before GHGs become subject to PSD permitting on January 2, 2011.[5] On October 1, 2010, the state of Kansas provided a letter to EPA with the requested modification. See the docket for this proposed rulemaking for a copy of Kansas's letter.

The thresholds that EPA established are based on CO_2e for the aggregate sum of six GHGs that constitute the pollutant that will be subject to regulation, which we refer to as GHG.[6] These gases are: CO_2, CH_4, N_2O, HFCs, PFCs, and SF_6. Thus, in EPA's Tailoring Rule, EPA provided that PSD applicability is based on the quantity that results when the mass emissions of each of these gases is multiplied by the GWP of that gas, and then summed for all six gases. However, EPA further provided that in order for a source's GHG emissions to trigger PSD requirements, the quantity of the GHG emissions must equal or exceed both the applicability thresholds established in the Tailoring Rule on a CO_2e basis and the statutory thresholds of 100 or 250 tpy on a mass basis.[7] Similarly, in order

incorporated in EPA's final rule. *See* 75 FR 31514 for more detail.

[5] Narrowing EPA's approval will ensure that for federal purposes, sources with GHG emissions that are less than the Tailoring Rule's emission thresholds will not be obligated under federal law to obtain PSD permits during the gap between when GHG PSD requirements go into effect on January 2, 2011 and when either (1) EPA approves a SIP revision adopting EPA's tailoring approach, or (2) if a state opts to regulate smaller GHG-emitting sources, the state demonstrates to EPA that it has adequate resources to handle permitting for such sources. EPA expects to finalize the narrowing action prior to the January 2, 2011 deadline with respect to those states for which EPA will not have approved the Tailoring Rule thresholds in their SIPs by that time.

[6] The term "greenhouse gases" is commonly used to refer generally to gases that have heat-trapping properties. However, in this notice, unless noted otherwise, we use it to refer specifically to the pollutant regulated in the LDVR.

[7] The relevant thresholds are 100 tpy for title V, and 250 tpy for PSD, except for 28 categories listed in EPA regulations for which the PSD threshold is 100 tpy.

for a source to be subject to the PSD modification requirements, the source's net GHG emissions increase must exceed the applicable significance level on a CO_2e basis and must also result in a net mass increase of the constituent gases combined.

3. What is the GHG SIP Call?

By notice dated September 2, 2010, EPA proposed the GHG SIP Call. In that action, along with the companion GHG FIP proposed rulemaking published at the same time, EPA took steps to ensure that in the 13 states that do not appear to have authority to issue PSD permits to GHG-emitting sources at present, either the state or EPA will have the authority to issue such permits by January 2, 2011. EPA explained that although for most states, either the state or EPA is already authorized to issue PSD permits for GHG-emitting sources as of that date, our preliminary information shows that these 13 states have EPA-approved PSD programs that do not appear to include GHG-emitting sources and therefore do not appear to authorize these states to issue PSD permits to such sources. Therefore, EPA proposed to find that these 13 states' SIPs are substantially inadequate to comply with CAA requirements and, accordingly, proposed to issue a SIP Call to require a SIP revision that applies their SIP PSD programs to GHG-emitting sources. In the companion GHG FIP rulemaking, EPA proposed a FIP that would give EPA authority to apply EPA's PSD program to GHG-emitting sources in any state that is unable to submit a corrective SIP revision by its deadline. Kansas was one of the states for which EPA proposed a SIP Call. The state's comments regarding the proposed SIP call, submitted October 1, 2010, are included in the docket for this rulemaking.

III. What is the relationship between today's proposed action and EPA's proposed GHG SIP Call and GHG FIP?

As noted above, by notice dated September 2, 2010, EPA proposed the GHG SIP Call. At the same time, EPA proposed a FIP to apply in any state that is unable to submit, by its deadline, a SIP revision to ensure that the state has authority to issue PSD permits to GHG-emitting sources.[8] As discussed in section IV of this proposed rulemaking, Kansas does not interpret its current PSD regulations as providing it with the authority to regulate GHG, and as such, Kansas is included on the list of areas for the proposed SIP call. Kansas's October 4, 2010, proposed SIP revision (the subject of this rulemaking) addresses this authority. EPA will not take final action on the GHG SIP Call for the state of Kansas if the state submits its final SIP revision to EPA prior to the final rulemaking for the GHG SIP Call.

IV. What is EPA's analysis of Kansas's proposed SIP revision?

On October 4, 2010, KDHE provided a revision to Kansas's SIP to EPA for parallel processing and eventual approval. This revision to Kansas's SIP is necessary because without it, (1) the state of Kansas would not have authority to issue PSD permits to GHG-emitting sources, and as a result, absent further action, those sources may not be able to construct or undertake modifications beginning January 2, 2011; and (2) assuming that the state of Kansas attains authority to issue PSD permits to GHG-emitting sources, PSD requirements would apply, as of January 2, 2011, at the 100- or 250-tpy levels provided under the CAA. This would greatly increase the number of required permits, imposing undue costs on small sources; which would overwhelm Kansas's permitting resources and severely impair the function of the program.

The state of Kansas's September 26, 2010, proposed SIP revision: (1) Provides the state of Kansas with the authority to regulate GHG under the PSD program of the CAA, and (2) establishes thresholds for determining which stationary sources and modification projects become subject to permitting requirements for GHG emissions under the PSD program. Specifically, Kansas's October 4, 2010, proposed SIP revision includes changes to Kansas Air Regulations (KAR) 28–19–350—*Prevention of significant deterioration of air quality.* These revisions update Kansas's air regulations by providing the state the authority to regulate GHGs and aligning the thresholds for GHG permitting applicability with those specified in the Tailoring Rule.

The state of Kansas is currently a SIP-approved state for the PSD program. However, Kansas does not interpret its current rules, which are generally consistent with the Federal rules, to be applicable to GHGs. In the letter dated October 1, 2010, referenced above, Kansas notified EPA that the state does not currently have the authority to regulate GHG and thus is in the process of revising its regulation (the subject of this proposed action) to provide this authority. To provide this authority, Kansas is updating the definitions for "major source" and "subject to regulation" to explicitly include GHG as a regulated NSR pollutant under the CAA. Specifically, the Kansas proposed rule would incorporate by reference 40 CFR 52.21 as of July 1, 2007, and as amended by the Tailoring Rule promulgated on June 3, 2010. EPA has preliminarily determined that this change to Kansas's regulation is consistent with the CAA and its implementing regulations regarding GHG.[9]

The changes included in this submittal are substantively the same as EPA's Tailoring Rule. The Kansas rules have been formatted to conform to Kansas's rule drafting standards, but in substantive content the rules that address the Tailoring Rule provisions are the same as the federal rules. As part of its review of the Kansas submittal, EPA performed a line-by-line review of Kansas's proposed changes to its regulations and has preliminarily determined that they are consistent with the Tailoring Rule. These changes to Kansas's regulations are also consistent with section 110 of the CAA because they are incorporating GHGs for regulation in the Kansas SIP.

V. Proposed Action

Pursuant to section 110 of the CAA, EPA is proposing to approve the state of Kansas's revisions to the Kansas Administrative Regulations that were submitted to EPA on October 4, 2010, relating to PSD requirements for GHG-emitting sources. Specifically, Kansas's October 4, 2010, proposed submission: (1) Provides the state of Kansas with the authority to regulate GHGs under its PSD program, and (2) establishes appropriate emissions thresholds for determining PSD applicability to new and modified GHG-emitting sources in accordance with EPA's Tailoring Rule. EPA has made the preliminary determination that this SIP revision is

[8] As explained in the proposed GHG SIP Call (75 FR 53892, 53896), EPA intends to finalize its finding of substantial inadequacy and the SIP call for the 13 listed states by December 1, 2010. EPA requested that the states for which EPA is proposing a SIP call identify the deadline—between 3 weeks and 12 months from the date of signature of the final SIP Call—that they would accept for submitting their corrective SIP revision. In its October 1, 2010 letter, Kansas requested the earliest possible deadline, either December 22, 2010, or three weeks after signature of the final SIP Call.

[9] Kansas's submittal incorporates by reference 40 CFR 52.21 as of July 1, 2007, as amended by the Tailoring Rule. In today's proposed rulemaking, EPA is not taking action on any of Kansas's changes to their PSD regulations regarding the "Ethanol Rule" (72 FR 24060, May 1, 2007). Kansas submitted its Ethanol Rule revision in 2009, and EPA intends to act on that revision in a separate rulemaking. Kansas has not adopted EPA's "Fugitive Emissions Rule" (73 FR 77882, December 19, 2008), so this proposal also does not address the Fugitive Emissions Rule.

approvable because it is in accordance with the CAA and EPA regulations regarding PSD permitting for GHGs.

As noted above, at Kansas's request, EPA is "parallel processing" this proposed rule revision. After Kansas submits the formal state-effective rule revisions (including a response to all public comments raised during the state's public participation process), EPA will prepare a final rulemaking notice for the SIP revision. If changes are made to the state's proposed rule after EPA's notice of proposed rulemaking, such changes must be acknowledged in EPA's final rulemaking action. If the changes are significant, then EPA may be obliged to re-propose the action. In addition, if these changes render the SIP revision not approvable, EPA's re-proposal of the action would be a disapproval of the revision.

VI. Statutory and Executive Order Reviews

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 proposed action merely approves the state's law as meeting federal requirements and does not impose additional requirements beyond those imposed by the state's law. For that reason, this proposed 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 of Kansas, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: November 9, 2010.

Karl Brooks,

Regional Administrator, Region 7.

[FR Doc. 2010–29144 Filed 11–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 136, 260, 423, 430, and 435

[EPA–HQ–OW–2010–0192; FRL–9228–6]

Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Analysis and Sampling Procedures; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the public comment period.

SUMMARY: On September 23, 2010, EPA proposed changes to analysis and sampling test procedures in wastewater regulations. These changes will help provide additional flexibility to the regulated community and laboratories in their selection of analytical methods (test procedures) for use in Clean Water Act programs. EPA requested that public comments on the proposal be submitted on or before November 22, 2010 (a 60-day comment period). Since publication, the Agency has received several requests for additional time to submit comments. EPA is extending the period of time in which the Agency will accept public comments on the proposal for an additional 30 days.

DATES: The comment period for the proposed rule published September 23, 2010, at 75 FR 58024 is extended. Comments must be received on or before December 22, 2010. Comments postmarked after this date may not be considered.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2010–0192, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail: OW-Docket@epa.gov*
- *Mail:* U.S. Environmental Protection Agency; EPA Docket Center (EPA/DC) Water Docket, MC 28221T; 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, 1301 Constitution Ave., NW., EPA West, Room 3334, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2010–0921. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA

cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Office of Water Docket/EPA/DC, 1301 Constitution Ave., NW., EPA West, Room 3334, Washington, DC. This Docket Facility is open from 8:30 a.m. until 4:30 p.m., EST, Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Office of Water Docket is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: Lemuel Walker, Engineering and Analysis Division (4303T), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; (202) 566–1077; *walker.lemuel@epa.gov.*

Dated: November 9, 2010.

Nancy K. Stoner,

Acting Assistant Administrator for Water.

[FR Doc. 2010–29145 Filed 11–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2009–0922; FRL–8853–3]

RIN 2070–AB27

Proposed Significant New Use Rule for Cobalt Lithium Manganese Nickel Oxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance identified as cobalt lithium manganese nickel oxide (CAS No. 182442–95–1) which was the subject of premanufacture notice (PMN) P–04–269. This proposed rule would require persons who intend to manufacture, import, or process the substance for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit the activity before it occurs.

DATES: Comments must be received on or before December 20, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2009–0922, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. *Attention:* Docket ID Number EPA–HQ–OPPT–2009–0922. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2009–0922. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (202) 564–9232; *e-mail address: moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI–Goodwill, 422 South Clinton Ave., Rochester, NY 14620; *telephone number:* (202) 554–1404; *e-mail address: TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, import,

process, or use the chemical substance contained in this proposed rule. Potentially affected entities may include, but are not limited to:

• Manufacturers, importers, or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127; *see also* 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a final SNUR must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this proposed rule on or after December 20, 2010 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (*see* § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What action is the agency taking?

EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of TSCA for the chemical substance identified as cobalt lithium manganese nickel oxide (PMN P–04–269; CAS No. 182442–95–1). This SNUR would require persons who intend to manufacture, import, or process the chemical substance for any activity designated as a significant new use to notify EPA at least 90 days before commencing the activity.

In the **Federal Register** of September 20, 2010 (75 FR 57169) (FRL–8839–7), EPA issued a direct final SNUR for the substance in accordance with the procedures at § 721.160(c)(3)(i). EPA received notice of intent to submit adverse comments on this SNUR. Therefore, as required by § 721.160(c)(3)(ii), EPA is withdrawing the direct final SNUR, which is published elsewhere in this **Federal Register** and is now issuing this proposed SNUR on this substance. The record for the direct final SNUR on this substance was established as docket EPA–HQ–OPPT–2009–0922. That record includes information considered by the Agency in developing the direct final rule and the notice of intent to submit adverse comments.

B. What is the agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2) (*see* Unit III.). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Persons who must report are described in § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements codified at 19 CFR 12.118 through 12.127, *see also* 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemical substances subject to a final SNUR must certify their compliance with the SNUR requirements. The EPA

policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance identified in a final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (*see* § 721.20) and must comply with the export notification requirements in 40 CFR part 707, subpart D.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the chemical substance that is the subject of this proposed SNUR, EPA considered relevant information about the toxicity of the chemical substance, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substance Subject to This Proposed Rule

EPA is proposing to establish significant new use and recordkeeping requirements for the chemical substance identified as cobalt lithium manganese nickel oxide (PMN P–04–269; CAS No. 182442–95–1). The specific activities proposed as significant new uses and other requirements are listed in 40 CFR 721.10201 of the proposed regulatory text.

The chemical substance cobalt lithium manganese nickel oxide (PMN P–04–269; CAS No. 182442–95–1), is subject to a "risk-based" consent order under TSCA section 5(e)(1)(A)(ii)(I) because EPA determined that certain activities associated with the PMN substance may present an unreasonable risk to human health and the environment. The consent order requires protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The so-called "5(e) SNUR" on this PMN substance is proposed pursuant to § 721.160, and is based on and consistent with the provisions in the underlying consent order. The proposed 5(e) SNUR would designate as a "significant new use" the absence of the protective measures required in the corresponding consent order.

Where EPA determines that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) consent order requires, among other things, that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below a New Chemical Exposure Limit (NCEL) that is established by EPA to provide adequate protection to human health. In addition to the actual NCEL concentration, the comprehensive NCEL provisions in TSCA section 5(e) consent orders, which are modeled after Occupational Safety and Health Administration (OSHA) Permissible Exposure Limit (PEL) provisions, include requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. However, no comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. EPA expects that § 721.30 requests will only be granted where the NCEL provisions are comparable to those in the TSCA section 5(e) consent order for the same chemical substance.

PMN Number P–04–269

Chemical name: Cobalt lithium manganese nickel oxide.

CAS number: 182442–95–1.

Effective date of TSCA section 5(e) consent order: May 12, 2009.

Basis for TSCA section 5(e) consent order: The PMN states that the substance will be used as a battery cathode material. The order was issued under sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) of TSCA, based on findings that this substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires use of dermal personal protective equipment, including gloves demonstrated to be impervious; requires use of respiratory personal protective equipment, including a National Institute of Occupational Safety and Health (NIOSH)-approved respirator with an assigned protection factor (APF) of at least 150, or compliance with a NCEL of 0.1 mg/m^3 as an 8-hour time-weighted average; requires establishment of a hazard communication program; and prohibits releases to water. The proposed SNUR would designate as a "significant new use" the absence of these protective measures.

Toxicity concern: Based on test data on nickel, lithium and cobalt, EPA has concerns for developmental toxicity, mutagenicity, oncogenicity, pulmonary oncogenicity, and lung overload for workers with inhalation and dermal exposure to the PMN substance. EPA set the NCEL at 0.1 mg/m^3 as an 8-hour time-weighted average. In addition, based on test data on analogous nickel-containing compounds, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 part per billion (ppb) of the PMN substance in surface waters.

Recommended testing: EPA has determined that the results of the following tests would help characterize the human health and environmental effects of the PMN substance: A 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400). All aquatic toxicity testing should be performed using the static method with measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results. The order does not require submission of the aforementioned information at any specified time or production volume. However, the order's restrictions on manufacturing, import, processing, distribution in commerce, use, and disposal of the PMN substance will remain in effect until the order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10201.

V. Rationale and Objectives of the Proposed Rule

A. Rationale

During the review of the chemical substance P–04–269, EPA concluded that regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, a TSCA section 5(e) consent order requiring the use of appropriate exposure controls was negotiated with the PMN submitter. The proposed SNUR provisions for this chemical substance are consistent with the provisions of the TSCA section 5(e) consent order. This SNUR is proposed pursuant to § 721.160.

B. Objectives

EPA is proposing this SNUR for a chemical substance that has undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this proposed rule:

- EPA would receive notice of any person's intent to manufacture, import, or process a listed chemical substance for the described significant new use before that activity begins.
- EPA would have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for the described significant new use.
- EPA would be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Inventory. Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/newchems/pubs/invntory.htm.*

VI. Applicability of the Proposed Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant "new" use, EPA must determine that the use is not ongoing. The chemical substance subject to this rule has undergone premanufacture review. A TSCA section 5(e) consent order has been issued where the PMN submitter is prohibited from undertaking activities which EPA is designating as significant new uses. EPA solicits comments on whether any of the uses proposed as significant new uses are ongoing.

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. If uses begun after publication of the proposed rule were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements because a person could defeat the SNUR by initiating the significant new use before the rule became final, and then argue that the use was ongoing before the effective date of the final rule. Thus, persons who begin commercial manufacture, import, or processing of the chemical substances that would be regulated as a "significant new use" through this proposed rule, must cease any such activity before the effective date of the rule if and when finalized. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires (*see* Unit III.).

EPA has promulgated provisions to allow persons to comply with this proposed SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered to have met the requirements of the final SNUR, for those activities.

VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. There are two exceptions:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (*see* TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (*see* TSCA section 5(b)(2)). In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (*see* 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In the case of PMN P–04–269, EPA issued a TSCA section 5(e) consent order that requires or recommends certain testing. *See* Unit IV. of the proposed rule for a list of those tests. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. To access the OPPTS Test Guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select "Test Methods and Guidelines."

In the TSCA section 5(e) consent order for the chemical substance cobalt lithium manganese nickel oxide (PMN P–04–269; CAS No. 182442–95–1) EPA has established restrictions in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses. These restrictions cannot be removed unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by this chemical substance. A listing of the tests specified in the TSCA section 5(e) consent order is included in Unit IV. The SNUR contains the same restrictions as the TSCA section 5(e) consent order. Persons who intend to begin nonexempt commercial manufacture, import, or processing for any of the restricted activities must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of that activity.

The recommended tests may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN for a significant new use without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA would be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substance.
- Potential benefits of the chemical substance.
- Information on risks posed by the chemical substance compared to risks posed by potential substitutes.

VIII. SNUN Submissions

As stated in Unit II.C., according to § 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in § 720.50. SNUNs must be submitted to EPA on EPA Form No. 7710–25 in accordance with the procedures set forth in §§ 721.25 and 720.40. This form is available from the Environmental Assistance Division (7408M), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001 (*see* §§ 721.25 and 720.40). Forms and information are also available electronically at *http://www.epa.gov/opptintr/newchems.*

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of this chemical substance at the time of the direct final rule. The Agency's complete economic analysis is available in the public docket under docket ID number EPA–HQ–OPPT–2009–0922.

X. Statutory and Executive Order Reviews

A. Executive Order 12866

This action proposes a SNUR for a new chemical substance that was the subject of a TSCA section 5(e) consent order. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA would amend the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this proposed rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is "good cause" under section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action would not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this SNUR would not have a significant adverse economic impact on a substantial number of small entities. The rationale supporting this conclusion is discussed in this unit. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a "significant new use." Because these uses are "new," based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of over 1,400 SNURs, the Agency receives on average only 5 notices per year. Of those SNUNs submitted from 2006–2008, only one appears to be from a small entity. In addition, the estimated reporting cost for submission of a SNUN (*see* Unit XII.) is minimal regardless of the size of the firm. Therefore, EPA believes that the potential economic impacts of complying with this SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this proposed rule. As such, EPA has determined that this proposed rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

E. Executive Order 13132

This action would not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This proposed rule would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This proposed rule would not significantly or uniquely affect the communities of Indian Tribal governments, nor would it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR

67249, November 9, 2000), do not apply to this proposed rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This proposed rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

In addition, since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 10, 2010.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. Add § 721.10201 to subpart E to read as follows:

§ 721.10201 Cobalt lithium manganese nickel oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as cobalt lithium manganese nickel oxide (PMN P–04–269; CAS No. 182442–95–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after it has been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (a)(4), (a)(5), (a)(6), (b) (concentration set at 0.1 percent), and (c). Respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 150. The following NIOSH-approved respirators meet the requirements of § 721.63(a)(4): Supplied-air respirator operated in pressure demand or other positive pressure mode and equipped with a tight-fitting full facepiece. As an alternative to the respirator requirements listed here, a manufacturer, importer, or processor may choose to follow the New Chemical Exposure Limit (NCEL) provisions listed in the Toxic Substances Control Act (TSCA) section 5(e) consent order for this substance. The NCEL is 0.1 mg/m^3 as an 8–hour time-weighted average. Persons who wish to pursue NCELs as an alternative to the § 721.63 respirator may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will receive NCELs provisions comparable to those listed in the corresponding section 5(e) consent order.

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(1)(vii), (g)(1)(ix), (g)(2), (g)(3), (g)(4)(iii), and (g)(5).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2010–29148 Filed 11–17–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2009–0108]

Final Vehicle Safety Rulemaking and Research Priority Plan 2010–2013

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

ACTION: Notice of availability of updated plan.

SUMMARY: This document announces the availability of the Final Vehicle Safety Rulemaking and Research Priority Plan 2010–2013 (Priority Plan) in Docket No. NHTSA–2009–0108. This Priority Plan is an update to the Final Vehicle Safety Rulemaking and Research Priority Plan 2009–2011 (October 2009 Plan) that was announced in the November 9, 2009, version of the **Federal Register** (74 FR 57623).

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Carra, Director of Strategic Planning and Integration, National Highway Traffic Safety Administration, Room W45–336, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202–366–0361. E-mail: *joseph.carra@dot.gov*.

SUPPLEMENTARY INFORMATION: On November 9, 2009, NHTSA published a Final Notice in the **Federal Register** (74 FR 57623) announcing the availability of the October 2009 Plan. Today's document announces the availability of the Final Vehicle Safety Rulemaking and Research Priority Plan 2010–2013.

This plan is an internal management tool as well as a means to communicate to the public NHTSA's highest priorities to meet the Nation's motor vehicle safety challenges. Among them are programs and projects involving rollover crashes, children (both inside as well as just near vehicles), motorcoaches and fuel economy that must meet Congressional mandates or Secretarial commitments. Since these are expected to consume a significant portion of the agency's rulemaking resources, they affect the schedules of the agency's other priorities listed in this plan. This plan lists the programs and projects the agency anticipates working on even though there may not be a rulemaking planned to be issued by 2013, and in several cases, the agency doesn't anticipate that the research will be done by the end of 2013. Thus, in some cases the next step would be an agency decision in 2013 or 2014.

NHTSA is also currently in the process of developing a longer-term motor vehicle safety strategic plan that would encompass the period 2014 to 2020. That strategic plan will be announced in a separate **Federal Register** notice.

For purposes of apprising the public on the status of progress relative to the efforts delineated in the October 2009 Plan, NHTSA has included in the current Priority Plan a section (Section V) that compares the October 2009 Plan to the current Priority Plan.

In summary of that section, there were 56 projects in the October 2009 Plan and there are 56 projects in the current Priority Plan. Combining the two plans, there were 66 separate actions. Of the 56 projects in the October 2009 Plan, 25 were priority projects and 31 were other significant projects. Of the 56 projects in the current Priority Plan, there are 23 priority projects and 33 other significant projects.

Of the 25 priority projects in the October 2009 Plan, the schedule for one was moved forward, two were completed with final rules, one had a final rule issued but more work is continuing, seven project deadlines were met (typically issuing an NPRM), progress has been made on an additional 10 projects and they are still on schedule, and four projects are behind the original schedule. There are three new priority projects added for the current Priority Plan.

Of the 31 "other significant projects" in the October 2009 Plan, one was moved forward, one was completed with a final rule, an agency decision was made on three projects, progress has been made on 11 projects and they are still on schedule, 12 are behind schedule, and three were dropped from the plan because the agency determined that they no longer reached a priority level of being an "other significant project". Seven new "other significant projects" were added for the current Priority Plan.

Interested persons may obtain a copy of the plan, "Final Vehicle Safety Rulemaking and Research Priority Plan 2010–2013," by downloading a copy of the document. To download a copy of the document, go to *http://www.regulations.gov* and follow the online instructions, or visit Docket Management Facility at U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001 and reference Docket No. NHTSA–2009–0108.

Authority: 49 U.S.C. 30111, 30117, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: November 9, 2010.

Ronald L. Medford,

Deputy Administrator.

[FR Doc. 2010–28717 Filed 11–17–10; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 75, No. 222

Thursday, November 18, 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 ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

November 1, 2010.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Exempt:		
1. EL09–32–000	10–18–10	Hon. Olympia J. Snowe. Hon. Susan M. Collins.
2. ER10–2229–000, ER10–2114–000	10–18–10	Hon. Arnold Schwarzenegger.
3. Project No. 2188–000	10–18–10	Hon. Max Baucus.
4. Project Nos. 2266–000, 2310–000	10–18–10	Carrie Smith.[1] Frank Winchell.
5. Project No. 2621–009	10–1–10	Lee Emery,[2] Henry Mealing.
6. Project No. 13351–000	10–28–10	Anne E. Haaker.

[1] E-mail exchange with FERC staff.
[2] *Ibid.*

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29043 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–8852–9]

Access to Confidential Business Information by Computer Sciences Corporation and Its Identified Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Computer Sciences Corporation (CSC) of Chantilly, VA and Its Identified Subcontractors, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data will occur no sooner than November 26, 2010.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Pamela Moseley, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–

0001; *telephone number:* (202) 564–8956; *fax number:* (202) 564–8955; *e-mail address*: *Moseley.Pamela@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; *telephone number:* (202) 554–1404; *e-mail address: TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this notice apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2003–0004. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

II. What action is the agency taking?

Under EPA contract number GS–35F–4381G, Task Order Number 1659, contractors CSC of 15000 Conference Center Drive, Chantilly, VA; Apex Systems, Inc. of 4000 W. Chase Blvd, Suite 450, Raleigh, NC; Excel Management Systems of 691 N. High Street, 2nd Floor, Columbus, OH; KForce of 950 Herndon Parkway, Suite 360, Herndon, VA; ITM Associates, Inc. of 1700 Rockville Pike, Suite 350, Rockville, MD; and TEK Systems of 7437 Race Road, 2nd Floor, Hanover, MD will assist the Office of Pollution Prevention and Toxics (OPPT) in routine system administration (SA) and database administration (DBA) as required to support OPPT computer applications; OPPT staff; and their development staff. Specific types of duties will be configuration changes; assistance in backups/restoration of data; installation of operating system maintenance; database maintenance; troubleshooting problems; and security fixes. Routine performance of these duties does not require access to TSCA CBI data.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number GS–35F–4381G, Task Order Number 1659, CSC and Its Identified Subcontractors will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. CSC and Its Identified Subcontractors' personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide CSC and Its Identified Subcontractors access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and the Research Triangle Park facilities in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until September 30, 2016. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

CSC and Its Identified Subcontractors' personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: November 2, 2010.

Matthew Leopard,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2010–29140 Filed 11–17–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

A-Sonic Logistics (USA), Inc. (NVO & OFF), 71 South Central Avenue, Suite 300, Valley Stream, NY 11580, *Officers:* Eva Wong, Assistant Corporate Secretary (Qualifying Individual), Janet L.C. Tan, President/Director, *Application Type:* QI Change

Africa Car Carrier (Off Shore) ACC (NVO), Foch Street 230, Marfa'a. Beirut Central District, Beirut, Lebanon, *Officers:* Majed Ghammachi, President/Member (Qualifying Individual), Elianor J. Al Moujabber, Member, *Application Type:* New NVO License

Agmark Logistics, LLC (OFF), 222 2nd Avenue N., Ste. 311, Nashville, TN 37201, *Officers:* Karen Whiteaker, Vice President Operations (Qualifying Individual), Richard L. Hagemeyer, President, *Application Type:* New OFF License

Brimar Relocation, Inc. (OFF), 124 Knickerbocker Avenue, Stamford, CT 06907, *Officer:* Philippe Giffard, President (Qualifying Individual), *Application Type:* New OFF License

C & L Global Inc. (NVO & OFF), 13 Division Street, Unit A, Fairview, NJ 07650, *Officers:* Yoon H. Cho, Vice President/Secretary (Qualifying Individual), Young S. Cho, President/Treasurer, *Application Type:* New NVO & OFF License

Cargo Express Shipping Inc. (NVO), 20311 Valley Blvd., Suite B, Walnut, CA 91789, *Officer:* Lizhen (Jan) Lin, President/Secretary/Treasurer (Qualifying Individual), *Application Type:* New NVO License

Crest Logistics Inc. (NVO), 27911 Ridgecove Ct. N., Rancho Palos Verdes, CA 90275, *Officers:* Stephen M. Kiang, President (Qualifying Individual), Benjamin L. Kiang, Vice President, *Application Type:* New NVO License

Excel Express Cargo Corp. (NVO & OFF), 8430 NW. 66th Street, Miami, FL 33166, *Officers:* Karime Zawady, Vice President (Qualifying Individual), Alexander Parra, President, *Application Type:* QI Change

Freight Connections Services Inc. (NVO), 8653 Garvey Avenue, Suite 105, Rosemead, CA 91770, *Officer:* Melody J. Hoong, President/Treas./CFO/Sec./Dir. Qualifying Individual), *Application Type:* New NVO License

General Forwarding, Inc. (NVO), 350 S. Crenshaw Blvd., A207D, Torrance, CA 90503, *Officers:* Young (aka Jane) J. Kay, CEO/Secretary/CFO/Director (Qualifying Individual), Mina Kay, Director, *Application Type:* QI Change

Integrated Shipping International LLC (NVO & OFF), 1000 Edwards Avenue, Harahan, LA 70123, *Officer:* Jack Jensen, Owner (Qualifying Individual), *Application Type:* New NVO & OFF License

Intelscm, LLC dba IContainers (USA) Inc. (NVO & OFF), 150 Pulaski Street, Bayonne, NJ 07002, *Officer:* Andrew P. Scott, President/CEO (Qualifying Individual), *Application Type:* New NVO & OFF License

Joffroy Warehouse Inc. (NVO & OFF), 1251 N. Industrial Park Avenue, Nogales, AZ 85621, *Officers:* Marco A. Joffroy, Corporate Secretary (Qualifying Individual), Rodolfo Joffroy, President, *Application Type:* New NVO & OFF License

Life Cargo Inc. (NVO & OFF), 8578 NW. 56th Street, Doral, FL 33166, *Officer:* Sergio S. Leao, President (Qualifying Individual), *Application Type:* New NVO & OFF License

Marine Cargo Line, L.C. dba Active Freight & Logistics (NVO), One Blue Hill Plaza, Pearl River, NY 10965, *Officers:* Hector Rodriquez, Senior Vice President (Qualifying Individual), Arthur Wagner, President/Manager, *Application Type:* QI Change

Marsh & Associates Signing Services, LLC (NVO & OFF), 621 Beverly-Rancocas Road, #PMB144, Willingboro, NJ 08046, *Officer:* Cheryl Marsh, Member (Qualifying Individual), *Application Type:* New NVO & OFF License

Nelcon Cargo Corp. (NVO), 1790 NW. 82nd Avenue, Miami, FL 33126, Officer: Xenia Perez, President/Vice President/Treasurer (Qualifying Individual), *Application Type:* QI Change

Novomarine Container Line LLC (NVO & OFF), 1647 Capesterre Drive, Orlando, FL 32824, *Officers:* Denis Trofimov, MGRM (Qualifying Individual), Aleksey Demshin, MGRM, *Application Type:* New NVO & OFF License

Oceanair Forwarding, Inc. (NVO & OFF), 11232 St. Johns Industrial Parkway North, #6, Jacksonville, FL 32246, *Officer:* Erin Tohir, Import and Export Coordinator (Qualifying Individual), *Application Type:* QI Change

Panamerican Shipping Inc. (NVO & OFF), 710 Franklin Avenue, Brooklyn, NY 11238, *Officers:* Lamar Bailey, President (Qualifying Individual), Cristine Bailey, Corporate Secretary/Vice President *Application Type:* Add NVO Service

Sofija Gjonbalaj dba Euro Ship (OFF), 3685 Shore Parkway, #3D, Brooklyn, NY 11235, *Officer:* Sofija Gjonbalai, Sole Proprietor (Qualifying Individual), *Application Type:* New OFF License

TFM International, LLC dba TFM Project Logistics (NVO & OFF), 5905 Brownsville Road, Pittsburgh, PA 15236, *Officers:* Michael S. Wagner, President (Qualifying Individual), Mark Raymond, CEO, *Application Type:* New NVO & OFF License

Dated: November 12, 2010.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2010–29054 Filed 11–17–10; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515.

License No.	Name/address	Date reissued
020298NF	A A Shipping Incorporated, 11526 Harwin Drive, Houston, TX 77072	September 27, 2010.
020660F	GAL International Inc., 5070 Parkside Avenue, Suite 3104, Philadelphia, PA 19131.	October 17, 2010.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2010–29056 Filed 11–17–10; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocation

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515, effective on the corresponding date shown below:

License Number: 004027F.

Name: U.S. Airfreight, Inc.

Address: 2624 NW. 112th Avenue, Doral, FL 33172.

Date Revoked: October 28, 2010.

Reason: Failed to maintain a valid bond.

License Number: 010182N.
Name: Cargo Specialists International, Inc.
Address: 241 Forsgate Drive, Suite 108, Jamesburg, NJ 08831.
Date Revoked: October 22, 2010.
Reason: Surrendered license voluntarily.

License Number: 017975N.
Name: Johnny Air Cargo, Inc.
Address: 69–04 Roosevelt Avenue, Woodside, NY 11377.
Date Revoked: October 20, 2010.
Reason: Surrendered license voluntarily.

License Number: 18050F.
Name: Trident Forwarding Service, Inc.
Address: 6980 NW. 43rd Street, Miami, FL 33166.
Date Revoked: October 29, 2010.
Reason: Failed to maintain a valid bond.

License Number: 019728NF.
Name: MHX International LLC.
Address: 300 David Lane, Roselle, IL 60172.
Date Revoked: October 27, 2010.
Reason: Failed to maintain valid bonds.

License Number: 020760F.
Name: AAA Cuban Transportation Cargo & Logistics, Inc.
Address: 6025 West 12th Avenue, Hialeah, FL 33012.
Date Revoked: October 27, 2010.
Reason: Failed to maintain a valid bond.

License Number: 021720N.
Name: Logicargo ASL Int'l Corp.
Address: 7707 NW. 46th Street, Doral, FL 33166.
Date Revoked: October 27, 2010.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.

[FR Doc. 2010–29069 Filed 11–17–10; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission ("FTC" or "Commission").

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA"). The FTC seeks public comments on its proposal to extend through December 31, 2013 the current OMB clearance for information collection requirements contained in its Affiliate Marketing Rule (or "Rule"). That clearance expires on December 31, 2010.

DATES: Comments must be filed by December 20, 2010.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following weblink: *https://ftcpublic.commentworks.com/ftc/AffiliateMarketingPRA2* (and following the instructions on the Web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue, NW., Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Anthony Rodriguez, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2757.

SUPPLEMENTARY INFORMATION:

Request for Comments

Interested parties are invited to submit written comments. Comments should refer to "Affiliate Marketing Rule: FTC File No. P105411" to facilitate the organization of comments. Please note that your comment—including your name and your State—will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site, at *http://www.ftc.gov/os/publiccomments.shtm.*

Because comments will be made public, they should not include any sensitive personal information, such as any individual's Social Security Number; date of birth; driver's license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential" as provided in Section 6(f) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing matter for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted using the following weblink *https://ftcpublic.commentworks.com/ftc/AffiliateMarketingPRA2* (and following the instructions on the Web-based form). To ensure that the Commission considers an electronic comment, you must file it on the Web-based form at the weblink *https://ftcpublic.commentworks.com/ftc/AffiliateMarketingPRA2.* If this Notice appears at *http://www.regulations.gov/search/index.jsp,* you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

All comments should additionally be sent to OMB. Comments may be submitted by U.S. Postal Mail to: Office of Information and Regulatory Affairs, Office of Management and Budget, *Attention:* Desk Officer for Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503. Comments, however, should be submitted via facsimile to (202) 395–5167 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.shtm.*

Under the PRA, 44 U.S.C. 3501–3521, Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the regulations noted herein.

Background

The Affiliate Marketing Rule, 16 CFR Part 680, was issued by the FTC under section 214 of the Fair and Accurate Credit Transactions Act ("FACT Act"), Public Law 108–159 (December 6, 2003). The FACT Act amended the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.,* which was enacted to enable consumers to protect the privacy and accuracy of their consumer credit information. As mandated by the FACT Act, the Rule specifies disclosure requirements for certain affiliated companies subject to the Commission's jurisdiction. Except as discussed below, these requirements constitute "collections of information" for purposes of the PRA. Specifically, the FACT Act and the Rule require covered entities to provide consumers with notice and an opportunity to opt out of the use of certain information before sending marketing solicitations. The Rule generally provides that, if a company communicates certain information about a consumer ("eligibility information") to an affiliate, the affiliate may not use that information to make or send solicitations to the consumer unless the consumer is given notice and a reasonable opportunity to opt out of such use of the information and the consumer does not opt out.

To minimize compliance costs and burdens for entities, particularly any small businesses that may be affected, the Rule contains model disclosures and opt-out notices that may be used to satisfy the statutory requirements. The Rule also gives covered entities flexibility to satisfy the notice and opt-out requirement by sending the consumer a free-standing opt-out notice or by adding the opt-out notice to the privacy notices already provided to consumers, such as those provided in accordance with the provisions of Title V, subtitle A of the GLBA. In either event, the time necessary to prepare or incorporate an opt-out notice would be minimal because those entities could either use the model disclosure verbatim or base their own disclosures upon it. Moreover, verbatim adoption of the model notice does not constitute a PRA "collection of information" [2]

On July 28, 2010, the FTC sought comment on the information collection requirements associated with the Rule, 16 CFR Part 680. 75 FR 43526. No comments were received. Accordingly, apart from updates to its labor cost estimates tied to more recent available Department of Labor data, the FTC retains its previously published burden estimates.

Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501–3521, the FTC is providing this second opportunity for public comment while seeking OMB approval to extend its existing PRA clearance for the Rule. All comments should be filed as prescribed herein, and must be received on or before December 20, 2010.

Burden Statement

Except where otherwise specifically noted, staff's estimates of burden are based on its knowledge of the consumer credit industries and knowledge of the entities over which the Commission has jurisdiction. This said, estimating PRA burden of the Rule's disclosure requirements is difficult given the highly diverse group of affected entities that may use certain eligibility information shared by their affiliates to send marketing notices to consumers.

The estimates provided in this burden statement may well overstate actual burden. As noted above, verbatim adoption of the disclosure of information provided by the Federal government is not a "collection of information" to which to assign PRA burden estimates, and an unknown number of covered entities will opt to use the model disclosure language. Second, an uncertain, but possibly significant, number of entities subject to the FTC's jurisdiction do not have affiliates and thus would not be covered by section 214 of the FACT Act or the Rule. Third, Commission staff does not know how many companies subject to the FTC's jurisdiction under the Rule actually share eligibility information among affiliates and, of those, how many affiliates use such information to make marketing solicitations to consumers. Fourth, still other entities may choose to rely on the exceptions to the Rule's notice and opt-out requirements.[3]

As in the past, FTC staff's estimates assume a higher burden will be incurred during the first year of a prospective OMB three-year clearance, with a lesser burden for each of the subsequent two years because the opt-out notice to consumers is required to be given only once. Institutions may provide for an indefinite period for the opt-out or they may time limit it, but for no less than five years. Given this minimum time period, Commission staff did not estimate the burden for preparing and distributing extension notices by entities that limit the duration of the opt-out time period. The relevant PRA time frame for burden calculation is the three-year span between expiring OMB clearances (*i.e.,* December 31, 2010–December 31, 2013). The five-year notice period, however, will not begin until October 1, 2013 (five years removed from the Rule's effective date), very close to the end of the applicable period covered by the instant clearance request.

Staff's labor cost estimates take into account: Managerial and professional time for reviewing internal policies and determining compliance obligations; technical time for creating the notice and opt-out, in either paper or electronic form; and clerical time for disseminating the notice and opt-out.[4] In addition, staff's cost estimates presume that the availability of model disclosures and opt-out notices will simplify the compliance review and implementation processes, thereby significantly reducing the cost of compliance. Moreover, the Rule gives entities considerable flexibility to determine the scope and duration of the opt-out. Indeed, this flexibility permits entities to send a single joint notice on behalf of all of its affiliates.

[2] "The public disclosure of information originally supplied by the Federal government to the recipient for purpose of disclosure to the public is not included within [the definition of collection of information]." 5 CFR 1320.3(c)(2).

[3] Exceptions include, for example, having a preexisting business relationship with a consumer, using information in response to a communication initiated by the consumer, and solicitations authorized or requested by the consumer.

[4] No clerical time was included in staff's burden analysis for GLBA entities as the notice would likely be combined with existing GLBA notices.

Estimated total average annual hours burden: 1,043,961 hours.

Based, in part, on industry data regarding the number of businesses under various industry codes, staff estimates that 1,101,780 non-GLBA entities under FTC jurisdiction have affiliates and would be affected by the Rule.[5] Staff further estimates that there are an average of 5 businesses per family or affiliated relationship, and that the affiliated entities will choose to send a joint notice, as permitted by the Rule. Thus, an estimated 220,356 non-GLBA business families may send the affiliate marketing notice. Staff also estimates that non-GLBA entities under the jurisdiction of the FTC would each incur 14 hours of burden during the prospective requested three-year PRA clearance period, comprised of a projected 7 hours of managerial time, 2 hours of technical time, and 5 hours of clerical assistance.

Based on the above, total burden for non-GLBA entities during the prospective three-year clearance period would be approximately 3,084,984 hours. Associated labor cost would total $101,874,986.[6] These estimates include the start-up burden and attendant costs, such as determining compliance obligations. Non-GLBA entities, however, will give notice only once during the clearance period ahead. Thus, averaged over that three-year period, the estimated annual burden for non-GLBA entities is 1,028,328 hours and $33,958,329 in labor costs.[7]

Entities that are subject to the Commission's GLBA privacy notice regulation already provide privacy notices to their customers.[8] Because the FACT Act and the Rule contemplate that the affiliate marketing notice can be included in the GLBA notices, the burden on GLBA regulated entities would be greatly reduced. Accordingly, the GLBA entities would incur 6 hours of burden during the first year of the clearance period, comprised of a projected 5 hours of managerial time and 1 hour of technical time to execute the notice, given that the Rule provides a model.[9] Staff further estimates that 3,350 GLBA entities under the FTC's jurisdiction would be affected,[10] so that the total burden for GLBA entities during the first year of the clearance period would approximate 20,100 hours and $857,667 in associated labor costs.[11] Allowing for increased familiarity with procedure, the PRA burden in ensuing years would decline, with GLBA entities each incurring an estimated 4 hours of annual burden (3 hours of managerial time and 1 hour of technical time) during the remaining two years of the clearance, amounting to 13,400 hours and $562,934 in labor costs in each of the ensuing two years.[12] Thus, averaged over the three-year clearance period, the estimated annual burden for GLBA entities is 15,633 hours and $661,178 in labor costs.

Cumulatively for both GLBA and non-GLBA entities, the average annual burden over the prospective three-year clearance period is 1,043,961 burden hours and $34,619,507 in labor costs. GLBA entities are already providing notices to their customers so there are no new capital or non-labor costs, as this notice may be consolidated into their current notices. For non-GLBA entities, the Rule provides for simple and concise model forms that institutions may use to comply. Entities that already have on-line capabilities will offer consumers the choice to receive notices via electronic format (e.g., computer equipment and software), and covered entities are already equipped to provide disclosures (*e.g.,* computers with word processing programs, copying machines, mailing capabilities). Thus, any capital or non-labor costs associated with compliance for these entities are negligible.

Willard K. Tom,

General Counsel.

[FR Doc. 2010–29048 Filed 11–17–10; 8:45 am]

BILLING CODE 6750–01–P

[5] This estimate is derived from an analysis of a database of U.S. businesses based on SIC codes for businesses that market goods or services to consumers, which included the following industries: Transportation services; communication; electric, gas, and sanitary services; retail trade; finance, insurance, and real estate; and services (excluding business services and engineering, management services). *See http://www.naics.com/search.htm.* This estimate excludes businesses not subject to the FTC's jurisdiction and businesses that do not use data or information subject to the rule. To the resulting sub-total (6,677,796), staff applies a continuing assumed rate of affiliation of 16.75 percent, *see* 69 FR 33324, 33334 (June 15, 2004), reduced by a continuing estimate of 100,000 entities subject to the Commission's GLBA privacy notice regulations, *see id.,* applied to the same assumed rate of affiliation. The net total is 1,101,780.

[6] The associated labor cost is based on the labor cost burden per notice by adding the hourly mean private sector wages for managerial, technical, and clerical work and multiplying that sum by the estimated number of hours. The classifications used are "Management Occupations" for managerial employees, "Computer and Mathematical Science Occupations" for technical staff, and "Office and Administrative Support" for clerical workers. *See* National Compensation Survey: Occupational Earnings in the United States 2009, U.S. Department of Labor, released August 2010, Bulletin 2738, Table 3 ("Summary: Full-time civilian workers: Mean and median hourly, weekly, and annual earnings and mean weekly and annual hours") *http://www.bls.gov/ncs/ocs/sp/nctb1346.pdf.* The respective private sector hourly wages for these classifications are $43.99, $36.07, and $16.45. Estimated hours spent for each labor category are 7, 2, and 5, respectively. Multiplying each occupation's hourly wage by the associated time estimate, labor cost burden per notice equals $462.32. This subtotal is then multiplied by the estimated number of non-GLB business families projected to send the affiliate marketing notice (220,356) to determine cumulative labor cost burden for non-GLBA entities ($101,874,986).

[7] 3,084,984 hours ÷ 3 = 1,028,328; $101,874,986 ÷ 3 = $33,958,329.

[8] Financial institutions must provide a privacy notice at the time the customer relationship is established and then annually so long as the relationship continues. Staff's estimates assume that the affiliate marketing opt-out will be incorporated in the institution's initial and annual notices.

[9] As stated above, no clerical time is included in the estimate because the notice likely would be combined with existing GLBA notices.

[10] Based on the previously stated estimates of 100,000 GLBA business entities (*see supra* note 5) at an assumed rate of affiliation of 16.75 percent (16,750), divided by the presumed ratio of 5 businesses per family, this yields a total of 3,350 GLBA business families subject to the Rule. For simplicity, staff assumes that all of these entities are new establishments and/or newly integrating the affiliated opt-out notice with the GLBA notice in the first year of the prospective three-year clearance period; thus, the higher estimate of hours assigned to the first year. This, too, then, would effectively overstate actual burden.

[11] 3,350 GLBA entities × [($43.99 × 5 hours) + ($36.07 × 1 hour)] = $857,667.

[12] 3,350 GLBA entities × [($43.99 × 3 hours) + ($36.07 × 1 hour)] = $562,934.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "Evaluation of the National Guideline Clearinghouse™." In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on September 17th, 2010 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by December 20, 2010.

ADDRESSES: Written comments should be submitted to: AHRQs OMB Desk Officer by fax at (202) 395–6974

(*attention:* AHRQ's desk officer) or by e-mail at *OIRA_submission@omb.eop.gov* (*attention:* AHRQ's desk officer).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AURO Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by e-mail at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Evaluation of the National Guideline Clearinghouse™

The mission of the Agency for Healthcare Research and Quality (AHRQ) is to enhance the quality, appropriateness, and effectiveness of health services, and access to such services, through the establishment of a broad base of scientific research and through the promotion of improvements in clinical and health system practices, including the prevention of diseases and other health conditions. 42 U.S.C. 299(b). AHRQ supports the dissemination of evidence-based guidelines through its National Guideline Clearinghouse™ (NGC).

The NGC serves as a publicly accessible Web-based database of evidence-based clinical practice guidelines meeting explicit criteria. The NGC also supports AHRQ's strategic goal on effectiveness: To improve health care outcomes by encouraging the use of evidence to make informed health care decisions. The NGC is a vehicle for such encouragement. The mission of the NGC is to provide physicians, nurses, and other health professionals, health care providers, health plans, integrated delivery systems, purchasers and others an accessible mechanism for obtaining objective, detailed information on clinical practice guidelines and to further their dissemination, implementation and use.

AHRQ proposes to conduct a comprehensive evaluation of the NGC. This evaluation will build on the site trends AHRQ has already identified, including growth from 70,000 to 700,000 visits per month, 600 to approximately 40,000 e-mail subscribers, 250 to 2,370 guidelines represented, and 50 to nearly 300 participating guideline developer organizations from July 1999 to July 2009.

The objectives of the NGC evaluation are to gain a better understanding of how:

- The NGC is used.
- The NGC supports dissemination of evidence-based clinical practice guidelines and related documents.
- The NGC has influenced efforts in guideline development and guideline implementation and use.
- The NGC can be improved.

This study is being conducted by AHRQ through its contractor, AFYA, Inc. and The Lewin Group (AFYA/Lewin), pursuant to AHRQ's statutory authority to conduct and support research and disseminate information on healthcare and on systems for the delivery of such care, including activities with respect to clinical practice. 42 U.S.C. 299a(a)(4).

Method of Collection

To achieve the objectives of this project the following data collections will be implemented:

(1) NGC evaluation survey—a Web-based survey administered to a convenience sample of both users and non-users of the NGC,

(2) Focus groups—conducted with guideline developers, medical librarians, informatics specialists, clinicians, and students, and

(3) Key informant interviews—in-person interviews conducted with influential individuals in medical societies, health plans, and quality improvement organizations as well as medical librarians, researchers, and informatics specialists who produce, use, and disseminate guidelines.

Questions in the survey, focus group, and key informant discussion guides will focus on the effectiveness of NGC in areas of dissemination, implementation, and use of evidence-based clinical practice guidelines, and relative to other available guideline sources. For example, measures to be gathered through the instruments include the level of trust of the NGC, the use of the NGC relative to other guideline sources, and the influence of the NGC on various stakeholder groups. In addition, the instruments will be used to measure the use of other guideline resources which are used by non-NGC users.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this evaluation. The NGC evaluation questionnaire will be completed by approximately 40,220 persons and will require 10 minutes to complete for users of the NGC and about 2 minutes for non-users. For the purpose of calculating respondent burden an average of 8 minutes is used and reflects a mix of users and non-users with most respondents expected to be users.

Eleven different focus groups consisting of 9 persons each will be conducted and are expected to last 90 minutes each. Key informant interviews will be conducted with 30 individuals and will last about 60 minutes. The total annual burden hours are estimated to be 5,542 hours.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to participate in this project. The total annual cost burden is estimated to be $185,712.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Data collection method	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
NGC Evaluation Survey	40,220	1	8/60	5,363
Focus Groups	99	1	1.5	149
Key Informant Interviews	30	1	1	30
Total	40,349	NA	NA	5,542

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Data collection method	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
NGC Evaluation Survey	40,220	5,363	$33.51	$179,714

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN—Continued

Data collection method	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Focus Groups	99	149	33.51	4,993
Key Informant Interviews	30	30	33.51	1,005
Total	40,349	5542	NA	185,712

*Based upon the mean of the average wages for healthcare practitioner and technical occupations (29–0000) presented in the National Compensation Survey: Occupational wages in the United States, May 2009, U.S. Department of Labor, Bureau of Labor Statistics.

Estimated Annual Costs to the Federal Government

Exhibit 3 shows the estimated total and annualized cost to the government for this one year project. The total cost is estimated to be $350,000 to conduct the one-time survey, 11 focus groups, and 30 key informant interviews and to analyze and present their results. This amount is the contract total for AFYA's contract with AHRQ to evaluate the NGC. This amount, includes the costs for project development and management ($70,000 or 20% of the entire contract amount); data collection activities ($105,000 or 30% of the entire contract amount); data processing and analysis ($70,000 or 20% of the entire contract amount); and administrative support activities and reporting ($105,000 or 30% of the entire contract amount).

EXHIBIT 3—ESTIMATED TOTAL AND ANNUALIZED COST

Cost component	Total cost	Annualized cost
Project Development and Management	$70,000	$70,000
Data Collection Activities	105,000	105,000
Data Processing and Analysis	70,000	70,000
Administrative Support and Reporting	105,000	105,000
Total	350,000	350,000

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQs information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: November 10, 2010.

Carolyn M. Clancy,

Director.

[FR Doc. 2010–29010 Filed 11–17–10; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0554]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Manufactured Food Regulatory Program Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Manufactured Food Regulatory Program Standards" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *Daniel.Gittleson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 3, 2010 (75 FR 9605), 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 0910–0601. The approval expires on September 30, 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: November 12, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–29055 Filed 11–17–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Clinical Trials Review.

Date: December 2, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Charles H Washabaugh, Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Blvd, Room 824, MSC 4872, Bethesda, MD 20817. 301–594–4952. *washabac@mail.nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Small Grants Research Review.

Date: December 8, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892. (Virtual Meeting.)

Contact Person: Eric H. Brown, Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Blvd, Room 824, MSC 4872, Bethesda, MD 20817. (301) 594–4955. *browneri@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: November 10, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–29091 Filed 11–17–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Request for Information

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0023.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning: Request for Information (CBP Form 28). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before January 18, 2011, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, *Attn:* Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Request for Information.

OMB Number: 1651–0023.

Form Number: CBP Form 28.

Abstract: Under 19 U.S.C. 1500 and 1401a, Customs and Border Protection (CBP) is responsible for appraising imported merchandise by ascertaining its value, classifying merchandise under the tariff schedule, and assessing a rate and amount of duty to be paid. On occasions when the invoice or other documentation does not provide sufficient information for appraisement or classification, the CBP Officer requests additional information through the use of CBP Form 28, "Request for Information". This form is completed by CBP personnel requesting additional information and the importers, or their agents, respond in the format of their choice. CBP Form 28 is provided for by 19 CFR 151.11. A copy of this form and instructions are available at *http://forms.cbp.gov/pdf/CBP_Form_28.pdf.*

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to CBP Form 28.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 60,000.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 60,000.

Dated: November 15, 2010.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2010–29085 Filed 11–17–10; 8:45 am]

BILLING CODE 9111–14–P

NATIONAL INDIAN GAMING COMMISSION

Notice of Inquiry and Request for Information; Notice of Consultation

AGENCY: National Indian Gaming Commission.

ACTION: Notice of inquiry; notice of Tribal consultations.

Authority: 25 U.S.C. 2706(b)(10); E.O. 13175.

SUMMARY: This Notice of Inquiry and Notice of Consultation advises the public that the National Indian Gaming Commission (NIGC) is conducting a comprehensive review of all regulations promulgated to implement the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 *et seq.* The Commission is taking a fresh look at its rules in order to determine whether amendments are necessary to more effectively implement IGRA's policies of protecting Indian gaming as a means of generating Tribal revenue, ensuring that gaming is conducted fairly and honestly by both the operator and players, and ensuring that Tribes are the primary beneficiaries of gaming operations. The Commission's

challenge is to adapt its rules to ensure that they promote these values into the future. This review is also being prepared in order to submit the NIGC's Semi-Annual Regulatory Review to the **Federal Register** in April 2011 as required by Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* In compliance with Executive Order 13,175 entitled "Consultation and Coordination with Indian Tribal Governments," the NIGC will hold eight consultations during January and February 2011. This Notice of Inquiry invites comments and information that will assist the NIGC in understanding the need for revising any or all of the regulations outlined below. The consultations and public comments requested in this Notice are intended to assist the NIGC with completion of the review and in establishing priorities.

Following completion of the consultation and written comment period, the NIGC will review all comments received and create a comprehensive regulatory review agenda schedule. The public comment period ends February 12, 2011. The regulatory review agenda will be released in April 2011 and will include a summary explaining why the NIGC agreed or disagreed with the comments received and why the regulatory review agenda took its final form.

DATES: Submit comments on or before February 11, 2011. See *Consultation Meetings, Dates and Locations* under **SUPPLEMENTARY INFORMATION** below for the dates, times, and locations of consultation meetings.

ADDRESSES: Testimony and comments sent by electronic mail or delivered by hand are strongly encouraged. Electronic submissions should be uploaded on the NIGC Web site, *http://www.nigc.gov,* or e-mailed to *reg.review@nigc.gov.* See *Electronic Submissions, File Formats And Required Information* under **SUPPLEMENTARY INFORMATION** below for instructions. Testimony and comments delivered by hand should be brought to the consultations. See *Consultation Meetings, Dates and Locations* under **SUPPLEMENTARY INFORMATION** below for the dates, times, and locations of consultation meetings. Submissions sent by regular mail should be addressed to Lael Echo-Hawk, Counselor to the Chair, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Lael Echo-Hawk, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100 Washington, DC 20005. Telephone: 202/632–7009; e-mail: *reg.review@nigc.gov.*

SUPPLEMENTARY INFORMATION:

I. Consultation Meetings, Dates and Locations

Eight Tribal consultations will be held on the following dates, times and locations. Every attempt was made to hold a consultation in each region and to coordinate with other established meetings when establishing this consultation schedule. Please RSVP to *consultation.rsvp@nigc.gov.*

Week 1

January 11, 2011, from 9 a.m. to 4 p.m. at the U.S. Grant Hotel, 326 Broadway, San Diego, CA 92101.

January 12, 2011, from 9 a.m. to 4 p.m. at the Cache Creek Casino Resort, 14455 Highway 16, Brooks, CA 95606.

January 14, 2011, from 9 a.m. to 4 p.m. at the Little Creek Resort, 91 W. State Rout 108, Shelton, WA 98584.

Week 2

January 18, 2011, from 9 a.m. to 4 p.m. at the Hyatt Regency Tamaya Resort and Spa, 1300 Tuyuna Trail, Santa Ana Pueblo, NM 87004.

January 20, 2011, from 9 a.m. to 4 p.m. at the Riverwind Casino-Hotel, 1544 West Highway 9, Norman OK 73072).

Week 3

January 24, 2011, from 9 a.m. to 4 p.m. at the Department of the Interior—South Interior Auditorium, 1951 Constitution Ave., NW., Washington, DC 20240.

Week 4

February 1, 2011, from 9 a.m. to 4 p.m. at the Best Western Ramkota Inn, 2111 North La Crosse St., Rapid City, SD 57701.

February 3, 2011, from 9 a.m. to 4 p.m. at the Seminole Hard Rock Hotel & Casino, 1 Seminole Way, Hollywood, FL 33314.

For additional information on consultation locations and times, please refer to the Web site of the National Indian Gaming Commission, *http://www.nigc.gov.* Please RSVP at *consultation.rsvp@nigc.gov.*

II. Electronic Submissions, File Formats And Required Information

If submitting by Web site: Participant must complete a form containing the name of the person making the submission, his or her title and Tribe or organization (if the submission of an organization), mailing address, telephone number, fax number (if any) and e-mail address. The document itself must be sent as an attachment, and must be in a single file and in recent, if not current versions of: (1) Adobe Portable Document File (PDF) format (preferred); or (2) Microsoft Word file formats.

If submiting by electronic mail: Send to *reg.review@nigc.gov,* a message containing the name of the person making the submission, his or her title and organization (if the submission of an organization), mailing address, telephone number, fax number (if any) and e-mail address. The document itself must be sent as an attachment, and must be in a single file and in recent, if not current versions of: (1) Adobe Portable Document File (PDF) format (preferred); or (2) Microsoft Word file formats.

If submitting by print only: Anyone who is unable to submit a comment in electronic form should submit an original and two paper copies by hand or by mail to the appropriate address listed above. Use of surface mail is strongly discouraged owing to the uncertainty of timely delivery.

Copies of the written comments received and any other material may be reviewed on the Tribal Consultation Web page of the NIGC Web site located at *http://www.nigc.gov.*

III. Background

The Indian Gaming Regulatory Act (IGRA or Act) (Pub. L. 100–497), 25 U.S.C. 2701 *et seq.,* was signed into law on October 17, 1988. The purpose of the IGRA was to provide a statutory basis for the operation of gaming by Indian Tribes as a means of promoting Tribal economic development, self-sufficiency, and strong Tribal governments; to provide a statutory basis for the regulation of gaming by an Indian Tribe adequate to shield it from organized crime and other corrupting influences; to ensure that the Indian Tribe is the primary beneficiary of the gaming operation; to ensure that gaming is conducted fairly and honestly by both the operator and players; and to declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating Tribal revenue. 25 U.S.C. 2702.

The IGRA authorizes the NIGC to promulgate such regulations and guidelines as it deems appropriate to implement the provisions of the Act. 25 U.S.C. 2706(b)(10). The undertaking of this review facilitates effective

implementation of IGRA and coincides with Executive Order 12866 entitled "Regulatory Planning and Review" providing for Federal entities to identify agency statements of regulatory priorities and additional information about the most significant regulatory activities planned for the coming year. Additionally, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), agencies publish semiannual regulatory flexibility agendas in the **Federal Register** identifying those rules that may have a significant economic impact on a substantial number of small entities. In the spirit of transparency and accountability set forth by the President of the United States, the NIGC wishes to provide a comprehensive regulatory review schedule and agenda created after meaningful consultation.

Additionally, Executive Order 13175 entitled "Consultation and Coordination with Indian Tribal Governments," provides for the NIGC to engage in meaningful consultation with Tribal governments prior to taking an action that has Tribal implications. Through the development of a comprehensive regulatory review, and in meaningful consultation with Tribes, the NIGC hopes to identify those areas of the regulations that need revision, and in further consultation, to revise the regulations as necessary to serve the current needs of the Tribal gaming industry.

Over the past several years, the NIGC has adopted, amended and attempted to amend a number of regulations, including a facility licensing regulation, Class II and Class III Minimum Internal Control Standards, and Class II Technical Standards. The current Commission understands that some interested parties believe that many of the NIGC's regulations need updating or continued revisions. Consistent with Executive Order 13175, consultation should occur before revisions or amendments to regulations. In the past, consultation has often taken the form of a Tribal Advisory Committee (TAC) used to assist the NIGC in drafting the regulations. However, neither the method of appointing members to the TAC nor the joint process of drafting regulations has been without controversy or costs. The Commission recognizes that in order for regulation review and revision to occur that benefits and protects the entire Tribal gaming industry, all points of view must be considered and a decision made based on all comments received by the Commission. The Commission seeks advice and input as to how that goal can best be accomplished.

The Commission also requests comment on whether changes to Class II MICS, Class II Technical Standards and Class III MICS are necessary. Currently, the Commission is examining the Class II MICS regulations and how to address the Class III MICS in the wake of the *Colorado River Indian Tribes* decision. The Commission is seeking advice and input as to how to provide necessary updates to the regulations consistent with Federal law, Tribal sovereignty and Tribal expertise in the day-to-day operations.

In sum, the NIGC requests comments about which regulations are most in need of revision, in what order of priority those regulations should be addressed and the process the NIGC should utilize to make revisions.

IV. Regulations Which May Require Amendment or Revision

A. Part 502—Definitions of This Chapter

The NIGC is particularly interested in receiving comments on whether any of the definitions in part 502 are in need of revision and whether any additional definitions are necessary to protect gaming as a means of generating Tribal revenue. In particular, the NIGC is interested in receiving comment on whether the following terms need further clarification:

(1) *Net Revenues.* Over the years, Tribes, CPAs, and others have raised the issue of whether there should be different definitions for *Net Revenues* when defining what the management fee will be based on pursuant to the IGRA, 25 U.S.C. 2711; or determining net revenues to be used for the allowable purposes as defined by the IGRA. 25 U.S.C. 2710(b). Should the Commission consider definitions for the following two terms: *Net Revenues—management fee;* and *Net Revenues—allowable uses*?

(a) *Net Revenues—management fee.* General Accepted Accounting Principles (GAAP) define *Net Income* as "Gross Revenues (less Complimentary Sales) subtracting Operating Expenses and Interest and Depreciation." NIGC defines *Net Revenue* as "Net Income plus Management Fee," which is used by the Commission as the base number to calculate the management fee when the fee is a percentage on net revenue. Should the language used in the Commission's definition of *Net Revenues* be revised to be consistent with GAAP, *i.e.,* "Net Income plus Management Fee"?

(b) *Net Revenues—allowable uses.* The IGRA, 25 U.S.C. 2710(b)(2)(B), states "net revenues from any Tribal gaming are not to be used for purposes other than: (i) To fund Tribal government operations or programs; (ii) to provide for the general welfare of the Indian Tribe and its members; (iii) to promote Tribal economic development; (iv) to donate to charitable organizations; or (v) to help fund operations of local government agencies."

Tribes, Tribal gaming commissions, and CPAs have commented that prior to making any decisions for allowable uses of net revenues, the Tribal parties should first consider the cash flow of the gaming operation (*i.e.* deduct principal loan payments, deduct reserve, add depreciation). In addition, others have stated that Tribal parties should also consider the overall financial integrity of the gaming operation before funding other Tribal programs.

Should the Commission consider adding a new definition for *Net Revenues—allowable uses* that is based on cash flow? For example, should the new definition be "Cash flow" equals "Net Income plus depreciation minus principal loan payments and reserve fundings"? Is there another calculation that this definition could be based on?

The Commission is seeking advice and input from the Tribal gaming industry about these proposed definition revisions, if there are other definitions that need revisions, whether it should be a priority, and whether a Tribal Advisory Committee should be formed to make these change or if another process will be sufficient.

(2) *Management Contract.* Should the definition of *management contract* be expanded to include any contract, such as slot lease agreements, that pays a fee based on a percentage of gaming revenues?

Management contractors sometimes believe that the manager should be reimbursed for expenses in addition to earning a management fee or may be paid multiple fees for development, loans, marketing, and non-gaming management in addition to the gaming management fee. These accumulated payments may result in the manager receiving sums greater than cash flow to the Tribe. Should there be a definition regarding acceptable compensation to a manager contractor?

The Commission is seeking comment about whether the Commission should consider amendments to existing definitions or whether additional definitions are necessary, how the Commission should prioritize its review of part 501 in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory

Committee to assist in its regulatory review of this part, or another process.

B. Part 514—Fees

The NIGC is interested in receiving comments on whether part 514 is in need of revision. In particular, the Commission is interested in receiving comment on whether the Commission should consider revising this part to base fees on the gaming operation's fiscal year. Currently, the fee is calculated based on the calendar year. The Commission understands that it may be difficult to accurately calculate fees based on the calendar year, which may lead to frequent audit adjustments. The Commission is asking for comment on whether this issue may be resolved by changing "calendar" to "fiscal" throughout part 514. Further, if this is a revision that the Commission should consider, the Commission is interested in receiving comment on how to implement the revision. For example, should the Commission consider a revision that would provide for implementation over the course of a 12 to 18 month period with an option for the Tribe to determine when they will change their calculation during that time period? On what dates or by what schedule should the Commission set fee rates if this revision is implemented, given that Tribes have different fiscal years? Is this a revision that would be more efficient? Is this a revision that the Commission should prioritize?

Should the Commission consider amending this part to define *gross gaming revenue* consistent with the GAAP definition of this term? Would amending this definition to industry standards make the fee easier to calculate and to reconcile?

Should the Commission consider amending this part to include fingerprint processing fees? If so, how should the Commission consider including fingerprint processing fees? Should it specify that fees collected from gaming Tribes for processing fingerprints with the FBI are included in the total revenue collected by the Commission that is subject to statutory limitation? Should the Commission include a requirement for it to review fingerprint processing costs on an annual basis and, if necessary, adjust the fingerprint processing fee accordingly?

Finally, should the Commission consider a late payment system in lieu of a Notice of Violation (NOV) for submitting fees late? In the past, when a Tribe paid their fees after the deadline, we understand that a NOV may have been issued to the Tribe. As a NOV could lead to closure of a gaming facility, the Commission questions whether an NOV is an appropriate response to a late fee submittal caused by a change in employees or other minor issue. Should the Commission consider adding a type of "ticket" system to part 514 so that an NOV would only be issued in instances of gross negligence or wanton behavior, or in a dollar amount that allowed the Tribe to reap an economic benefit from its failure to pay in a timely manner?

The Commission is seeking comment on the above particular issues as well as other suggested revisions to this part, how the Commission should prioritize its review of part 514 in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

C. Part 518—Self-Regulation of Class II

The NIGC has heard that this regulation is overly burdensome to Tribes seeking to obtain certification and that the burden of completing the process significantly outweighs the benefits gained from self-regulation. The Commission is seeking comment on whether this part should be revised, how the Commission should prioritize its review of part 518 in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

D. Part 523—Review and Approval of Existing Ordinances or Resolutions

Should the Commission consider eliminating part 523 as obsolete? The regulation applies only to gaming ordinances enacted by Tribes prior to January 22, 1993, and not submitted to the Chairwoman. The Commission believes there may no longer be any such ordinances. The Commission is seeking comment on whether this part should be eliminated, how the Commission should prioritize its review of part 523 in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

E. Management Contracts

(1) Part 531—Collateral Agreements

Should the Commission consider whether it has authority to approve collateral agreements to a management contract? The current definition of *management contract* includes collateral agreements if they provide for the management of all or part of a gaming operation. The Commission has taken the position that although the collateral agreements must be submitted, the Commission only approves management contracts. Some Tribes have asked the Commission to review the management contract and the collateral agreements and to make a determination as to whether the cumulative effect of the agreements violate the sole proprietary provisions of the IGRA. For example, while the gaming management contract may only require a payment of 5% of the net gaming revenue, combined with the provisions of the collateral agreements, the Tribe may be paying in excess of 80% of gross gaming revenue which results in a net loss for the Tribe.

The Commission is seeking comment on whether this part should be revised, how the Commission should prioritize its review of part 531 in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

(2) Part 533—Approval of Management Contracts

This part outlines the submission requirements for management contracts. While the Commission has disapproved management contracts for a variety of reasons including the trustee standard, the Commission seeks comment on whether an amendment would clarify the trustee standard by adding the following two grounds for possible disapproval under § 533.6(b): The management contract was not submitted in accordance with the submission requirements of 25 CFR part 533, or the management contract does not contain the regulatory requirements for approval pursuant to 25 CFR part 531.

The Commission is seeking comment on whether this part should be revised, how the Commission should prioritize its review of part 533 in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

(3) Part 537—Background Investigations for Persons or Entities With a Financial Interest in, or Having Management Responsibility for, a Management Contract

This part addresses the background investigation submission requirements

for the management contractor. Although minor revisions were made in 2009, there appears to be some confusion about whether the contractor should be required to submit the Class II background information when the contract is only for Class III gaming. IGRA does specify approval of Class II and Class III management contracts as a power of the Chairwoman. 25 U.S.C. 2705(a)(4).

The Commission is seeking comment on whether this part should be revised, how the Commission should prioritize its review of part 537 in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

F. Proceedings Before the Commission

The NIGC is considering amending the regulations that govern appeals of the Chairwoman's actions on ordinances, management contracts, notices of violations, civil fine assessments, and closure orders. 25 CFR part 519; 25 CFR part 524; 25 CFR part 539; 25 CFR part 577. Except for some minor changes in 2009, these parts remain unchanged from their original adoption in 1993.

Should the Commission consider more comprehensive and detailed procedural rules, especially in areas such as motion practice, that are largely unaddressed by the present rules? The Commission seeks advice and comment on service of process and computation of time; intervention by third parties; motion practice and briefings; and the nature of written submissions in enforcement appeals. We also would like comment regarding whether a Tribal Advisory Committee should be formed to make the change or if another process will be sufficient.

G. MICS & Technical Standards

(1) Part 542—Class III Minimum Internal Control Standards

The Commission is seeking comment regarding Class III Minimum Internal Control Standards (MICS). It has been suggested that the rule should be struck and replaced by a set of recommended guidelines. Comment is requested from the Tribal gaming community and other interested parties regarding whether the NIGC's Class III MICS have a positive impact on the industry, and, if changed to a guideline, what, if any, impact that might have on Tribal gaming? Many Tribal gaming regulatory authorities have relied on the regulation to define the foundation of their minimum internal control standards, others have merely adopted the Federal rule verbatim, while yet others have drafted their own internal control standards. If the regulation is struck, how would such action impact the Tribal regulators and operators?

Additionally, several State compacts incorporate the Class III MICS by reference. If the regulation was struck, how would these agreements be affected, if at all? Some Tribes have amended their gaming ordinance recognizing the authority of NIGC to regulate Class III MICS and enforce them. Their State compacts have also been revised recognizing Federal oversight as supplanting that of the State to the extent specified in the agreements. If the regulation was struck, what would the effect be on those Tribes?

If the Class III MICS are revised but not placed into a regulation, how should NIGC publish them to the industry? Do we involve a Tribal Advisory Committee (TAC) to participate in the revision process? Does that TAC need to be composed of different members than the Class II MICS TAC? How should the members be selected? What process should NIGC utilize to make revisions? The Commission needs input from the Tribal gaming community on this very important issue.

The Commission is seeking comment on whether this part should be revised, how the Commission should prioritize its review of this part in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

(2) Part 543—Class II Minimum Internal Control Standards

The NIGC is currently in the process of revising the Class II MICS. However, the process has come under significant scrutiny and objection by the Tribal gaming industry. While we have heard from the industry that the regulations need revision, there have also been many concerns about the process utilized to make the revisions. The Commission is dedicated to making the necessary updates through a process that is inclusive of all interested parties' concerns and suggestions.

A proposed regulation has been drafted, but questions have arisen regarding the clarity and interpretation of certain sections. Although the applicability of the rule may be limited, the Commission wants to ensure that it be viable and clear to the Tribal gaming industry. Accordingly, we are seeking comment on how to proceed. Should Tribal gaming regulatory authorities be provided an opportunity to provide comment on the proposed rule before public meetings? Should comment be sought from accounting practitioners? Should a TAC be assembled to provide advice to the NIGC in the administration of the rule once adopted? We would appreciate your thoughts on this idea.

Finally, the Commission is seeking comment on the process of Class II MICS revisions. Should we start with the current proposed draft? Should we establish a TAC to participate? If so, how should the members be selected? What will the revision process be? The Commission needs input from the Tribal gaming community on this very important issue.

The Commission is seeking comment on whether this part should be revised, how the Commission should prioritize its review of this part in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

(3) Part 547—Minimum Technical Standards for Gaming Equipment Used With the Play of Class II Games

This part was recently revised through a joint Tribal-NIGC working group. While it has been in effect for a short time, the Commission has received comments that the part should be further revised. Should NIGC start with the current proposed draft? Should we establish a Tribal Advisory Committee to participate? If so, how should the members be selected? What will the revision process be? The Commission needs input from the Tribal gaming community on this very important issue.

The Commission is seeking comment on whether this part should be revised, how the Commission should prioritize its review of this part in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

H. Backgrounds and Licensing

(1) Part 556—Background Investigations for Licensing

In 1997, the NIGC began a pilot program which allowed it to effectively perform its duties of regulating background investigations in a more timely fashion while reducing the amount of paperwork submitted and

maintained, and accordingly reducing associated costs. Today, a majority of the Tribes participate in the pilot program. Under the program, the Commission allows Tribes to send in a list of employees they either licensed or denied a license along with a one-page Notification of Results (NOR). The Commission requests comment on whether the pilot program should be formalized into regulations.

The Commission is seeking comment on whether regulations should be promulgated to formalize the pilot program, how the Commission should prioritize this issue in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review, or another process.

(2) Fingerprinting for Non-Primary Management Officials or Key Employees

Currently, the NIGC reviews fingerprint cards submitted by Tribes for Primary Management Officials or Key Employees. However, some Tribes have requested the ability to be able to submit fingerprint cards to the NIGC for vendors, consultants, and other non-employees that have access to the gaming operations. Under 25 U.S.C. 2706(b)(3), the Commission may conduct or cause to be conducted such background investigations as may be necessary. Should the Commission adopt regulations that would allow Tribes, at their option, to submit fingerprint cards to the Commission for vendors, consultants, and other non-employees that have access to the gaming operations?

The Commission is seeking comment on whether regulations should be promulgated to clarify this issue, how the Commission should prioritize this issue in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review, or another process.

I. Part 559—Facility License Notifications, Renewals, and Submissions

This part was recently adopted by the Commission. However, the NIGC has received many comments concerning the substance of this regulation from Tribes.

The Commission is seeking comment on whether this part should be revised, how the Commission should prioritize its review of this part in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

J. Sections 571.1–571.7—Inspection and Access

Under IGRA, the Commission may access and examine all papers, books, and records regarding gross revenues of Class II gaming conducted on Indian lands and any other matters necessary to carry out the duties of the Commission. However, at times the Commission or Tribe has been denied access to those records.

Should the Commission revise its regulations in §§ 571.5 and 571.6 to clarify Commission access to records at off-site locations, including at sites maintained or owned by third parties?

The Commission is seeking comment on whether this part should be revised, how the Commission should prioritize its review of this part in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

K. Part 573—Enforcement

Should NIGC promulgate a regulation concerning withdrawal of a Notice of Violation (NOV) after it has been issued? The Commission is looking for advice and input regarding whether this is an appropriate issue for a regulation and if so, under what conditions or circumstances the NOV could be withdrawn? Would it be appropriate to allow the NOV to be withdrawn solely at the discretion of the Chairperson? The Commission is seeking comment on this issue, how the Commission should prioritize it in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist it, or another process.

V. Potential New Regulations

A. Tribal Advisory Committee

The Commission seeks comment on whether it should develop a regulation or policy identifying when a Tribal Advisory Committee (TAC) will be formed to provide input and advice to the NIGC and, if so, how Committee members should be selected. Should the cost of the TAC be a factor when considering whether to form a TAC? The Commission is seeking comment on whether the Commission should consider a regulation on this issue, how the Commission should prioritize it in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a TAC to assist in its regulatory review of this part, or another process.

B. Sole Proprietary Interest Regulation

Many Tribes and interested parties have approached the NIGC requesting a determination regarding whether a single agreement, or a combination of agreements, violate IGRA's sole proprietary interest requirement. The IGRA requires that the Tribe have sole proprietary interest in the gaming operation. Should the Commission consider a regulation identifying when the sole proprietary interest provision is violated and providing a process whereby at the Tribe's request the NIGC will review the documents and made a determination?

The Commission is seeking comment on whether the Commission should consider a regulation on this issue, how the Commission should prioritize it in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

C. Communication Policy or Regulation Identifying When and How the NIGC Communicates With Tribes

Should the NIGC develop a regulation or include as part of a regulation a process for determining how it communicates with Tribes? The NIGC has a government-to-government relationship with federally recognized Tribes. However, given the nature of the NIGC's responsibilities, often the NIGC staff communicates primarily with the Tribal Gaming Commission (TGC) or Tribal Gaming Regulatory Agency (TGRA). While in many instances this means of communication is appropriate and works well, there are also times when the NIGC communicates directly with Tribal governments on issues related to broad policy changes or compliance issues such as a Notice of Violation. How should the NIGC communicate with Tribes and TGCs if those entities are at odds with each other on a particular issue? Should the NIGC consider requiring a resolution from the elected Tribal council setting forth which entity communicates the NIGC? Should such a resolution be submitted with the annual fees or audit? Is this approach unduly burdensome? Alternatively, should NIGC promulgate a regulation or policy establishing a default method of formal communication unless otherwise

directed by a resolution? The NIGC recognizes the many differences in Tribal government structures. However, would a universal standard for communication that can then be modified by each Tribe if they so choose promote more effective regulatory communication?

The Commission is seeking comment on whether the Commission should consider a regulation on this issue, how the Commission should prioritize it in the regulatory review process, and whether the Commission should utilize standard notice and comment rulemaking, a Tribal Advisory Committee to assist in its regulatory review of this part, or another process.

Further, the NIGC invites comment on whether to define the types of communication that occur between the NIGC and the Tribe and Tribal agencies. For example, a letter from the Chairperson regarding upcoming Tribal consultations, proposed broad policy changes or Notice of Violation could be considered a form of "formal communication." Additionally, a letter from a Tribal chairperson requesting a meeting or a request from the Tribe for the NIGC to perform an audit could also be "formal communication." However, the NIGC understands that communications between the NIGC and the Tribe, TGC, and TGRA may not be occurring in a uniform manner and wants to provide clarity for all the parties. The NIGC welcomes any comment or suggestions regarding whether the clarification is needed and if it should be formalized into a regulation or policy.

D. Buy Indian Act Regulation

The Commission is considering adopting a regulation which would require the NIGC to give preference to qualified Indian-owned businesses when purchasing goods or services as defined by the "Buy Indian Act," 25 U.S.C. 47. As an agency with regulatory responsibilities wholly related to Tribes, the Commission seeks comment on whether it is appropriate to promulgate such a regulation. The Commission is seeking advice and input from the Tribal gaming industry about this issue, and whether a Tribal Advisory Committee should be formed to make the change or if another process will be sufficient.

VI. Other Regulations

A. Part 501—Purpose and Scope

The NIGC does not believe this regulation is currently in need of revision. However, we are interested in hearing any comments or suggestions related to possible revisions to this part.

B. Part 503—Commission Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers and Expiration Dates

The NIGC does not believe this regulation is currently in need of revision. However, we are interested in hearing any comments or suggestions related to possible revisions to this part.

C. Part 513—Debt Collection

The NIGC does not believe this regulation is currently in need of revision. However, we are interested in hearing any comments or suggestions related to possible revisions to this part.

D. Part 515—Privacy Act Procedures

The NIGC does not believe this regulation is currently in need of revision. However, we are interested in hearing any comments or suggestions related to possible revisions to this part.

E. Part 517—Freedom of Information Act Procedures

The NIGC does not believe this regulation is currently in need of revision. However, we are interested in hearing any comments or suggestions related to possible revisions to this part.

F. Part 522—Submission of Gaming Ordinance or Resolution

The NIGC does not believe these regulations are currently in need of revision. However, we are interested in hearing any comments or suggestions related to possible revisions to this part.

G. Part 531—Content of Management Contacts

The NIGC does not believe this regulation is currently in need of revision. However, we are interested in hearing any comments or suggestions related to possible revisions to this part.

H. Part 535—Post Approval Procedures

The NIGC does not believe this regulation is currently in need of revision. However, we are interested in hearing any comments or suggestions related to possible revisions to this part.

I. Sections 571.8–571.11—Subpoenas and Depositions

The NIGC does not believe these regulations are currently in need of revision. However, we are interested in hearing any comments or suggestions related to possible revisions to these sections.

J. Sections 571.12–571.14—Annual Audits

The NIGC does not believe these regulations are currently in need of revision. However, we are interested in hearing any comments or suggestions related to possible revisions to these sections.

K. Part 575—Civil Fines

The NIGC does not believe these regulations are currently in need of revision. While the Commission was interested in seeing Tribal dollars paid as a fine for a regulation violation returned to the Tribes by funding the Commission activities, Federal law prohibits an agency from keeping fines received from entities it regulates, and fines are deposited in the U.S. Treasury. The view is that regulatory agencies would then have an incentive to issue violations. However, we are interested in hearing any comments or suggestions related to possible revisions to this part.

Dated: November 12, 2010.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Associate Commissioner.

[FR Doc. 2010–29028 Filed 11–17–10; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF JUSTICE

Notice of Filing of Settlement Agreement Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")

Notice is hereby given that on November 10, 2010, a proposed Settlement Agreement in *In re Asarco, LLC,* No. 05–21207 (Bankr. S.D. Tex.) was filed with the United States Bankruptcy Court for the Southern District of Texas. The Settlement Agreement resolves the Late Supplemental Proof of Claim by the United States on behalf of the United States Environmental Protection Agency and the United States Department of Agriculture, Forest Service, in the Asarco bankruptcy. The Late Supplemental Proof of Claim relates to the Blue Ledge Mine Site located in Siskiyou County, California, which lies three miles south of the Oregon border. The Settlement Agreement requires a payment of $2,400,000 to settle this matter.

The Department of Justice will receive for a period of fifteen (15) days from the date of this publication comments

relating to the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Asarco, LLC,* No. 05–21207 (Bankr. S.D. Tex.), Department of Justice Case Number 90–11–3–08633.

During the public comment period, the Settlement Agreement may be examined at the Office of the United States Attorney, Southern District of Texas, 800 North Shoreline Blvd, #500, Corpus Christi, TX 78476–2001. The Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $2.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Maureen Katz,

Assistant Section Chief.

[FR Doc. 2010–29073 Filed 11–17–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0050]

Storage and Handling of Anhydrous Ammonia Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in the Storage and Handling of Anhydrous Ammonia Standard (29 CFR 1910.111). Paragraphs (b)(3) and (b)(4) of the Standard have paperwork requirements that apply to nonrefrigerated containers and systems and to refrigerated containers, respectively; employers use these containers and systems to store and transfer anhydrous ammonia in the workplace.

DATES: Comments must be submitted (postmarked, sent, or received) by January 18, 2011.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0050, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (OSHA–2010–0050). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at http://www.regulations.gov. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled "**SUPPLEMENTARY INFORMATION**."

Docket: To read or download comments or other material in the docket, go to http://www.regulations.gov or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Paragraph (b)(3) of the Standard specifies that systems have nameplates if required, and that these nameplates "be permanently attached to the system (as specified by paragraph (b)(3)(ii)(j)) so as to be readily accessible for inspection * * *" In addition, this paragraph requires that markings on containers and systems covered by paragraphs (c) ("Systems utilizing stationary, nonrefrigerated storage containers"), (f) ("Tank motor vehicles for the transportation of ammonia"), (g) ("Systems mounted on farm vehicles other than for the application of ammonia"), and (h) ("Systems mounted on farm vehicles for the application of ammonia") provide information regarding nine specific characteristics of the containers and systems. Similarly, paragraph (b)(4) of the Standard specifies that refrigerated containers be marked with a nameplate on the outer covering in an accessible place which provides information regarding eight specific characteristics of the container.

The required markings ensure that employers use only properly designed and tested containers and systems to store anhydrous ammonia, thereby, preventing accidental release of, and exposure of workers to, this highly toxic

and corrosive substance. In addition, these requirements provide the most efficient means for an OSHA compliance officer to ensure that the containers and systems are safe.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements specified in the Anhydrous Ammonia Standard (29 CFR 1910.111). The Agency is requesting that it retain its previous estimate of 345 burden hours associated with this Standard. The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Anhydrous Ammonia (29 CFR 1910.111).

OMB Number: 1218–0208.

Affected Public: Farms.

Number of Respondents: 2,030.

Frequency: On Occasion.

Total Responses: 2,030.

Average Time per Response: 10 minutes (.17 hour) for a worker to replace or revise markings on ammonia containers.

Estimated Total Burden Hours: 345.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and InternetAccess to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2010–0050). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (*see* the section of this notice titled "**ADDRESSES**"). The additional materials must clearly identify your electronic comments by your name, date, and docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User

Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 4–2010 (75 FR 55355).

Signed at Washington, DC on this 15th day of November 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–29126 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,806]

Actel Corporation, Currently Known as Microsemi Corporation, Including On-Site Leased Workers From ATR International, Accountants, Inc. and Accountant Temps Mountain View, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 17, 2009, applicable to workers of Actel Corporation, including on-site leased workers from ATR International, Accountants, Inc., and Accountant Temps, Mountain View, California. The notice was published in the **Federal Register** November 5, 2009 (74 FR 57338).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of field programmable arrays.

New information shows that on November 2, 2010, Actel Corporation was purchased by Microsemi Corporation and is currently known as Microsemi Corporation. Workers separated from employment at Actel Corporation had their wages reported under a separate unemployment insurance (UI) tax account under the name Microsemi Corporation.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the Actel Corporation, currently known as Microsemi Corporation, who were adversely affected by a shift in the production of field programmable arrays to China.

The amended notice applicable to TA–W–71,806 is hereby issued as follows:

All workers of Actel Corporation, currently known as Microsemi Corporation, including on-site leased workers from ATE International, Accountants, Inc., and Accountant Temps, Mountain View, California, who became totally or partially separated from employment on or after July 23, 2008 through September 17, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for

adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 10th day of November 2010.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–29096 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,376]

Kaiser Aluminum Fabricated Products, LLC; Kaiser Aluminum-Greenwood Forge Division; Currently Known As Contech Forgings, LLC; Including On-Site Leased Workers From Staff Source, Precept Staffing, Esi And Kelly Services Greenwood, South Carolina; Amended Certification Regarding Eligibility To Apply or Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 2, 2009, applicable to workers of Kaiser Aluminum Fabricated Products, LLC, Kaiser Aluminum-Greenwood Forge Division, including on-site leased workers from Staff Source, Precept Staffing and ESA, Greenwood, South Carolina. The notice was published in the **Federal Register** on November 17, 2009 (74 FR 59254).

At the request of the State agency and a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of aluminum alloy forgings.

Information shows that on July 28, 2010, Revstone, Contech Division purchased Kaiser Aluminum—Greenwood Forge Division of Kaiser Aluminum Fabricated Products and is currently known as Contech Forgings LLC. Some workers separated from employment at the Kaiser Aluminum—Greenwood Forge Division of Kaiser Aluminum Fabricated Products, LLC had their wages reported under a separate unemployment insurance (UI) tax accounts for Contech Forgings LLC.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected as a secondary component supplier of aluminum alloy forgings to Chrysler.

The amended notice applicable to TA–W–70,380 is hereby issued as follows:

All workers of Kaiser Aluminum Fabricated Products, LLC, Kaiser Aluminum—Greenwood Forge Division, currently known as Contech Forgings, LLC, including on-site leased workers of Staff Source, Precept Staffing ESI, and Kelly Services, Greenwood, South Carolina, who became totally or partially separated from employment on or after May 19, 2008 through October 2, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 10th day of November 2010.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–29094 Filed 11–17–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA–W–70, 405, Avaya Inc., Worldwide Services Group, Global Support Services (GSS) Organization; Including Workers Whose Unemployment Insurance (UI) Wages Are Reported Through Nortel Networks, Inc. Including On-Site Leased Workers From Kelly Services Inc., P/S Partner Solutions Ltd., Exceed Resources Inc., Real Soft, Inforquest Consulting Group, CCSI Inc., ICONMA LLC, MGD Consulting, Inc., Case Interactive LLC, Sapphire Technologies Highlands Ranch, Colorado, Including Employees In Support Of Avaya, Inc., Worldwide Services Group, Global Support Services (GSS) Organization Highlands Ranch, Colorado Operating Out Of The Following States:

TA–W–70,405A, Florida;
TA–W–70,405B, California;
TA–W–70,405C, South Carolina;
TA–W–70,405D, Alabama;
TA–W–70,405E, Michigan;
TA–W–70,405F, Arizona;
TA–W–70,405G, Ohio;
TA–W–70,405H, Pennsylvania;
TA–W–70,405I, North Carolina;
TA–W–70,405J, Colorado;
TA–W–70,405K, New York;
TA–W–70,405L, Maryland;
TA–W–70,405M, Georgia;
TA–W–70,405N, New Jersey;
TA–W–70,405O, Indiana;
TA–W–70,405P, Tennessee;
TA–W–70,405Q, Wisconsin;
TA–W–70,405R, Oregon;
TA–W–70,405S, Mississippi;
TA–W–70,405T, Illinois;
TA–W–70,405U, Texas;
TA–W–70,405V, Iowa;
TA–W–70,405W, Oklahoma;
TA–W–70,405X, Washington;
TA–W–70,405Y, South Dakota;
TA–W–70,405Z, Nevada;
TA–W–70,405AA, New Hampshire;
TA–W–70,405BB, Montana;
TA–W–70,405CC, Virginia;
TA–W–70,405DD, Massachusetts;
TA–W–70,405EE, Connecticut;
TA–W–70,405FF, Nebraska.

In accordance with section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 11, 2009, applicable to workers of Avaya Inc., Worldwide Services Group, Global Support Services (GSS) Organization, including on-site leased workers from Kelly Services Inc., P/S Partner Solutions Ltd., Exceed Resources Inc., Real Soft, InfoQuest Consulting Group, CCSI Inc., ICONMA LLC, MGD Consulting, Inc., Case Interactive LLC., and Sapphire Technologies, Highlands Ranch, Colorado. The notice was published in the **Federal Register** on November 5, 2009 (74 FR 57338). The notice was amended on March 17, 2010 and May 6, 2010. The notices were published in the **Federal Register** on April 1, 2010 (75 FR 16512–16513) and May 20, 2010 (75 FR 28298), respectively.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers provide technical support for communication systems.

New information shows that some workers separated from employment at Avaya, Inc., Worldwide Services Group, Global Support Services (GSS) Organization had their wages reported through a separate unemployment insurance (UI) tax account under the name Nortel Networks and Avaya, Inc.

Based on these findings, the Department is amending this certification to include workers whose unemployment (UI) wages are reported through Nortel Enterprises and Avaya, Inc.

The amended notice applicable to TA–W–70,405 is hereby issued as follows:

All workers of Avaya Inc., Worldwide Services Group, Global Support Services

(GSS) Organization, including workers whose unemployment insurance (UI) wages are reported through Nortel Enterprises, Inc., and Avaya, Inc., including on-site leased workers from Kelly Services Inc., P/S Partner Solutions Ltd., Exceed Resources Inc., Real Soft, InfoQuest Consulting Group, CCSI Inc., ICONMA LLC, MGD Consulting, Inc., Case Interactive LLC., and Sapphire Technologies, Highlands Ranch, Colorado (TA–W–70,405), including employees in support of Avaya Inc., Worldwide Services Group, Global Support Services (GSS) Organization Highlands Ranch, Colorado working off-site in the States of Florida (TA–W–70,405A), California (TA–W–70,405B), South Carolina (TA–W–70,405C), Alabama (TA–W–70,405D), Michigan (TA–W–70,405E), Arizona (TA–W–70,405F), Ohio (TA–W–70,405G), Pennsylvania (TA–W–70,405H), North Carolina (TA–W–70,405I), Colorado (TA–W–70,405J), New York (TA–W–70,405K), Maryland (TA–W–70,405L), Georgia (TA–W–70,405M), New Jersey (TA–W–70,405N), Indiana (TA–W–70,405O), Tennessee (TA–W–70,405P), Wisconsin (TA–W–70,405Q), Oregon (TA–W–70,405R), Mississippi (TA–W–70,405S), Illinois (TA–W–70,405T), Texas (TA–W–70,405U), Iowa (TA–W–70,405V), Oklahoma (TA–W–70,405W), Washington (TA–W–70,405X), South Dakota (TA–W–70,405Y), Nevada (TA–W–70,405Z), New Hampshire (TA–W–70,405AA), Montana (TA–W–70,405BB), Virginia (TA–W–70,405CC), Massachusetts (TA–W–70,405DD), Connecticut (TA–W–70,405EE), and Nebraska (TA–W–70,405FF), who became totally or partially separated from who became totally or partially separated from employment on or after May 19, 2008, through September 11, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 10th day of November 2010.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–29095 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–73,429]

Masonico, LLC, a Subsidiary of Cadence Innovation, LLC, DIP, Including On-Site Leased Workers From Personnel Unlimited, Fraser, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 24, 2010, applicable to workers of Masonico, LLC, including on-site leased workers from Personnel Unlimited, Fraser, Michigan. The notice was published in the **Federal Register** June 16, 2010 (75 FR 34174).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to injection molded parts and interior trim products.

New information shows that Masonico, LLC is a subsidiary of Cadence Innovation, LLC DIP. Workers separated from employment at the Fraser, Michigan location of Masonico, LLC had their wages reported under a separate unemployment insurance (UI) tax account under the name Cadence Innovation, LLC DIP.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the Masonico, LLC, a subsidiary of Cadence Innovation, who were adversely affected as a secondary component supplier to a TAA certified worker group.

The amended notice applicable to TA–W–73,429 is hereby issued as follows:

All workers of Masonico, LLC, a subsidiary of Cadence, LLC DIP, including on-site leased workers from Personnel Unlimited, Fraser, Michigan, who became totally or partially separated from employment on or after January 29, 2009 through May 24, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 10th day of November 2010.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–29097 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–73,610]

Visteon Corporation Springfield Plant Formerly Known as VC Regional Assembly & Manufacturing, LLC Including On-Site Leased Workers From MSX International, Adecco, and Manpower, Springfield, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 27, 2010, applicable to workers of Visteon Corporation, Springfield Plant, including on-site leased workers from MSX International, Adecco, and Manpower, Springfield, Ohio. The notice was published in the **Federal Register** September 15, 2010 (75 FR 56142).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of fuel tanks, fuel delivery modules, and canister vent valves.

New information shows that Visteon Corporation, Springfield Plant was formerly known as VC Regional Assembly & Manufacturing, LLC. Workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account under the name VC Regional Assembly & Manufacturing, LLC.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected as a secondary component supplier to a TAA certified worker group.

The amended notice applicable to TA–W–73,610 is hereby issued as follows:

All workers of Visteon Corporation, Springfield Plant, formerly known as VC Regional Assembly & Manufacturing, LLC, including on-site leased workers from MSX International, Adecco, and Manpower, who became totally or partially separated from employment on or after March 2, 2009 through August 27, 2012, and all workers in the group threatened with total or partial separation from employment on date of

certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 10th day of November 2010.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–29099 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,142]

World Color Mt. Morris, IL LLC, Premedia Chicago Division, Currently Known as Quad/Graphics, Inc., Including On-Site Leased Workers From Creative Group and Creative Circle, Schaumburg, IL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 24, 2010, applicable to workers of World Color Mt. Morris, IL LLC, Premedia Chicago Division, including on-site leased workers from The Creative Group and Creative Circle, Schaumburg, Illinois. The notice was published in the **Federal Register** September 21, 2010 (75 FR 57516).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers supply prepress services such as creative strategy, concept, design, copywriting, production, proofreading, and project management services.

New information shows that on July 2, 2010, World Color Mt. Morris, IL LLC was purchased by Quad/Graphics, Inc. and is currently known as Quad/Graphics, Inc. Workers separated from employment at World Color Mt. Morris, IL LLC had their wages reported under a separate unemployment insurance (UI) tax account under the name Quad/Graphics, Inc.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the World Color Mt. Morris, IL LLC, currently known as Quad/Graphics, Inc., who were adversely affected by a shift in services to India and China.

The amended notice applicable to TA–W–74,142 is hereby issued as follows:

All workers of World Color Mt. Morris, IL, LLC, Premedia Chicago Division, currently known as Quad/Graphics, Inc., including on-site leased workers from The Creative Group and Creative Circle, Schaumburg, Illinois, who became totally or partially separated from employment on or after May 21, 2009 through September 2, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 10th day of November 2010.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–29100 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–73,477]

International Game Technology (IGT), Machine Accounting and ABS (Bonusing and BEII), Engineering, Product Assurance (Research Support, Software PA Engineering, Integration Engineering, Product Management, Tech Support Engineering, Administrative Assistant, Systems Administration, Integration Engineering, and SWE) Including On-Site Leased Workers From AppleOne, HCL America, VersaShore, Inc., Clear Peak Holdings, LLC, and Comsys Services, LLC, Corvallis, OR; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 18, 2010, applicable to workers of International Game Technology (IGT), Machine Accounting and ABS (Bonusing and BEII), Engineering, including on-site leased workers from AppleOne, HCL America, VersaShore, Inc., Clear Peak Holding, LLC and Comsys Services, LLC, Corvallis, Oregon. The notice was published in the **Federal Register** on June 7, 2010 (75 FR 32223).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to engineering services in support of production of electronic gaming systems and equipment.

New findings show that the intent of the petitioner was to include Product Assurance (which includes: Research Support, Software PA Engineering, Integration Engineering, Product Management, Tech Support Engineering, Administrative Assistant, Systems Administration, Integration Engineering and SWE) located at the Corvallis, Oregon location of International Game Technology (IGT), Machine Accounting and ABS (Bonusing and BEII), and Engineering. The relevant data supplied to the Department by International Game Technology (IGT) during its investigation included Product Assurance (which includes Research Support, Software PA Engineering, Integration Engineering, Product Management, Tech Support Engineering, Administrative Assistant, Systems Administration, Integration Engineering and SWE).

Accordingly, the Department is amending the certification to extend coverage to the workers of Product Assurance (which includes Research Support, Software PA Engineering, Integration Engineering, Product Management, Tech Support Engineering, Administrative Assistant, Systems Administration, Integration Engineering and SWE) at the Corvallis, Oregon location of the subject firm.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift of all services to China.

The amended notice applicable to TA–W–73,477 is hereby issued as follows:

All workers of International Game Technology (IGT), Machine Accounting and ABS (Bonusing and BEII), Engineering, Product Assurance (which includes Research Support, Software PA Engineering, Integration Engineering, Product Management, Tech Support Engineering, Administrative Assistant, Systems Administration, Integration Engineering and SWE) including on-site leased workers from AppleOne, HCL America, VersaShore, Inc., Clear Peak Holding, LLC, and Comsys Services, LLC, Corvallis, Oregon (TA–W–73,477) and International Game Technology (IGT), Casinolink, Engineering, including on-site leased workers from AppleOne, HCL America, VersaShore, Inc., Clear Peak Holdings, LLC, and Comsys Services, LLC, Carlsbad, California (TA–W–73,477A), who became totally or partially separated from employment on or after February 5, 2009, through May 18, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date

of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 10th day of November 2010.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–29098 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0013]

TUV Rheinland PTL, LLC; Application for Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of TUV Rheinland PTL, LLC, for recognition as a Nationally Recognized Testing Laboratory, and presents the Agency's preliminary finding to grant this recognition.

DATES: Submit information or comments, or a request for an extension of the time to comment, on or before December 20, 2010. All submissions must bear a postmark or provide other evidence of the submission date.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Fax: If submissions, including attachments, are no longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, or messenger or courier service: Submit one copy of the comments to the OSHA Docket Office, Docket No. OSHA–2010–0013, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, and messenger and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (*i.e.,* OSHA–2010–0013). OSHA will place all submissions, including any personal information provided, in the public docket without revision, and these submissions will be made available online at *http://www.regulations.gov*.

Docket: To read or download submissions or other material in the docket (*e.g.,* exhibits listed below), go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Extension of comment period: Submit requests for an extension of the comment period on or before December 20, 2010 to the Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110. For information about the Nationally Recognized Testing Laboratory (NRTL) Program, go to *http://www.osha.gov*, and select "N" in the site index.

SUPPLEMENTARY INFORMATION:

I. Notice of Application for Recognition

The Occupational Safety and Health Administration (OSHA) is providing notice that TUV Rheinland PTL, LLC, (TUVPTL) applied for recognition as a NRTL. (*See* Ex. 2—TUVPTL recognition application dated 7/29/2008.) [1] The application covers testing and certification of the equipment or materials, and use of the supplemental programs, listed below.

OSHA recognition of a NRTL signifies that the organization meets the legal requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition, and is not a delegation or grant of government authority. As a result of recognition, employers may use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by a NRTL for initial recognition, or for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding, and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages can be accessed from OSHA's Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html*. Each NRTL's scope of recognition has three elements: (1) The type of products the NRTL may test, with each type specified by its applicable test standard; (2) the recognized site(s) that has/have the technical capability to perform the product testing and certification activities for test standards within the NRTL's scope; and (3) the supplemental program(s) that the NRTL may use, each of which allows the NRTL to rely on other parties to perform activities necessary for product testing and certification.

II. General Background on the Application

In its application, TUVPTL lists the current address of the laboratory facility covered by the application as: TUV Rheinland PTL, 2210 South Roosevelt Street, Tempe, Arizona 85282. According to public information (*http://www.tuvptl.com/tuv-ptl-history.html*), TUVPTL states that it is a testing and certification laboratory for photovoltaic products, and a leading test organization for photovoltaic technology. Arizona State University (ASU) established the organization in 1992, as the Photovoltaic Testing Laboratory (PTL). The TUVPTL Web site states that the PTL was instrumental in the development of many major standards concerning photovoltaic products. It was part of ASU until becoming an affiliate of TUV Rheinland Group.

TUV Rheinland North America, Inc., (TUVRNA), a currently recognized NRTL, submitted an application, dated July 29, 2008, to expand its recognition to include TUVPTL as a recognized site.

[1] A number of documents, or information within documents, described in this **Federal Register** notice are the applicant's internal, detailed procedures or contain other confidential business or trade-secret information. These documents and information, designated by an "NA" at the end of, or within, the sentence or paragraph describing them, are not available to the public.

(*See* Ex. 2.) In response to OSHA's request for clarification, TUVRNA amended its application to provide additional technical details, and then provided further details in a later update. (*See* Ex. 3—TUVPTL amended application dated 5/29/2009.) OSHA's NRTL Program staff performed an on-site assessment of TUVPTL's facility in January 2010. Based on this assessment, TUVPTL revised its application to seek recognition as a NRTL, thus superseding the July 2008 expansion application by TUVRNA. (*See* Ex. 4—TUVPTL revised application dated 1/29/2010.) This revised application incorporated the bulk of the amended application. The OSHA staff recommended recognition of TUVPTL in their on-site review report of the assessment. (*See* Ex. 5—OSHA on-site review report on TUVPTL.)

Due to its close affiliation with TUVRNA, the applicant will use many TUVRNA operational and quality-control procedures for operating as a NRTL. For example, TUVPTL's NRTL quality-control system will follow that used by TUVRNA: QP100001—Product Certification Quality Manual (Ex. 3; *see* document designated QP100001). Through its application information (*see* Ex. 2), TUVPTL represents that it maintains the experience, expertise, personnel, organization, equipment, and facilities suitable for accreditation as an OSHA NRTL. It also states that it meets or will meet the requirements for recognition defined in 29 CFR 1910.7.

This notice discusses the four requirements for recognition (*i.e.,* capability, control procedures, independence, and creditable reports and complaint handling) below, along with examples that illustrate how TUVPTL meets each of these requirements. The applicant's summary addressing OSHA's evaluation criteria (*see* Detailed Application Information/Evaluation Criteria (DAI/EC) summary documents, Exs. 3 and 4) reference many, but not all, of the documents or processes described below in this notice.

Capability

Section 1910.7(b)(1) states that, for each specified item of equipment or material requiring listing, labeling, or acceptance by a NRTL, the NRTL must have the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality-control programs) to perform appropriate testing. The "Capability" section of the DAI/EC summary document (NA) shows that the applicant has security measures and detailed procedures in place to restrict or control access to its facility, to areas within its facility, and to confidential information. This section states that TUVPTL's facility has equipment for monitoring, controlling, and recording environmental conditions during tests, and for handling test samples. It also states that the facility has adequate test areas and energy sources, and procedures for controlling incompatible activities. OSHA's on-site review report (Ex. 5, p. 2) confirmed this information concerning the facility, as well as its adequacy. TUVPTL provided a detailed list of its testing equipment (NA), and OSHA's on-site review (Ex. 5, p. 2) confirmed that this equipment is in place and adequate for the scope of testing requested.

The "Capability" section of the DAI/EC summary documents (NA) indicates that TUVPTL has detailed procedures addressing the maintenance and calibration of equipment, and the types of records maintained for, or supporting, many laboratory activities. It also indicates that TUVPTL has detailed procedures for conducting testing, review, and evaluation, and for capturing the test data required by the standard for which it seeks recognition. OSHA's on-site review report (Ex. 5, p. 2) notes that TUVPTL currently is using these procedures for testing products for other NRTLs. Further, this section indicates that TUVPTL has detailed procedures for processing applications and developing new procedures.

The revised application (Ex. 4) indicates that TUVPTL has the necessary procedures to adequately address training or qualifying staff for particular technical tasks (NA). The revised application and OSHA's on-site review report (Ex. 5, p. 3) indicate that TUVPTL has the qualified personnel to perform the proposed scope of testing based on their education, training, technical knowledge, and experience. The revised application and OSHA's on-site review report (Ex. 5, p. 3) also provide evidence that TUVPTL has an adequate quality-control system in place.

Control Procedures

Section 1910.7(b)(2) requires that the NRTL provide controls and services, to the extent necessary, for the particular equipment or material undergoing listing, labeling, or acceptance. These controls and services include procedures for identifying the listed or labeled equipment or materials, inspections of production runs at factories to assure conformance with test standards, and field inspections to monitor and assure the proper use of identifying marks or labels.

The "Control Programs" section of the DAI/EC summary document shows that TUVPTL has the quality-control manual and detailed procedures to address the steps involved in listing and certifying products. TUVPTL will use the certification mark of its affiliate, TUVRNA, which is similar to an arrangement granted by OSHA to two other affiliated NRTLs. (*See* 67 FR 3737, January 25, 2002.) However, TUVPTL personnel must perform the final technical review, make the certification decision, and authorize the use of the mark. OSHA proposes to impose a condition to this effect. In addition, the "Control Programs" section shows that the applicant has certification procedures (NA), and that these procedures address authorization of certifications and audits of factory facilities. The audits apply to both the initial evaluations and the follow-up inspections of manufacturers' facilities. This section indicates that procedures also exist for authorizing the use of the certification mark, and the actions taken when TUVPTL finds that the manufacturer is deviating from the certification requirements. Factory inspections will be a new activity for TUVPTL, and OSHA will need to review the effectiveness of TUVPTL's inspection program when it is in place. As a result, OSHA is proposing a condition to ensure that inspections are conducted properly, and at the frequency set forth in the applicable NRTL Program policy (*see* OSHA Instruction CPL 1–0.3, Appendix C, paragraph III.A).

Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers that are subject to the testing requirements, and of any manufacturers or vendors of equipment or materials tested under the NRTL Program. OSHA has a policy for the independence of NRTLs that specifies the criteria used for determining whether an organization meets the above requirement. (*See* OSHA Instruction CPL 1–0.3, Appendix C, paragraph V.) This policy contains a non-exhaustive list of relationships that would cause an organization to fail to meet the specified criteria.

The "Independence" section of the DAI/EC, and additional information submitted by TUVPTL (Ex. 4, section titled, "Information For Evaluating Compliance") shows that it has none of these relationships, or any other relationship that could subject it to undue influence when testing for product safety. TUVPTL's major owner is a subsidiary of the parent company of TUVRNA, the NRTL currently

recognized by OSHA. OSHA found no information about TUVRNA's ownership that would raise an issue of TUVPTL's non-compliance with the NRTL Program's independence policy.

There are two other owners, each owning less than 10% of TUVPTL. One owner is an individual, and OSHA found no information showing any affiliation with manufacturers, vendors, or major users of products requiring NRTL approval. The remaining owner is Arizona Technology Enterprises (AzTE), which has a Web page (*http://www.azte.com/page/about_us/foundation*) that states that it "was established in 2003 as a limited liability company whose sole member is the ASU Foundation. The ASU Foundation is an independent non-profit organization that acts as the principal agent through which gifts are made to benefit [ASU]." OSHA has found no information to indicate that a manufacturer, vendor, or major user of products requiring NRTL approval, or the major owners of these entities, has an ownership interest in the Foundation or ASU, with ASU being a non-profit, State-operated educational institution.

According to AzTE's Web page (*http://www.azte.com/page/for_industry*), "AzTE drives the transfer of discoveries and innovation from ASU's labs to the marketplace through technology partnering and the creation of new technology-based ventures." AzTE acts as the agent to license these technologies, and takes an equity stake in the companies that commercialize the technology. AzTE's Web page (*http://www.azte.com/page/portfolio*) shows that the vast majority of the technologies licensed in this manner do not involve the types of products for which OSHA requires NRTL approval. Companies may use materials and items developed from a few of these technologies (such as a sensor, electrode, or wafer) in manufacturing these types of products, but OSHA found only one product that AzTE licenses that requires NRTL approval. The entity to which AzTE licensed this product, a bacterial detection system, was Biosense International (Biosense). However, the State of Arizona Corporate Commission, which registered Biosense as a corporation, administratively dissolved Biosense on June 14, 2010, and Biosense remained administratively dissolved as of the date of this notice. The remainder of AzTE's equity stakes are minor, thus mitigating the undue influence that such companies could exert on TUVPTL should these companies sell or use products tested by TUVPTL.

To address future business ventures by AzTE, OSHA is imposing conditions on TUVPTL to avoid any situation that could conflict with OSHA's NRTL independence requirement; OSHA would actively monitor TUVPTL's compliance with these conditions.

In summary, the information related to independence demonstrates that TUVPTL meets the independence requirement. Additionally, OSHA is imposing conditions on TUVPTL that will enable OSHA to monitor TUVPTL's compliance with the NRTL independence requirements in the future.

Creditable Reports and Complaint Handling

Section 1910.7(b)(4) specifies that a NRTL must maintain effective procedures for producing credible findings and reports that are objective and free of bias, and for handling complaints and disputes under a fair and reasonable system. The "Report and Complaint Procedures" section of the DAI/EC summary document (NA) shows that the applicant has detailed procedures describing the content of the test reports, and other detailed procedures describing the preparation and approval of these reports. This section also shows that the applicant has procedures for recording, analyzing, and processing complaints from users, manufacturers, and other parties in a fair manner.

Standard Requested for Recognition

TUVPTL seeks recognition for testing and certifying products to the following test standard: [2]

UL 1703 Flat-Plate Photovoltaic Modules and Panels

OSHA limits recognition of any NRTL for a particular test standard to equipment or materials (*i.e.,* products) for which OSHA standards require third-party testing and certification before use in the workplace. Consequently, if a test standard also covers any product for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include that product.

The American National Standards Institute (ANSI) may approve the test standard listed above as an American National Standard. However, for convenience, we may use the designation of the standards-developing organization for the standard instead of the ANSI designation. Under the NRTL Program's policy (*see* OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

Supplemental Programs

Should OSHA approve this application for NRTL recognition, it also will grant approval for TUVPTL to use the following supplemental program because TUVPTL uses outside parties to perform its equipment calibration and, therefore, must properly qualify these parties for this purpose following the criteria in the program:

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents

Additional Conditions

As noted above, a minor owner of TUVPTL, AzTE, may have an equity stake in companies that use technologies licensed by AzTE. In its present review, OSHA found that AzTE's ownership interest in these companies does not currently result in a conflict with OSHA's NRTL independence requirement; however, the possibility exists that AzTE could in the future acquire sufficient ownership in one of these companies to establish such a conflict or potential conflict should any of these companies sell, or become a major user of, the types of products that require NRTL approval. Thus, OSHA proposes to impose the following conditions to avoid conflicts or possible conflicts:

1. AzTE must comply with the following conditions during the period it has an ownership interest in TUVPTL or in any company that may subsequently purchase or replace TUVPTL, and understands that failure to comply with these conditions may result in OSHA revoking or imposing limits on TUVPTL's NRTL recognition:

a. Identify the total number of companies in which it has an ownership interest and, of this total, the number in which AzTE's interest in the total ownership of a company is 2% or less, and the number in which this interest in a company exceeds 2%.

b. Provide OSHA, annually and as requested, (i) an updated list of companies in which AzTE's ownership interests in a company exceeds 2% of the total ownership of the company, and (ii) for each of these companies, a description of its business purpose. AzTE also must state whether any of these companies manufactures, distributes, or sells a type of product shown on OSHA's Web page titled,

[2] The designation and title of this test standard was current at the time OSHA prepared this notice.

"Type of Products Requiring NRTL Approval."

c. Provide OSHA access (*e.g.,* when auditing TUVPTL) to the record(s) or document(s) filed with the applicable legal authority (*e.g.,* the Secretary of State or other State authority) describing AzTE's ownership interest in those companies in which OSHA determines AzTE has an ownership interest exceeding 2% of the total ownership of the company.

d. Provide OSHA, annually and as requested, the names and affiliations of any of its directors who are not directors of the Arizona State University Foundation.

2. TUVPTL must comply with the following conditions while AzTE, or any other entity that manufactures, distributes, or sells a product tested by TUVPTL or is affiliated with such an entity,[3] has an ownership interest in TUVPTL:

a. Not test or certify any product under the NRTL Program made or sold by a company owned in excess of 2% by AzTE. In addition, before testing or certifying any product for an NRTL client applicant, TUVPTL will follow detailed procedures, reviewed and found acceptable by OSHA, to determine that such a company did not make or sell the product.

b. Cease certifications related to the NRTL Program if the following criteria are met: (i) AzTE has more than a 10% ownership interest in a company; (ii) OSHA determines that such a company or one of its subsidiaries, affiliates, or significant owners, makes or sells a type of product for which OSHA requires NRTL approval (*i.e.,* one currently shown in OSHA's Web page titled, "Type of Products Requiring NRTL Approval"); and (iii) OSHA determines that the risk of actual or potential undue influence resulting from this ownership is not minor (*see* condition 2c below). If these criteria are met, and AzTE does not, within 60 days of OSHA's request, take steps to reduce such ownership interests below 10% within 60 days, OSHA will initiate the process to revoke TUVPTL's NRTL recognition.

c. For purposes of condition #2b above, TUVPTL must provide or make available, at OSHA's request, information required by OSHA to determine whether a risk of actual or potential undue influence is not minor. This information may include, but is not limited to, a financial statement(s) or the annual report of the company owned by AzTE, and, if not included in the document(s) provided, a list of the types of products sold or made by the company, and the overall percentage of the company's total revenue derived from selling these products. If TUVPTL cannot or does not provide or make available this information at OSHA's request, OSHA will be unable to determine whether the risk is minor, and, thus, will commence the process to revoke TUVPTL's NRTL recognition.

d. To provide OSHA, either annually or upon request, TUVPTL's overall client list, noting those clients that are NRTL clients and, for each such client, whether it is a company in which AzTE has more than a 10% ownership interest. Each list shall be in an electronic format, and shall include the information specified by OSHA. For example, this information may include the client's name and address; the product name(s) and model number(s); the fees paid during the last calendar year by the client for testing and certifying its product(s); and the percentage of TUVPTL's total revenue derived during the last calendar year from testing and certifying this/these product(s).

Additionally, as described above, while TUVPTL has testing, review, and evaluation procedures, OSHA could not review how TUVPTL fully implemented them because TUVPTL was not using them fully for testing and certifying products under the NRTL Program. In addition, as also described above, while TUVPTL has factory-inspection procedures, it currently does not conduct regular factory inspections. In this regard, TUVPTL only recently developed some components of these factory-inspection procedures. Therefore, OSHA also must review the effectiveness of TUVPTL's factory-inspection program should OSHA grant NRTL recognition to TUVPTL, and do so within a reasonable period after granting recognition. Consequently, OSHA proposes to recognize TUVPTL conditionally, *i.e.,* subject to a later determination of the effectiveness of these procedures. In addition, because TUVPTL will use the mark of its affiliate, OSHA is imposing a condition to ensure that TUVPTL personnel perform the critical steps involved in certification. Therefore, the following conditions also would apply should OSHA recognize TUVPTL under the NRTL Program:

3. Within 30 days of certifying its first products under the NRTL Program, TUVPTL will notify the OSHA NRTL Program Director of this activity so that OSHA may schedule its first audit of TUVPTL. At this first audit of TUVPTL, TUVPTL must demonstrate that it properly conducted testing, review, evaluation, and factory inspections, and, for inspections, did so at the frequency set forth in the applicable NRTL Program policy.

4. Only TUVPTL personnel may perform the final technical review, make the final certification decision, and authorize use of the mark for those products TUVPTL certifies under the NRTL Program.

OSHA would include all of the conditions proposed above in the final notice should OSHA recognize TUVPTL as an NRTL. These conditions apply solely to TUVPTL's operations as an NRTL, and solely to those products that it certifies for purposes of enabling employers to meet OSHA product-approval requirements. These conditions would be in addition to all other conditions that OSHA normally imposes in its recognition of an organization as an NRTL.

Imposing these conditions is consistent with OSHA's past recognition of several organizations as NRTLs that met the basic recognition requirements, but needed to further refine or implement their procedures (for example, *see* 63 FR 68306, 12/10/1998, and 65 FR 26637, 05/08/2000). Given the applicant's current activities in testing and certification, OSHA is confident that TUVPTL will conform to the requirements for recognition noted above.

Preliminary Finding on the Application

TUVPTL submitted an acceptable application for recognition as an NRTL. OSHA's review of the application file, and the results of the on-site review, indicate that TUVPTL can meet the requirements prescribed by 29 CFR 1910.7 for recognition to use the test standard listed above. This preliminary finding does not constitute an interim or temporary approval of the application. TUVPTL corrected the discrepancies noted by OSHA during the on-site review, and the on-site review report describes these corrections (Ex. 5).

Following examination of the application file and the on-site review report, the NRTL Program staff concluded that OSHA can grant the applicant recognition as an NRTL for its Tempe, Arizona facility, subject to the conditions described above. The staff, therefore, recommended preliminarily that the Assistant Secretary approve the application.

OSHA welcomes public comment as to whether TUVPTL meets the requirements of 29 CFR 1910.7 for recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must

[3] Any condition that applies to AzTE also would apply to such an entity.

submit a request in writing, stating the reasons for the request. OSHA must receive the written request for an extension by the due date for comments. OSHA will limit any extension to 30 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in TUVPTL's application and other pertinent documents (including exhibits), as well as all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2010–0013.

The NRTL Program staff will review all comments to the docket submitted in a timely manner, and, after addressing the issues raised by these comments, will recommend whether to grant NRTL recognition to TUVPTL. The Assistant Secretary will make the final decision on granting NRTL recognition, and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to Sections 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 657), Secretary of Labor's Order No. 4–2010 (75 FR 55355), and 29 CFR part 1911.

Signed at Washington, DC on this 15th day of November 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–29127 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0046]

QPS Evaluation Services Inc.; Application for Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of QPS Evaluation Services Inc. for recognition as a Nationally Recognized Testing Laboratory, and presents the Agency's preliminary finding to grant this recognition.

DATES: Submit information or comments, or a request for an extension of the time to comment, on or before December 20, 2010. All submissions must bear a postmark or provide other evidence of the submission date.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Fax: If submissions, including attachments, are no longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, or messenger or courier service: Submit one copy of the comments to the OSHA Docket Office, Docket No. OSHA–2010–0046, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, and messenger and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (*i.e.,* OSHA–2010–0046). OSHA will place all submissions, including any personal information provided, in the public docket without revision, and these submissions will be made available online at *http://www.regulations.gov.*

Docket: To read or download submissions or other material in the docket (*e.g.,* exhibits listed below), go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Extension of comment period: Submit requests for an extension of the comment period on or before December 20, 2010 to the Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110. For information about the NRTL Program, go to *http://www.osha.gov*, and select "N" in the site index.

SUPPLEMENTARY INFORMATION:

I. Notice of Application for Recognition

The Occupational Safety and Health Administration (OSHA) is providing notice that QPS Evaluation Services Inc. (QPS) applied for recognition as a Nationally Recognized Testing Laboratory (NRTL). (*See* Ex. 2—QPS recognition application dated 1/27/2006.) [1] The application covers testing and certification of the equipment or materials, and use of the supplemental programs, listed below.

OSHA recognition of a NRTL signifies that the organization meets the legal requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition, and is not a delegation or grant of government authority. As a result of recognition, employers may use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by a NRTL for initial recognition, or for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding, and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages can be accessed from OSHA's Web site at

[1] A number of documents, or information within documents, described in this **Federal Register** notice are the applicant's internal, detailed procedures or contain other confidential business or trade-secret information. These documents and information, designated by an "NA" at the end of, or within, the sentence or paragraph describing them, are not available to the public.

http://www.osha.gov/dts/otpca/nrtl/index.html. Each NRTL's scope of recognition has three elements: (1) The type of products the NRTL may test, with each type specified by its applicable test standard; (2) the recognized site(s) that has/have the technical capability to perform the product testing and certification activities for test standards within the NRTL's scope; and (3) the supplemental program(s) that the NRTL may use, each of which allows the NRTL to rely on other parties to perform activities necessary for product testing and certification.

II. General Background on the Application

In its application, QPS lists the current address of the laboratory facility covered by the application as: QPS Evaluation Services Inc., 81 Kelfield Street, Unit 8, Toronto, Ontario, M9W 5A3, Canada. According to its application, QPS was established in 1995 as a Canadian Standards Association field inspection agency. In 1998, QPS performed technical services for Entela, Inc., an organization formerly recognized by OSHA as a NRTL, which was then acquired by another NRTL. The application also states that QPS has been accredited by other well-known accreditors (*i.e.,* the Standards Council of Canada and the International Electrotechnical Commission Certification Body (IEC CB) Scheme).

QPS applied on January 27, 2006, for recognition of one site and a number of test standards. (*See* Ex. 2.) In response to OSHA's request for clarification, QPS amended its application to provide additional technical details, and then provided further details in a later update. (*See* Ex. 3—QPS amended application, dated 4/15/2008 and 11/30/2009.) OSHA's NRTL Program staff performed an on-site assessment of the QPS facility in April 2010. Based on this assessment, the OSHA staff recommended recognition of QPS in their on-site review report of the assessment. (*See* Ex. 4—OSHA on-site review report on QPS.)

Through its amended application information (*see* Ex. 3), QPS represents that it maintains the experience, expertise, personnel, organization, equipment, and facilities suitable for accreditation as an OSHA Nationally Recognized Testing Laboratory. It also represents that it meets or will meet the requirements for recognition defined in 29 CFR 1910.7.

The four requirements for recognition (*i.e.,* capability, control procedures, independence, and creditable reports and complaint handling) are addressed below, along with examples that illustrate how QPS meets each of these requirements. Many, but not all, of the documents or processes described below are referenced in the applicant's summary addressing OSHA's evaluation criteria (*see* the QPS basic information summary; hereafter, "Basic Summary," which is part of Ex. 3, portions of which are confidential).

Capability

Section 1910.7(b)(1) states that, for each specified item of equipment or material to be listed, labeled, or accepted, the NRTL must have the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality-control programs) to perform appropriate testing. The "Capability" section of the Basic Summary (NA) shows that the applicant has security measures and detailed procedures in place to restrict or control access to its facility, to areas within its facility, and to confidential information. This section states that QPS's facility has equipment for monitoring, controlling, and recording environmental conditions during tests. QPS provided a list of this equipment, which NRTL Program staff examined during the on-site review (Ex. 4, p. 1). Also, this section shows that QPS has detailed procedures for handling test samples. In addition, the Basic Summary or documents it references show that the QPS facility has adequate test areas and energy sources, and procedures for controlling incompatible activities. QPS provided a detailed list of its testing equipment (NA), and OSHA's on-site review (Ex. 4, p. 2) confirmed that much of this equipment is in place. Review of the application shows that the equipment listed is available (NA) and adequate for the scope of testing described below.

The "Capability" section of the Basic Summary (NA) indicates that QPS has detailed procedures addressing the maintenance and calibration of equipment, and the types of records maintained for, or supporting, many laboratory activities. It also indicates that QPS has detailed procedures for conducting testing, review, and evaluation, and for capturing the test and other data required by the standard for which it seeks recognition. OSHA's on-site review (Ex. 4, p. 2) examined these test data and evaluation documents. QPS is using some of these procedures to test products for NRTLs. Further, this section indicates that QPS has detailed procedures for processing applications and for developing new procedures.

The amended application (Ex. 3) contained adequate procedures to address training or qualifying staff for particular technical tasks (NA). The amended application indicates that QPS has sufficient qualified personnel to perform the proposed scope of testing based on their education, training, technical knowledge, and experience. OSHA's on-site review (Ex. 4, p. 3) confirmed many of these qualifications. The amended application provides evidence that QPS has an adequate quality-control system in place, and OSHA's on-site review (Ex. 4, p. 3) verified the performance of internal audits, and tracking and resolution of nonconformances.

Control Procedures

Section 1910.7(b)(2) requires that the NRTL provide controls and services, to the extent necessary, for the particular equipment or material to be listed, labeled, or accepted. These controls and services include procedures for identifying the listed or labeled equipment or materials, inspections of production runs at factories to assure conformance with test standards, and field inspections to monitor and assure the proper use of identifying marks or labels.

The "Control Programs" section of the Basic Summary shows that QPS has the quality-control manual and detailed procedures to address the steps involved to list and certify products. QPS has a registered certification mark. In addition, the "Control Programs" section shows that the applicant has certification procedures (NA); these procedures address the authorization of certifications and audits of factory facilities. The audits apply to both the initial evaluations and the follow-up inspections of manufacturers' facilities. This section indicates that procedures also exist for authorizing the use of the certification mark, and the actions taken when QPS finds that the manufacturer is deviating from the certification requirements. Factory inspections will be a new activity for QPS, and OSHA will need to review the effectiveness of QPS's inspection program when it is in place. As a result, OSHA is proposing a condition to ensure that inspections are conducted properly, and at the frequency set forth in the applicable NRTL Program policy (*see* OSHA Instruction CPL 1–0.3, Appendix C, paragraph III.A).

Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers that are subject to the testing requirements, and of any manufacturers

or vendors of equipment or materials tested under the NRTL Program. OSHA has a policy for the independence of NRTLs that specifies the criteria used for determining whether an organization meets the above requirement. (*See* OSHA Instruction CPL 1–0.3, Appendix C, paragraph V.) This policy contains a non-exhaustive list of relationships that would cause an organization to fail to meet the specified criteria. The "Independence" section of the Basic Summary, and additional information submitted by QPS (NA), shows that it has none of these relationships, or any other relationship that could subject it to undue influence when testing for product safety. QPS is a privately owned organization, and OSHA found no information about the ownership that would quality as a conflict under OSHA's independence policy. The amended application indicates that there is no financial affiliation between the ownership of QPS and manufacturers. In summary, the information related to independence demonstrates that QPS meets the independence requirement.

Creditable Reports and Complaint Handling

Section 1910.7(b)(4) specifies that a NRTL must maintain effective procedures for producing credible findings and reports that are objective and free of bias, and for handling complaints and disputes under a fair and reasonable system. The "Report and Complaint Procedures" section of the Summary document (NA) shows that the applicant has detailed procedures describing the content of the test reports, and other detailed procedures describing the preparation and approval of these reports. This section also shows that the applicant has procedures for recording, analyzing, and processing complaints from users, manufacturers, and other parties in a fair manner. The on-site review (Ex. 4, p. 3) confirmed that QPS processes complaints in a timely and appropriate manner.

Standards Requested for Recognition

QPS seeks recognition for testing and certifying products to the following test standards: [2]

UL 508A	Industrial Control Panels.
UL 913	Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, III, Division I, Hazardous (Classified) Locations.
UL 1203	Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations.
UL 6500	Audio/Video and Musical Instrument Apparatus for Household, Commercial, and Similar General Use.
UL 60335–1	Safety of Household and Similar Electrical Appliances, Part 1: General Requirements.
UL 60601–1	Medical Electrical Equipment, Part 1: General Requirements for Safety.
UL 60950	Information Technology Equipment.
UL 61010–1	Electrical Equipment for Measurement, Control, and Laboratory Use—Part 1: General Requirements.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials (*i.e.,* products) for which OSHA standards require third-party testing and certification before use in the workplace. Consequently, if a test standard also covers any product for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include that product.

The test standards listed above may be approved as an American National Standard by the American National Standards Institute (ANSI). However, for convenience, we may use the designations of the standards-developing organization for the standards instead of the ANSI designation. Under the NRTL Program's policy (*see* OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

Supplemental Programs

Should OSHA approve this application for NRTL recognition, it also will grant approval for QPS to use the following supplemental program because QPS uses outside parties to perform its equipment calibration, and, therefore, must properly qualify these parties for this purpose following the criteria in the program:

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents (for calibration services only)

QPS applied to use additional programs, but then voluntarily withdrew its request after OSHA informed QPS that OSHA was ending the practice of approving most of these types of programs for new applicants. In the past, when granting recognition to an organization as a NRTL, OSHA approved the applicant's use of any supplemental programs for which the applicant met the criteria. However, OSHA has concern about continuing this practice for new applicants for the NRTL Program because the applicants are not yet capable of implementing the procedures for testing, evaluating, and performing inspections used under the NRTL Program. By continuing this practice, OSHA does not allow the NRTL's staff at its recognized site(s) to attain the necessary experience, nor does the practice allow OSHA adequate time to evaluate properly that staff's technical experience. OSHA has the same concern when an existing NRTL applies to expand its recognition under the NRTL Program to include additional standards for testing a type of product not tested previously by the NRTL under the NRTL Program. Examples of such product testing include testing hazardous-location products when OSHA recognizes the NRTL for testing only ordinary-location products, and testing gas-operated products when the NRTL's recognition is limited to testing only electrically operated products. Therefore, before OSHA approves any NRTL or applicant to use or rely on tests, evaluations, and inspections performed by other parties, OSHA must first ensure that the NRTL/applicant performs these activities adequately using its own staff located at its recognized site(s). The only exception to this policy is Program 9, which permits the use of qualified parties to calibrate a NRTL's testing equipment. This exception does not affect materially the capability of a NRTL/applicant to meet OSHA's requirements for recognition. However, regarding approval to use other supplemental programs, a NRTL/applicant may apply for such approval when OSHA determines that the NRTL/applicant tests, evaluates, and performs

[2] The designations and titles of these test standards were current at the time of the preparation of this notice.

inspections adequately using its own staff located at its recognized site(s). Accordingly, OSHA would continue to deny use of such a program, or withdraw its prior approval to use such a program, when it determines that a NRTL/applicant is not testing, evaluating, and performing inspections adequately using its own staff located at its recognized site(s).

Additional Condition

As described above, while QPS has testing and evaluation procedures, OSHA could not review how QPS has implemented them because QPS has not used them for testing and certifying products under the program. In addition, as also described above, while QPS has factory-inspection procedures, it currently does not conduct regular factory inspections. Some of these testing- and factory-inspection procedures are newly developed by QPS. Therefore, OSHA also must review the effectiveness of QPS's testing and evaluation procedures, and its factory-inspection program should OSHA grant NRTL recognition to QPS, and do so within a reasonable period after granting recognition. Consequently, OSHA proposes to recognize QPS conditionally, *i.e.,* subject to a later determination of the effectiveness of these procedures. OSHA would include these conditions in the final notice should OSHA recognize QPS as a NRTL. These conditions apply solely to QPS's operations as a NRTL, and solely to those products that it certifies for purposes of enabling employers to meet OSHA product-approval requirements. These conditions would be in addition to all other conditions that OSHA normally imposes in its recognition of an organization as a NRTL.

Imposing these conditions is consistent with OSHA's past recognition of certain organizations as NRTLs that met the basic recognition requirements, but needed to further refine or implement their procedures (for example, *see* 63 FR 68306, 12/10/1998, and 65 FR 26637, 05/08/2000). Given the applicant's current activities in testing and certification, OSHA is confident that QPS will properly perform its activities in the areas noted above.

Therefore, the following conditions would apply should OSHA recognize QPS under the NRTL Program:

Within 30 days of certifying its first products under the NRTL Program, QPS will notify the OSHA NRTL Program Director of this activity so that OSHA may schedule its first audit of QPS. At this first audit of QPS, QPS must demonstrate that it properly conducted testing, review, and evaluation, and factory inspections, and, for inspections, did so at the frequency set forth in the applicable NRTL Program policy.

Preliminary Finding on the Application

QPS submitted an acceptable application for recognition as a NRTL. OSHA's review of the application file and the results of the on-site review indicate that QPS can meet the requirements prescribed by 29 CFR 1910.7 for recognition to use the test standards listed above. This preliminary finding does not constitute an interim or temporary approval of the application. QPS corrected the discrepancies noted by OSHA during the on-site review, and these corrections are described in its response to the on-site review report (NA).

Following examination of the application file and the on-site review report, the NRTL Program staff concluded that OSHA can grant the applicant recognition as a Nationally Recognized Testing Laboratory for its Toronto, Ontario, facility, subject to the conditions described above. The staff, therefore, recommended preliminarily that the Assistant Secretary approve the application.

OSHA welcomes public comment as to whether QPS meets the requirements of 29 CFR 1910.7 for recognition as a Nationally Recognized Testing Laboratory. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. OSHA must receive the written request for an extension by the due date for comments. OSHA will limit any extension to 30 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in QPS's application and other pertinent documents (including exhibits), and all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2010–0046.

The NRTL Program staff will review all comments submitted to the docket in a timely manner, and, after addressing the issues raised by these comments, will recommend whether to grant NRTL recognition to QPS. The Assistant Secretary will make the final decision on granting NRTL recognition, and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register.**

Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to Sections 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 657), Secretary of Labor's Order No. 4–2010 (75 FR 55355), and 29 CFR part 1911.

Signed at Washington, DC on this 15th day of November 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–29125 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of November 1, 2010 through November 5, 2010.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by

such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
73,933	Exide Technologies, SLI Division; Leased Workers Adecco Employment Services and Countrywide, etc.	Reading, PA	April 14, 2009.
74,358	PW Hardwood, LLC	Brookville, PA	June 23, 2009.
74,630	Federal-Mogul Corporation	Boyertown, PA	September 13, 2009.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
73,875	TechTeam Global, Inc., Leased Workers Human Capital Staffing, LLC, K–Force, Accountstemps, etc.	Southfield, MI	April 2, 2009.
74,365	Sigue Corporation, Formerly Known As Envios El CID, Inc	Glendale, CA	June 28, 2009.
74,601	Motorola, Inc., Motorola Mobility, Inc.; Mobility Division, etc	Horsham, PA	September 3, 2009.
74,619	Sematic USA, Inc., Sematic Group	Twinsburg, OH	August 16, 2009.
74,649	DSTystems, Inc., Leased Workers from Comsys Information Technology Services, Megaforce, etc.	Kansas City, MO	September 21, 2009.
74,688	PricewaterhouseCoopers LLP, Internal Firm Services, IT Services, Leased Workers Infosys, Comsys, etc.	Tampa, FL	September 30, 2009.
74,688A	PricewaterhouseCoopers LLP, Internal Firm Services, IT Services, Leased Workers Infosys, Comsys, etc.	Sacramento and San Jose, CA	September 30, 2009.
74,688B	PricewaterhouseCoopers LLP, Internal Firm Services, IT Services, Leased Workers Infosys, Comsys, etc.	Washington, DC	September 30, 2009.
74,688C	PricewaterhouseCoopers LLP, Internal Firm Services, IT Services, Leased Workers Infosys, Comsys, etc.	Atlanta, GA	September 30, 2009.
74,688D	PricewaterhouseCoopers LLP, Internal Firm Services, IT Services, Leased Workers Infosys, Comsys, etc.	Chicago, IL	September 30, 2009.
74,688E	PricewaterhouseCoopers LLP, Internal Firm Services, IT Services, Leased Workers Infosys, Comsys, etc.	Boston, MA	September 30, 2009.
74,688F	PricewaterhouseCoopers LLP, Internal Firm Services, IT Services, Leased Workers Infosys, Comsys, etc.	Detroit, MI	September 30, 2009.
74,688G	PricewaterhouseCoopers LLP, Internal Firm Services, IT Services, Leased Workers Infosys, Comsys, etc.	Florham Park and Jersey City, NJ.	September 30, 2009.
74,688H	PricewaterhouseCoopers LLP, Internal Firm Services, IT Services, Leased Workers Infosys, Comsys, etc.	Melville, NY	September 30, 2009.
74,688I	PricewaterhouseCoopers LLP, Internal Firm Services, IT Services, Leased Workers Infosys, Comsys, etc.	Dallas, TX	September 30, 2009.
74,691	Smurfit-Stone Container Corporation, Shared Services Division	Jacksonville, FL	September 29, 2009.
74,734	Chrysler Group, LLC, Trenton Engine Plant	Trenton, MI	December 17, 2010.
74,736	Universal Lighting Technologies, Inc., Regional Distribution Center.	Lincoln Park, NJ	October 14, 2009.
74,752	Morse Automotive Corporation, Warehousing Operations Division	Chicago, IL	November 5, 2010.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
74,419	Huntington Foam, LLC, Brockway Branch, Leased Workers from Manpower.	Brockway, PA	July 14, 2009.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
74,333	Quantumplus Limited Partnership, dba Tabs Direct, Inc., Subsidiary of RAPP.	Irving, TX	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
73,457	Hayes-Lemmerz International, Commercial Highway, Inc	Akron, OH	
73,764	Amazon.com, Amazon Mobile Engineering Team	Seattle, WA	
74,342	International Paper Company	Jonesboro, AR	
74,370	Boulder Community Hospital	Boulder, CO	
74,595	Connect North America U.S.A., Inc., Black Diamond Financial Corporation, Inc.	Presque Island, ME	
74,622	Southwest AMT, Inc., Advanced Machine and Tool Corporation	McAllen, TX	
74,656	Providence Washington Insurance Solutions, LLC, Information Technology.	East Providence, RI	

TA–W No.	Subject firm	Location	Impact date
74,684	World Color (USA), LLC, Quad-Graphics, Inc	Clarksville, TN	

I hereby certify that the aforementioned determinations were issued during the period of November 1, 2010 through November 5, 2010. Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or *tofoiarequest@dol.gov.* These determinations also are available on the Department's Web site at *http://www.doleta.gov/tradeact* under the searchable listing of determinations.

Dated: November 12, 2010.

Michael W. Jaffe,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–29093 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0045]

Advisory Committee on Construction Safety and Health (ACCSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Announcement of a meeting of the Advisory Committee on Construction Safety and Health (ACCSH) and ACCSH Work Group meetings.

SUMMARY: ACCSH will meet December 9 and 10, 2010 in Washington, DC. In conjunction with the ACCSH meeting, ACCSH Work Groups will meet December 7 and 8, 2010.

DATES:

ACCSH: ACCSH will meet from 8 a.m. to 4 p.m., Thursday, December 9, 2010, and from 8 a.m. to noon, Friday, December 10, 2010.

ACCSH Work Groups: ACCSH Work Groups will meet Tuesday, December 7, and Wednesday, December 8, 2010. (For Work Group meeting times and locations, see the Work Group Schedule information in the **SUPPLEMENTARY INFORMATION** section of this notice.)

Written comments, requests to speak, speaker presentations, and requests for special accommodation: Comments, requests to address the ACCSH meeting, written or electronic speaker presentations, and requests for special accommodations for the ACCSH and ACCSH Work Group meetings must be submitted (postmarked, sent, transmitted) by November 24, 2010.

ADDRESSES: *ACCSH and ACCSH Work Group:* ACCSH and ACCSH Work Group meetings will be held in Room N–3437 A–C, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210.

Submission of comments, requests to speak, and speaker presentations: Interested persons may submit comments, requests to speak at the ACCSH meeting, and speaker presentations using any one of the following methods:

Electronically: You may submit materials, including attachments, electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the on-line instructions for submissions or comments.

Facsimile (Fax): If your submission, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: You may submit a copy of your comments, request to speak, and speaker presentation to the OSHA Docket Office, Docket No. OSHA–2010–0045, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (TTY (877) 889–5627). Deliveries (hand deliveries, express mail, messenger, and courier service) are accepted during the Department of Labor's and OSHA Docket Office's normal business hours, 8:15 a.m.-4:45 p.m., e.t., weekdays. Because of security-related procedures, submissions by regular mail may experience significant delays.

Requests for special accommodations: Please submit requests for special accommodation to attend the ACCSH and ACCSH Work Group meetings to Ms. Veneta Chatmon, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999; e-mail *chatmon.veneta@dol.gov.*

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Ms. MaryAnn Garrahan, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

For general information about ACCSH and ACCSH meetings: Mr. Francis Dougherty, OSHA, Directorate of Construction, Room N–3468, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2020; e-mail *dougherty.francis@dol.gov.*

SUPPLEMENTARY INFORMATION:

ACCSH Meeting

ACCSH will meet Thursday, December 9, 2010, and Friday, December 10, 2010, in Washington DC. The meeting is open to the public.

ACCSH is authorized to advise the Secretary of Labor and Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary) in the formulation of standards affecting the construction industry and on policy matters arising in the administration of the safety and health provisions under the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 3701 *et seq.*) and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*)(*see also* 29 CFR 1911.10 and 1912.3).

The agenda topics for this meeting include:

- *Welcome/Remarks from the Office of the Assistant Secretary;*
- *Remarks from the Directorate of Construction;*
- *Mast Climbing Work Platform presentation;*
- *Update on the Injury and Illness Prevention Program rulemaking;*
- *Update on the Severe Violator Enforcement Program;*
- *Update on Cooperative and State Programs;*
- *Work Group Reports, Work Group and Committee Administration;*
- *Public Comment Period.*

ACCSH meetings are transcribed and detailed minutes of the meetings are prepared. The transcript and minutes are placed in the public docket for the meeting. The docket also includes ACCSH Work Group reports, speaker presentations, comments, and other materials and requests submitted to the Committee.

ACCSH Work Group Meetings

In conjunction with the ACCSH meeting, the following ACCSH Work Groups will meet December 7–8, 2010:

Tuesday, December 7

- Multilingual Issues in Construction—8 to 10 a.m.;
- Power Fastening Tools (Nailguns)—10:10 a.m. to 12:10 p.m.;
- Residential Fall Protection—1 to 3 p.m.;
- Green Jobs in Construction—3:10 to 5:10 p.m.

Wednesday, December 8

- Diversity—Women in Construction—8 to 10 a.m.;
- Silica and Other Construction Health Hazards—10:10 a.m. to 12:10 p.m.;
- Prevention by Design—1 to 3 p.m.;
- Education and Training (OTI)—3:10 to 5:10 p.m.

For additional information on ACCSH Work Group meetings or participating in them, please contact Mr. Dougherty or look on the ACCSH page on OSHA's Web page at *http://www.osha.gov.*

Public Participation

ACCSH Meetings and ACCSH Work Group Meetings: ACCSH and ACCSH Work Group meetings are open to the public. Individuals needing special accommodations to attend the ACCSH and ACCSH Work Group meetings should contact Ms. Chatmon (*see* **ADDRESSES** section).

Submission of written comments, requests to address ACCSH, and speaker presentations: Interested persons may submit comments, requests to address ACCSH, and speaker presentations (1) electronically, (2) by fax, or (3) by hard copy (mail, hand delivery, express mail, messenger, and courier). All submissions must include the Agency name and docket number for this ACCSH meeting (Docket No. OSHA–2010–0045). OSHA will provide copies of submissions to ACCSH members.

Because of security-related procedures, submissions by regular mail may experience significant delays. For information about security procedures for submitting materials by hand delivery, express mail, messenger, or courier service, contact the OSHA Docket Office.

Requests to address ACCSH: Individuals who want to address ACCSH at the meeting must submit their requests to speak and their written or electronic presentations (*e.g.,* PowerPoint) by November 24, 2010. The request must state the amount of time desired to speak, the interest the presenter represents (*e.g.,* business, organization, affiliation), if any, and a brief outline of the presentation. PowerPoint presentations and other electronic materials must be compatible with PowerPoint 2003 and other Microsoft Office 2003 formats. Alternately, at the ACCSH meeting, individuals may request to address ACCSH by signing the public comment request sheet and listing the interests they represent, if any, and the topic(s) to be addressed. In addition, they must provide 20 hard copies of any materials, written or electronic, that they want to present to ACCSH.

Requests to address the Committee may be granted at the ACCSH Chair's discretion and as time and circumstances permit.

Public docket of the ACCSH meeting: Comments, requests to speak and speaker presentations, including any personal information you provide, will be placed in the public docket of this ACCSH meeting without change and may be available online at *http://www.regulations.gov.* Therefore, OSHA cautions you about submitting certain personal information such as social security numbers and birthdates.

The meeting transcript, meeting minutes, documents presented at the ACCSH meeting, Work Group reports, and other documents pertaining to involving this ACCSH meeting also are placed in the public docket and may be available online at *http://www.regulations.gov.*

Access to the public record of ACCSH meetings, including Work Group reports: To read or download documents in the public docket of this ACCSH meeting, including the transcript, meeting minutes, Work Group reports and other submissions, go to Docket No. OSHA–2010–0045 at *http://www.regulations.gov.* The meeting record and all submissions for this meeting are listed in the *http://www.regulations.gov* index; however, some documents (*e.g.,* copyrighted materials) are not publicly available through the Web page. The record and all submissions, including materials not available through *http://www.regulations.gov* are available for inspection and copying in the OSHA Docket Office (*see* **ADDRESSES**). Please contact the OSHA Docket Office for assistance making submissions to or obtaining materials from the public docket.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 7 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 3704), the Federal Advisory Committee Act (5 U.S.C. App. 2), 29 CFR Parts 1911 and 1912, 41 CFR Part 102, and Secretary of Labor's Order No. 4–2010 (75 FR 55355 (9/10/2010)).

Signed at Washington, DC, this 15th day of November 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–29124 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,281]

Humana Insurance Company a Division of Carenetwork, Inc. Front End Operations and Account Installation-Product Testing Groups, De Pere, WI; Notice of Revised Determination on Reconsideration

By applications dated August 23, 2010 and September 9, 2010, petitioners requested administrative reconsideration of the Department's negative determination regarding the eligibility of workers and former workers of Humana Insurance Company, a Division of CareNetwork, Inc., Front End Operations and Account Installation-Product Testing Groups, Green Bay, Wisconsin, to apply for Trade Adjustment Assistance (TAA).

On September 9, 2010, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration. The Department's Notice was published in the **Federal Register** on September 21, 2010 (75 FR 57502).

During the reconsideration investigation, the Department received information that the worker group is in De Pere, and not Green Bay, Wisconsin. Accordingly, the subject workers are workers at Humana Insurance Company, a Division of CareNetwork, Inc., Front End Operations and Account Installation-Product Testing Groups, De Pere, Wisconsin, who are engaged in employment related to the supply of health insurance benefits.

During the reconsideration investigation, the Department confirmed that a significant proportion or number of workers at Humana Insurance Company, a Division of CareNetwork, Inc., Front End Operations and Account Installation-Product Testing Groups, De Pere, Wisconsin, was totally or partially separated, or threatened with such separation, during the relevant period.

Based on the new information obtained during the reconsideration investigation, the Department determines that the subject firm shifted to a foreign country the supply of services like or directly competitive with those provided by the Front End Operations and Account Installation-Product Testing Groups, De Pere, Wisconsin, and that the shift contributed importantly to worker group separations.

Conclusion

After careful review of the additional facts obtained during the reconsideration investigation, I determine that workers of Humana Insurance Company, a Division of CareNetwork, Inc., Front End Operations and Account Installation-Product Testing Groups, De Pere, Wisconsin, who are engaged in employment related to the supply of health insurance benefits, meet the worker group certification criteria under Section 222(a) of the Act, 19 U.S.C. 2272(a). In accordance with Section 223 of the Act, 19 U.S.C. 2273, I make the following certification:

All workers of Humana Insurance Company, a Division of CareNetwork, Inc., Front End Operations and Account Installation-Product Testing Groups, De Pere, Wisconsin, who are engaged in employment related to the supply of health insurance benefits, who became totally or partially separated from employment on or after June 11, 2009, through two years from the date of this revised certification, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 9th day of November, 2010.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2010–29101 Filed 11–17–10; 8:45 am]

BILLING CODE 4510–FN–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet *telephonically* on November 23, 2010. The meeting will begin at 11:30 a.m., Eastern Time, and continue until conclusion of the Board's agenda.

LOCATION: Legal Services Corporation, 3333 K Street, NW., Washington, DC 20007, *F. William McCalpin Conference Center,* 3rd Floor.

PUBLIC OBSERVATION: For all meetings and portions thereof open to public observation, members of the public who wish to listen to the proceedings may do so by following the telephone call-in directions provided below. Those calling in are asked to keep your telephone muted to eliminate background noises. From time to time the Chairman may solicit comments from the public.

Call-in Directions for Open Session(s)

- Call toll-free number: 1–(866) 451–4981;
- When prompted, enter the following numeric pass code: 5907707348;
- When connected to the call, please "MUTE" your telephone immediately.

STATUS OF MEETING: Open, except that the Board will also be briefed on Management's plans to address reported problems at an LSC grantee and the status of Management's response to the LSC Inspector General's audit report on the Technology Initiatives Grants ("TIG") program.[1]/

A *verbatim* written transcript will be made of the closed session of the Board meeting. However, the transcript of any portions of the closed session falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6)[2], (7)[3] and (9)(B)[4], and the corresponding provisions of the Legal Services Corporation's implementing regulation, 45 CFR 1622.5(e), (f) and (g), will not be available for public inspection. A copy of the General Counsel's Certification that in his opinion the closing is authorized by law will be available upon request.

Matters To Be Considered

Open Session

1. Approval of the agenda.
2. Approval of minutes of the *Board's* open session meeting of October 19, 2010.
3. Consider and act on Board of Directors' proposed comments on the Inspector General's Semiannual Report to Congress for the period of April 1, 2010 through September 30, 2010.
4. Public comment.
5. Consider and act on whether to authorize an executive session of the Board to address items listed below under *Closed Session.*

Closed Session

6. Approval of minutes of the Board's closed session meeting of November 5, 2010.
7. Briefing on Management's plans for addressing reported problems at one of LSC's grantees.
8. Briefing on status of Management's response to the Inspector General's audit report regarding the Technology Initiatives Grants ("TIG") program.
9. Consider and act on other business.
10. Consider and act on motion to adjourn meeting.

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President for Legal Affairs & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Katherine at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov.*

Dated: November 16, 2010.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 2010–29264 Filed 11–16–10; 4:15 pm]

BILLING CODE 7050–01–P

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session. 5 U.S.C. 552b(a)(2) and (b). *See also* 45 CFR 1622.2 & 1622.3.

[2] 45 CFR 1622.5(e) protects information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

[3] 45 CFR 1622.5(f) protects from disclosure investigatory records that might interfere with enforcement proceedings, deprive a person of due process, disclose a confidential source, disclose investigative procedures, or endanger the life and safety of law enforcement personnel.

[4] 45 CFR 1622.5(g) protects information the premature disclosure of which would in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action.

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2010–4]

Federal Copyright Protection of Sound Recordings Fixed Before February 15, 1972

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of inquiry; correction.

This document corrects the reply comment date contained in the notice of inquiry published Wednesday, November 3, 2010 (75 FR 67777). The correct reply comment date is January 19, 2011.

Dated: November 15, 2010.

David O. Carson,

General Counsel.

[FR Doc. 2010–29139 Filed 11–17–10; 8:45 am]

BILLING CODE P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before December 20, 2010. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: request.schedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (*See* 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Departmental Administration (N1–16–10–2, 1 item, 1 temporary item). Master files of an electronic information system used to track the management of radiation safety records. Included are permits and approvals to obtain and use radioactive materials or x-ray equipment.

2. Department of Agriculture, Risk Management Agency (N1–258–09–7, 5 items, 5 temporary items). Records relating to legal matters such as appeals and litigation case files, witness request files, sanctions case files, insurance provider litigation cases, and special litigation documentation.

3. Department of the Army, Agency-wide (N1–AU–10–19, 1 item, 1 temporary item). Master files of an electronic information system containing meteorological conditions data for use by field artillery units.

4. Department of the Army, Agency-wide (N1–AU–10–21, 1 item, 1 temporary item). Master files of an electronic information system used to track and manage military mailing operations.

5. Department of the Army, Agency-wide (N1–AU–10–39, 1 item, 1 temporary item). Master files of an electronic information system containing cost estimates and supporting documentation for military construction projects.

6. Department of the Army, Agency-wide (N1–AU–10–42, 1 item, 1 temporary item). Master files of an electronic information system used to provide battle command simulation training for instructors and trainers at the brigade level. Included are budget information, contract data, and training facility requirements.

7. Department of the Army, Agency-wide (N1–AU–10–61, 1 item, 1 temporary item). Master files of an electronic information system used to identify and analyze training requirements.

8. Department of the Army, Agency-wide (N1–AU–10–84, 1 item, 1 temporary item). Master files of an electronic information system containing telecom service information such as billing details, service contracts, and budget data.

9. Department of the Army, Agency-wide (N1–AU–10–87, 1 item, 1 temporary item). Master files of an electronic information system used to track and maintain the serviceability of mobility items. Included are stock transactions, item and shelf life information including price, date of expiration, and condition codes.

10. Department of the Army, Agency-wide (N1–AU–10–88, 1 item, 1 temporary item). Master files of an electronic information system used to automate, combine, and track inventory management functions and associated financial processes. Included are yearly reports, organizational data, and stockade listings.

11. Department of the Army, Agency-wide (N1–AU–10–105, 1 item, 1 temporary item). Master files of an electronic information system used for receipt, issue, replenishment, and storage operations of army supplies. Included are stock management data, asset information, demand history, and electronic transactions.

12. Department of the Army, Agency-wide (N1–AU–11–3, 1 item, 1 temporary item). Master files of an electronic information system used to capture and store financial and manpower data used to formulate budgets and monitor execution.

13. Department of the Army, Agency-wide (N1–AU–11–4, 1 item, 1 temporary item). Master files of an electronic information system containing structure and composition data for conventional munitions.

14. Department of the Army, Agency-wide (N1–AU–11–5, 1 item, 1 temporary item). Master files of an electronic information system used to track the performance, reliability, and safety characteristics of stockpiled ammunition.

15. Department of Defense, Joint Staff (N1–218–10–3, 2 items, 2 temporary items). Master files of an electronic information system used to record assistance provided by the Inspector General, U.S. European Command. Included are narrative details, resolution descriptions, points of contact, and case closure information.

16. Department of Defense, Office of the Secretary of Defense (N1–330–09–2, 2 items, 2 temporary items). Records relating to the National Language Service Corps, including applications, self-assessments, and certification data.

17. Department of Defense, Office of the Secretary of Defense (N1–330–09–8, 3 items, 2 temporary items). Routine interrogation and detainee debriefing case files including video recordings, interrogator notes, and summary reports. Proposed for permanent retention are case files relating to detainees of high value or notoriety.

18. Department of Education, Office of Planning, Evaluation, and Policy Development (N1–441–09–18, 3 items, 3 temporary items). Records of the Family Policy Compliance office, including case files on inquiries and complaints made pursuant to the Family Educational Rights and Privacy Act, the Protection of Pupil Rights Amendment, and the military recruiter provisions of the No Child Left Behind Act of 2001. Also included are master files of an electronic information system used to process and track complaints.

19. Department of Education, Agency-wide (N1–441–09–25, 1 item, 1 temporary item). Records relating to the Computer Matching Agreements used to locate loan recipients who have defaulted on a student loan. Included are agreements, reports, cost-benefit analyses, program procedures, agreement audit records, closeout documentation for completed agreements, and other related records.

20. Department of Health and Human Services, Agency for Healthcare Research and Quality (N1–510–09–2, 1 item, 1 temporary item). Master files of an electronic information system containing information about quality measures used by external sources to assess the degree to which health care services increase the likelihood of desired health outcomes.

21. Department of Health and Human Services, Agency for Healthcare Research and Quality (N1–510–09–3, 1 item, 1 temporary item). Master files of an electronic information system containing information for the public about the innovative strategies that health care providers use to find more effective ways of delivering health care.

22. Department of Health and Human Services, Agency for Healthcare Research and Quality (N1–510–09–4, 2 items, 1 temporary item). Master files of electronic information systems used to collect and disseminate longitudinal hospital care data from participating State and local healthcare organizations. Proposed for permanent retention are non-sensitive aggregate hospital care data sets.

23. Department of Homeland Security, U.S. Coast Guard (N1–26–10–1, 3 items, 3 temporary items). Master files and outputs of an electronic information system used to provide Search and Rescue authorities with accurate information on the positions and characteristics of vessels near a reported distress.

24. Department of Homeland Security, U.S. Immigration and Customs Enforcement (N1–567–10–12, 2 items, 2 temporary items). Master files of an electronic information system containing asset tracking information regarding firearms, scopes, batons, body armor, and related law enforcement equipment.

25. Department of Justice, Federal Bureau of Investigation (N1–65–10–15, 8 items, 7 temporary items). Legal records, including administrative and non-significant legal opinions and advice, legal assistance records, and working files. Proposed for permanent retention are significant program legal advice and opinion files. This schedule does not include litigation case files.

26. Department of Justice, Federal Bureau of Investigation (N1–65–10–26, 8 items, 7 temporary items). Records of the Laboratory Division Hazardous Material Response Team, including internal and external training records and response team files. Proposed for permanent retention are policy files, threat assessments, and hazmat operations.

27. Department of Justice, Federal Bureau of Investigation (N1–65–10–36, 4 items, 4 temporary items). Master files, outputs, audit logs, and administrative records of an electronic information system containing intelligence and investigative data.

28. Department of State, Bureau of Administration (N1–59–10–21, 3 items, 3 temporary items). Records associated with a Web site and television channel that broadcast content about the Department of State to employees. Records include an intranet site containing video clips; master files of a content management system used to catalog video clips for the Web site; and a video clip collection. Substantive video clips have been previously approved as permanent.

29. Department of Transportation, Federal Aviation Administration (N1–237–10–17, 5 items, 2 temporary items). Inputs and outputs of an electronic information system containing lessons learned from transport airplane accidents. Proposed for permanent retention are system master files and system documentation.

30. Export-Import Bank of the United States, Agency-wide (N1–275–10–3, 1 item, 1 temporary item). Master files of an electronic information system used by the public to file claim applications.

31. Social Security Administration, Agency-wide (N1–047–10–1, 1 item, 1

temporary item). Master files of an electronic information system used to track administrative forms.

Dated: November 12, 2010.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. 2010–29233 Filed 11–17–10; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–341; NRC–2010–0357; FERMI, Unit 2]

Detroit Edison Company; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) part 20 Appendix G, Section III.E, for Facility Operating License No. NFP–43, issued to Detroit Edison Company (DECo, the licensee), for operation of Fermi, Unit 2 (Fermi-2) located in Monroe County, Michigan. Therefore, as required by 10 CFR 51.21, the NRC performed an environmental assessment. Based on the results of the environmental assessment, the NRC is issuing a finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant an exemption to extend the time period that can elapse during shipments of low-level radioactive waste before the licensee is required to investigate and file a report with the NRC. Specifically, the exemption would extend the time period for the licensee to receive acknowledgment that the low-level radioactive waste shipment has been received by the intended recipient from 20 days to 35 days.

The proposed action is in accordance with the licensee's application for an exemption dated February 5, 2010. The licensee has requested an exemption from certain control and tracking requirements in 10 CFR part 20, Appendix G, Section III.E, which require the licensee to investigate, and file a report with the NRC, if shipments of low-level radioactive waste are not acknowledged by the intended recipient within 20 days after transfer to the shipper.

The Need for the Proposed Action

DECo anticipates the increased use of rail as the method to ship radioactive waste. The licensee has experience with rail shipments from the Fermi-1 decommissioning project. Those rail shipments typically took more than 20 days to reach their destination in Clive, Utah. On April 26, 2010, the NRC granted a similar exemption extending the time period from 20 days to 35 days for radioactive shipments from Fermi-1 based on historical data submitted in support of that exemption request.

The licensee believes, and the NRC staff agrees, that the need to investigate, trace, and report to the NRC on the shipment of low-level waste packages not reaching their destination within 20 days does not serve the underlying purpose of the rule. The Commission finds that the underlying purpose of the Appendix G timing provision at issue is to investigate a late shipment that may be lost, misdirected or diverted. Furthermore, by extending the elapsed time for receipt acknowledgement to 35 days before requiring investigations and reporting, a reasonable upper limit on shipment duration (based on historical analysis) is still maintained if a breakdown of normal tracking systems were to occur. Therefore, the NRC staff finds that granting an exemption to extend the time period from 20 days to 35 days for mixed-mode or truck/rail or rail shipments of low-level radioactive waste will not result in an undue hazard to life or property.

Environmental Impacts of the Proposed Action

The NRC has completed its environmental assessment of the proposed action and concludes that the proposed action is procedural and administrative in nature. The staff has concluded that the changes would not significantly affect plant safety and would not have a significant adverse effect on the probability of an accident occurring. The proposed action would not result in an increased radiological hazard beyond those previously analyzed in the Updated Safety Analysis Report. There will be no change to radioactive effluents that affect radiation exposures to plant workers and members of the public. No changes will be made to plant buildings or the site property. Therefore, no changes or different types of radiological impacts are expected as a result of the proposed changes.

The proposed action does not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. No changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity or the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Stevens Act are expected. There are no impacts to the air or ambient air quality. There are no impacts to historical and cultural resources. There would be no noticeable effect on socioeconomic conditions in the region. Therefore, no changes or different types of non-radiological environmental impacts are expected as a result of the proposed action. Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action. The details of the NRC staff's safety evaluation will be provided in the exemption issued as part of the letter to the licensee approving the exemption to the regulation, if granted.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.,* the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the Enrico Fermi Atomic Power Plant, Unit 2, NUREG–0769, dated August 1981, as supplemented with Addendum No. 1 in March 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on September 21, 2010, the NRC staff consulted with the State official, Mr. Ken Yale, of the Michigan Department of Natural Resources and Environment regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, 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 letter dated February 5, 2010 (Agencywide Documents Access and Management System (ADAMS) Accession No.

ML100430349). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at 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 by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 3rd day of November, 2010.

For the Nuclear Regulatory Commission.

Mahesh L. Chawla,

Project Manager, Plant Licensing Branch III–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–29114 Filed 11–17–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255; NRC–2010–0356]

Palisades Nuclear Plant; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC, the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–20 issued to Entergy Nuclear Operations, Inc. (the licensee) for operation of the Palisades Nuclear Plant (PNP) located in Van Buren County, Michigan.

The proposed amendment would revise Section 2.E. of the PNP Renewed Facility Operating License. The change would remove the name of the former operator of the plant in the title of the PNP physical security plan and replace it with Entergy Nuclear. The change would also remove the security plan revision number and the date the plan was submitted to the NRC.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), § 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed license amendment corrects the out-of-date title, removes the revision number, and removes the submittal date of the Palisades Nuclear Plant (PNP) physical security plan in section 2.E. of the Renewed Facility Operating License. The proposed amendment does not involve operation of plant structures, systems, or components (SSC) in a manner or configuration different from those previously recognized or evaluated.

The proposed change in section 2.E. of the Renewed Facility Operating License is administrative and has no impact on plant operation or equipment.

Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed license amendment does not involve a physical alteration of any SSC or change the way any SSC is operated. The proposed license amendment does not involve operation of any SSC in a manner or configuration different from those previously recognized or evaluated.

The proposed change in section 2.E. of the Renewed Facility Operating License is administrative and has no impact on plant operation or equipment.

Therefore, the proposed Renewed Facility Operating License change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed modification of section 2.E. of the Renewed Facility Operating License is administrative and has no impact on plant operation or equipment or on any margins of safety.

Therefore, the proposed TS change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Addresses: You may submit comments by any one of the following methods. Please include Docket ID NRC–2010–0356 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal Rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in

their comments that they do not want publicly disclosed.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2010–0356. Address questions about NRC dockets to Carol Gallagher, telephone: 301–492–3668, e-mail: *Carol.Gallagher@nrc.gov.*

Mail comments to: Cindy Bladey, Chief, Rules, Announcements and Directives Branch (RADB), Division of Administrative Services, Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RADB at 301–492–3446.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://*

www.nrc.gov/site-help/e-submittals/apply-certificates.html. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E–Filing system. To be timely, an electronic filing must be submitted to the E–Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E–Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E–Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E–Filing system.

A person filing electronically using the agency's adjudicatory E–Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E–Filing, may require a participant or party to use E–Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E–Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this license amendment application, see the application for amendment dated January 27, 2010, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Attorney for licensee: Mr. William Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Ave., White Plains, NY 10601.

Dated at Rockville, Maryland this 9th day of November, 2010.

For the Nuclear Regulatory Commission.

Mahesh Chawla,

Project Manager, Plant Licensing Branch III–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–29115 Filed 11–17–10; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0235; Forms RI 20–64, RI 20–64A and RI 20–64B]

Proposed Collection; Comment Request for Review of a Revised Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for review of a revised information collection. This information collection, "Letter Reply to Request for Information" (OMB Control No. 3206–0235; Form RI 20–64), is used by the Civil Service Retirement System to provide information about the amount of annuity payable after a survivor reduction, to explain the annuity reductions required to pay for the survivor benefit, and to give the beginning rate of survivor annuity. "Former Spouse Survivor Annuity Election" (OMB Control No. 3206–0235; Form RI 20–64A), is used by the Civil

Service Retirement System to obtain a survivor benefits election from annuitants who are eligible to elect to provide survivor benefits for a former spouse. "Information on Electing a Survivor Annuity for Your Former Spouse" (OMB Control No. 3206–0235; RI 20–64B), is a pamphlet that provides important information to retirees under the Civil Service Retirement System who want to provide a survivor annuity for a former spouse.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of OPM, 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; 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 others forms of information technology.

We estimate that 30 survivor elections on RI 20–64A will be processed per year and that of these eight will use RI 20–64 to ask for information about electing a smaller survivor benefit. Form RI 20–64A requires 45 minutes to complete for a burden of 23 hours. Form RI 20–64 requires eight minutes to complete for a burden of one hour. The total burden is 24 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via e-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

James K. Freiert (Acting), Deputy Associate Director, Retirement Operations, Retirement Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RS/RM/Administrative Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–4808.

John Berry,

Director, U.S. Office of Personnel Management.

[FR Doc. 2010–29051 Filed 11–17–10; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0216; Form RI 98–7]

Submission for OMB Review; Extension of a Currently Approved Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for extension of a currently approved information collection. "We Need Important Information About Your Eligibility for Social Security Disability Benefits" (OMB Control No. 3206–0216; Form RI 98–7), is used by OPM to verify receipt of Social Security Administration (SSA) disability benefits, to lessen or avoid overpayment to Federal Employees Retirement System (FERS) disability retirees. It notifies the annuitant of the responsibility to notify OPM if SSA benefits begin and the overpayment that will occur with the receipt of both benefits.

Approximately 4,300 RI 98–7 forms will be completed annually. The form takes approximately 5 minutes to complete. The annual burden is 358 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via e-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—James K. Freiert (Acting), Deputy Associate Director, Retirement Operations, Retirement Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500 and OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RS/RM/Administrative Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–4808.

John Berry,

Director, U.S. Office of Personnel Management.

[FR Doc. 2010–29052 Filed 11–17–10; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0218; Form RI 94–7]

Submission for OMB Review; Request for Comments on a Revised Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for comments on a revised information collection. This information collection, "Death Benefit Payment Rollover Election" (OMB Control No. 3206–0218; Form RI 94–7), provides Federal Employees Retirement System (FERS) surviving spouses and former spouses with the means to elect payment of FERS rollover-eligible benefits directly or to an Individual Retirement Arrangement.

Approximately 3,444 RI 94–7 forms will be completed annually. The form takes approximately 60 minutes to complete. The annual burden is 3,444 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via E-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

James K. Freiert (Acting), Deputy Associate Director, Retirement Operations, Retirement Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500.

and

OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503.

For Information Regarding Administrative Coordination Contact: Cyrus S. Benson, Team Leader, Publications Team, RS/RM/ Administrative Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–4808.

John Berry,

Director, U.S. Office of Personnel Management.

[FR Doc. 2010–29050 Filed 11–17–10; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0162; OPM Form 1530]

Submission for OMB Review; Request for Comments on a Revised Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for comments on a revised information collection. This information collection, "Report of Medical Examination of Person Electing Survivor Benefits Under the Civil Service Retirement System" (OMB Control No. 3206–0162; OPM Form 1530), is used to collect information regarding an annuitant's health so that OPM can determine whether the insurable interest survivor benefit election can be allowed.

Approximately 500 OPM Form 1530 will be completed annually. We estimate it takes approximately 90 minutes to complete the form. The annual burden is 750 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via E-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

James K. Freiert (Acting), Deputy Associate Director, Retirement Operations, Retirement Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500; and OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., 725 17th Street, NW., Room 10235., Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Cyrus S. Benson, Team Leader, Publications Team, RS/RM/ Administrative Services U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, (202) 606–4808.

John Berry,

Director, U.S. Office of Personnel Management.

[FR Doc. 2010–29053 Filed 11–17–10; 8:45 am]

BILLING CODE 6325–38–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ashley Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ashley Resource Advisory Committee will meet in Vernal, Utah. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is conduct introductions, finalize guidelines for committee functions, capture, record and provide feedback about preliminary project ideas, discuss project ideas and receive public comment on the meeting subjects and proceedings.

DATES: The meetings will be held December 2, 2010 and January 6, 2011, from 6 p.m. to 8 p.m.

ADDRESSES: The meeting will be held in the Interagency Fire Dispatch Center conference room at the Ashley National Forest Supervisor's Office, 355 North Vernal Avenue in Vernal, Utah. Written comments should be sent to Ashley National Forest, 355 North Vernal Avenue, Vernal, UT 84078. Comments may also be sent via e-mail to *ljhaynes@fs.fed.us,* or via facsimile to 435–781–5142.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Ashley National Forest, 355 North Vernal Avenue, Vernal. UT.

FOR FURTHER INFORMATION CONTACT: Louis Haynes, RAC Coordinator, Ashley National Forest, (435) 781–5105; e-mail: *ljhaynes@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Welcome and roll call; (2) Approval of meeting minutes; (3) Approval of committee operational guidelines; (4) Review concept papers received; (5) discussion of preliminary project ideas; (6) review of next meeting purpose, location, and date; (7) Receive public comment. Persons who wish to bring related matters to the attention of the Committee may file written statements with the committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by November 29, 2010 and December 28, 2010 will have the opportunity to address the committee at these meetings.

Dated: November 8, 2010.

Kevin B. Elliott,

Forest Supervisor.

[FR Doc. 2010–28941 Filed 11–17–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2010–0039]

General Conference Committee of the National Poultry Improvement Plan; Reestablishment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reestablishment.

SUMMARY: We are giving notice that the Secretary of Agriculture has reestablished the General Conference Committee of the National Poultry Improvement Plan (Committee) for a 2-year period. The Secretary of Agriculture has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew R. Rhorer, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, Suite 101, 1498 Klondike Road, Conyers, GA 30094; (770) 922–3496.

SUPPLEMENTARY INFORMATION: The purpose of the General Conference Committee of the National Poultry Improvement Plan (Committee) is to

maintain and ensure industry involvement in Federal administration of matters pertaining to poultry health.

The Committee Chairperson and the Vice Chairperson shall be elected by the Committee from among its members. There are seven members on the Committee. This committee differs somewhat from other advisory committees in the selection process and composition of its membership. The poultry industry elects the members of the Committee. The members represent six geographic areas with one member-at-large. The membership is not subject to the U.S. Department of Agriculture's review.

A formal request for nominations for membership is generally published in the **Federal Register**. However, the Committee is making no changes to its membership at this time.

Done in Washington, DC, this 12th day of November 2010.

Pearlie S. Reed,

Assistant Secretary for Administration.

[FR Doc. 2010–29104 Filed 11–17–10; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–504]

Petroleum Wax Candles From the People's Republic of China: Final Results of Expedited Third Sunset Review of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* November 18, 2010.

SUMMARY: On July 9, 2010, the Department of Commerce ("Department") initiated the third sunset review of the antidumping duty order on petroleum wax candles from the People's Republic of China ("PRC"). On the basis of a timely notice of intent to participate and an adequate substantive response filed on behalf of a domestic interested party, as well as an inadequate response from any respondent interested parties (in this case, no response), the Department conducted an expedited sunset review. As a result of the sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the margins identified in the *Final Results of Review* section of this notice.

FOR FURTHER INFORMATION CONTACT: Tim Lord, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–7425.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 2010, the Department published the notice of initiation of the third sunset review of the antidumping duty order on petroleum wax candles from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). *See Initiation of Five-Year ("Sunset") Review,* 75 FR 39494 (July 9, 2010). On July 16, 2010, the Department received a notice of intent to participate from a domestic interested party, the National Candle Association ("NCA" or "Petitioner"). Submission of the notice of intent to participate filed by Petitioner was within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. Petitioner claimed interested party status under section 771(9)(E) of the Act, as NCA is a trade association, a majority of whose members manufacture candles in the United States. On August 9, 2010, the Department received a substantive response from Petitioner within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive any adequate substantive responses from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department determined to conduct an expedited sunset review of the order.

Scope of the Order

The products covered by the order are certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers. The products were originally classifiable under the Tariff Schedules of the United States item 755.25, Candles and Tapers. The products are currently classifiable under the Harmonized Tariff Schedule ("HTS") item number 3406.00.00. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum ("Decision Memorandum") from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated November 8, 2010, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit in room 7046 of the main Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the antidumping duty order on petroleum wax candles from the PRC would be likely to lead to continuation or recurrence of dumping at the following percentage margins:

Manufacturers/producers/exporters	Margin (percent)
PRC-Wide	108.30

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with section 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: November 8, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–29263 Filed 11–17–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 100921457–0561–02]

RIN 0660–XA20

Global Free Flow of Information on the Internet

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of Inquiry; reopening of comment period.

SUMMARY: The Department of Commerce's Internet Policy Task Force announces that the closing deadline for submission of comments responsive to the September 29, 2010 notice of inquiry on the global free flow of information on the Internet has been reopened and will extend until 5 p.m. Eastern Standard Time (EST) on December 6, 2010.

DATES: Comments are due by 5 p.m. EST on December 6, 2010.

ADDRESSES: Interested parties are encouraged to file comments electronically by e-mail to *freeflow-noi-2010@ntia.doc.gov.* Submissions should be in one of the following formats: HTML, ASCII, Word, rtf, or pdf. Paper comments can be sent to: National Telecommunications and Information Administration at U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 4701, Washington, DC 20230. Please note that all material sent via the U.S. Postal Service (including "Overnight" or "Express Mail") is subject to delivery delays of up to two weeks due to mail security procedures. Paper submissions should also include a CD or DVD in Word, WordPerfect, or pdf format. CDs or DVDs should be labeled with the name and organizational affiliation of the filer, and the name of the word processing program used to create the document. Comments filed in response to this notice will be made available to the public on the Internet Policy Task Force Web page at *http://www.ntia.doc.gov/internetpolicytaskforce.* For this reason, comments should not include confidential, proprietary, or business sensitive information.

FOR FURTHER INFORMATION CONTACT: For general questions about this amended Notice, contact: Chris Hemmerlein, Office of International Affairs, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 4706, Washington, DC 20230; telephone (202) 482–1885; e-mail *chemmerlein@ntia.doc.gov.* Please direct media inquires to NTIA's Office of Public Affairs at (202) 482–7002; or USPTO's Office of Public Affairs at (572) 272–8400.

SUPPLEMENTARY INFORMATION: On April 21, 2010, the Department of Commerce (the "Department") announced the formation of a Commerce-wide Internet Policy Task Force ("Task Force") to identify leading public policy and operational issues impacting the U.S. private sector's ability to realize the potential for economic growth and job creation through the Internet.[1] On September 29, 2010, the Task Force issued a notice of inquiry on restrictions placed upon the free flow of information on the Internet with a closing date for comments of November 15, 2010.[2] In the interest of affording parties more time to submit comments, the Task Force is reopening the comment period. The Task Force announces that the closing deadline for submission of comments responsive to the September 29, 2010 is now extended until 5 p.m. Eastern Standard Time (EST) on December 6, 2010. Comments received after the original closing date of November 15, 2010 and before the publication of this notice will be considered timely and given full consideration.

Dated: November 12, 2010.

Lawrence E. Strickling,

Assistant Secretary for Communications and Information.

[FR Doc. 2010–29070 Filed 11–17–10; 8:45 am]

BILLING CODE 3510–60–P

[1] Commerce Secretary Locke Launches Internet Policy Task Force, Department of Commerce Press Release (April 21, 2010), at *http://www.commerce.gov/news/press-releases/2010/04/21/commerce-secretary-locke-announces-public-review-privacy-policy-and-i.*

[2] See 75 FR 60068 (September 29, 2010).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Multilayered Wood Flooring From the People's Republic of China: Initiation of Antidumping Duty Investigation

DATES: *Effective Date:* November 18, 2010.

FOR FURTHER INFORMATION CONTACT: Brandon Petelin, John Hollwitz or Charles Riggle, AD/CVD Operations, Office 8, (202) 482–8173, (202) 482–2336 or (202) 482–0650, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On October 21, 2010, the Department of Commerce ("Department") received a petition concerning imports of multilayered wood flooring from the People's Republic of China ("PRC") filed in proper form by the Coalition for American Hardwood Parity [1] ("Petitioner"). *See* Petitions for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People's Republic of China dated October 21, 2010 ("Petition"). On October 27, 2010, the Department issued requests for information and clarification of certain areas of the Petition. Petitioner timely filed additional information on October 29, 2010,[2] November 2, 2010,[3] November 3, 2010,[4] November 8, 2010 [5] and November 9, 2010.[6]

On November 4, 2010, we received comments from Lumber Liquidators Services, LLC ("Lumber Liquidators") and Home Legend, LLC ("Home Legend"), U.S. importers of multilayered wood flooring. Lumber Liquidators and Home Legend are interested parties as defined by section 771(9)(A) of the Tariff Act of 1930, as amended ("the Act"). Additionally, on November 9, 2010, we received further comments filed by Lumber Liquidators, Home Legend and U.S. Floors LLC.

Period of Investigation

The period of investigation ("POI") is April 1, 2010, through September 30, 2010. *See* 19 CFR 351.204(b)(1).

[1] The Coalition for American Hardwood Parity is comprised of Anderson Hardwood Floors, LLC, Award Hardwood Floors, Baker's Creek Wood Floors, Inc., From the Forest, Howell Hardwood Flooring, Mannington Mills, Inc., Nydree Flooring and Shaw Industries Group, Inc.

[2] *See* Supplement to the Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People's Republic of China, dated October 29, 2010 ("Supplement to the AD Petition").

[3] *See* Supplement to the Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People's Republic of China, dated November 2, 2010 ("Supplement to the AD/CVD Petitions").

[4] *See* Supplement to the Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People's Republic of China, dated November 3, 2010 ("Second Supplement to the AD/CVD Petitions").

[5] *See* Letter regarding the Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People's Republic of China, dated November 8, 2010.

[6] *See* Letter regarding the Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People's Republic of China, dated November 9, 2010.

In accordance with section 732(b) of the Act, Petitioner alleged that imports of multilayered wood flooring from the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined in sections 771(9)(C), (E) and (F) of the Act, and has demonstrated sufficient industry support with respect to the antidumping duty investigation that Petitioner is requesting the Department to initiate (*see* "Determination of Industry Support for the Petition" section below).

Scope of the Investigation

The products covered by this investigation are multilayered wood flooring from the PRC. For a full description of the scope of the investigation, *see* "Scope of Investigation," in Appendix I of this notice.

Comments on Scope of the Investigation

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. As a result, the "Scope of Investigation" language has been modified from the language in the Petition to reflect these clarifications. Moreover, as discussed in the preamble to the regulations (*see Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by Tuesday, November 30, 2010, which is twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of multilayered wood flooring to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide information or comments that they believe are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe multilayered wood flooring, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by November 30, 2010. Additionally, rebuttal comments must be received by December 7, 2010.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The ITC, which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that multilayered wood flooring constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Multilayered Wood Flooring from the

People's Republic of China ("Initiation Checklist"), at Attachment II, Analysis of Industry Support for the Petitions Covering Multilayered Wood Flooring from the People's Republic of China, on file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. To establish industry support, Petitioner provided its production volume of the domestic like product in 2009, and compared this to the estimated total production volume of the domestic like product for the entire domestic industry. *See* Volume I of the Petitions, at 4–5, and Exhibit I–3; *see also* Supplement to the AD/CVD Petitions dated November 2, 2010, at 2; Second Supplement to the AD/CVD Petitions dated November 3, 2010, at 1–2 and Exhibit I–K. Petitioner estimated 2009 production volume of the domestic like product by non-petitioning companies based on its knowledge of the industry. We have relied upon data Petitioner provided for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

On November 4, 2010, we received a submission on behalf of importers of multilayered wood flooring, interested parties to this proceeding as defined in section 771(9)(A) of the Act, questioning the industry support calculation. *See* Initiation Checklist at Attachment II. On November 8 and 9, 2010, Petitioner filed replies to the importers' industry support challenge. The importers filed an additional submission on November 9, 2010. For further discussion of these submissions *see* Initiation Checklist at Attachment II.

Based on information provided in the Petition, supplemental submissions, and other information readily available to the Department, we determine that the domestic producers and workers have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. Because the Petition and supplemental submissions did not establish support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, the Department was required to take further action in order to evaluate industry support. *See* section 732(c)(4)(D) of the Act. In this case, the Department was able to rely on other information, in accordance with section 732(c)(4)(D)(i) of the Act, to determine industry support. *See* Initiation Checklist at Attachment II; *see also* Memorandum to the File from Victoria Flynn, dated November 3, 2010. Based on information provided in the Petition, other submissions, and additional information obtained by the Department, the domestic producers and workers have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See* Initiation Checklist at Attachment II.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C), (E) and (F) of the Act and they have demonstrated sufficient industry support with respect to the antidumping duty investigations that they are requesting the Department initiate. *Id.*

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value ("NV"). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share, reduced production, reduced shipments, reduced capacity and capacity utilization, underselling and price depression or suppression, reduced employment, hours worked, and wages paid, decline in financial performance, lost sales and revenue, and increase in import penetration. *See* Vol. I of the Petition, at 16–60. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Checklist at Attachment III, Injury.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation of imports of multilayered wood flooring from the PRC. The sources of data for the deductions and adjustments relating to the U.S. price and the factors of production are also discussed in the initiation checklist. *See* Initiation Checklist.

U.S. Price

Petitioner calculated export price ("EP") based on documentation of offers for sales obtained from a proprietary source. *See* Initiation Checklist; *see also* Volume II of the Petition, at 1–2 and Exhibit II–1.

Normal Value

Petitioner claims the PRC is a non-market economy ("NME") country and that no determination to the contrary has been made by the Department. *See* Volume II of the Petition, at 3. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, in accordance with section 771(18)(C)(i) of the Act, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product for the PRC investigation is appropriately based on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issue of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioner contends that Indonesia is the appropriate surrogate country for the PRC because: (1) It is at a level of economic development comparable to that of the PRC and (2) it is a significant producer of comparable merchandise. *See* Volume II of the Petition, at 3–6, and Exhibits II–2, II–3, and II–4. Based on the information provided by Petitioner, we believe that it is appropriate to use Indonesia as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date

of publication of the preliminary determination.

Petitioner calculated NV and the dumping margins using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. In calculating NV, Petitioner based the quantity of each of the inputs used to manufacture multilayered wood flooring in the PRC on product-specific consumption rates of a multilayered wood flooring producer in the United States ("Surrogate Domestic Producer") for identical or similar merchandise during the POI. *See* Volume II of the Petition, at 6–8 and Exhibits II–5 and II–6. Petitioner states that the actual usage rates of the foreign manufacturers of multilayered wood flooring are not reasonably available; however, Petitioner notes that according to the information available, the production of multilayered wood flooring in the PRC relies on similar production methods to the Surrogate Domestic Producer. *See* Volume II of the Petition, at 6–7 and Exhibit II–5.

As noted above, Petitioner determined the consumption quantities of all raw materials based on the production experience of the Surrogate Domestic Producer. Petitioner valued most of the factors of production based on reasonably available, public surrogate country data, specifically, Indonesian import statistics from the Global Trade Atlas ("GTA"). *See* Volume II of the Petition, at 8–12 and Exhibits II–6 and II–7; *see also* Supplement to the AD Petition, at Supplemental Exhibit II–B. Petitioner excluded from these import statistics imports from countries previously determined by the Department to be NME countries. Petitioner also excluded import statistics from India, the Republic of Korea and Thailand, as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies. *See* Volume II of the Petition, at Exhibit II–7. In addition, Petitioner made currency conversions, where necessary, based on the POI-average rupiah/U.S. dollar exchange rate, as reported on the Department's Web site. *See* Volume II of the Petition, at 8 and Exhibit II–6. Petitioner determined labor costs using the labor consumption, in hours, derived from the Surrogate Domestic Producer's experience. *See* Volume II of the Petition, at 8 and Exhibit II–5. For purposes of initiation, the Department determines that the surrogate values used by Petitioner are reasonably available and, thus, acceptable for purposes of initiation.

Petitioner determined energy and utility costs using the usage rates derived from the Surrogate Domestic Producer's experience. *See* Volume II of the Petition, at 10 and Exhibit II–6. However, when constructing the NV of the subject merchandise, Petitioner did not individually incorporate the diesel fuel, electricity, and water inputs into the normal value calculation, because Petitioner could not segregate energy costs from the surrogate financial statements, and so accounted for the diesel fuel, electricity, and water costs in the calculation of surrogate financial ratios. *Id.* This is consistent with the Department's recent decision in *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value,* 74 FR 16838 (April 13, 2009), and accompanying Issues and Decision Memorandum at Comment 2. *See* Volume II of the Petition, at 11 and Exhibit II–6; *see also* Supplement to the AD Petition, at Supplemental Exhibit II–B.

Petitioner determined labor costs using data from Chapter 5B of the International Labour Organization's database to calculate a simple average of industry-specific wage rates from a basket of countries that are economically comparable to the PRC and are significant exporters of the like merchandise. *See* Supplement to the AD Petition at 3, and Supplemental Exhibit II–C; *see also* Letter regarding the Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Multilayered Wood Flooring From the People's Republic of China: Supplemental Questions, dated October 27, 2010.

Petitioner determined packing costs using consumption rates derived from the Surrogate Domestic Producer's experience, valued using data from the GTA. *See* Volume II of the Petition, at 12 and Exhibits II–6 and II–7.

Petitioner based factory overhead, selling, general and administrative expenses, and profit on data from PT Tirta Mahakam Resources, Tbk., an Indonesian manufacturer of multilayered wood flooring, for the 2009 fiscal year. *See* Volume II of the Petition, at 11–12 and Exhibit II–12.

Fair-Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of multilayered wood flooring from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of U.S. prices and NV calculated in accordance with section 773(c) of the Act, as described above, the estimated dumping margins for multilayered wood flooring from the PRC range from 194.49 percent to 280.60 percent. *See* Initiation Checklist and Supplement to the AD Petition at Exhibit II–B.

Initiation of Antidumping Investigation

Based upon the examination of the Petition on multilayered wood flooring from the PRC, the Department finds the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of multilayered wood flooring from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Targeted Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted dumping allegations, 19 CFR 351.301(d)(5). *See Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations,* 73 FR 74930 (December 10, 2008). The Department stated that "withdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area." *Id.* at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted dumping allegation in this investigation pursuant to section 777A(d)(1)(B) of the Act, such allegation is due no later than 45 days before the scheduled date of the preliminary determination.

Respondent Selection

For this investigation, the Department will request quantity and value information from known exporters and producers identified with complete contact information in the Petition. The quantity and value data received from NME exporters/producers will be used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the

respective deadlines in order to receive consideration for separate-rate status. *See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation,* 73 FR 10221, 10225 (February 26, 2008); *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China,* 70 FR 21996, 21999 (April 28, 2005). On the date of the publication of this initiation notice in the **Federal Register**, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html,* and a response to the quantity and value questionnaire is due no later than December 3, 2010. Also, the Department will send the quantity and value questionnaire to those PRC companies identified in Volume I of the Petition, at Exhibit I–6.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Web site at *http://ia.ita.doc.gov/apo.*

Separate Rates Application

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate status application. *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, dated April 5, 2005 ("Policy Bulletin"), available on the Department's Web site at *http://ia.ita.doc.gov/policy/bull05–1.pdf.* Based on our experience in processing the separate-rate applications in previous antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. *See, e.g., Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China,* 72 FR 43591, 43594–95 (August 6, 2007). The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html* on the date of publication of this initiation notice in the **Federal Register.** The separate-rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate-rate status application and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. As noted in the "Respondent Selection" section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate rate application by the respective deadlines in order to receive consideration for separate-rate status.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Policy Bulletin states:

> {W}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

See Policy Bulletin at 6 (emphasis added).

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petition have been provided to the representatives of the Government of the PRC. Because of the large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, no later than December 6, 2010, whether there is a reasonable indication that imports of multilayered wood flooring from the PRC are materially injuring, or threatening material injury to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: November 10, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)[7] in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.,* "engineered wood flooring" or "plywood flooring." Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: Dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.,* without a finally finished surface to protect the face veneer from wear and tear) or "prefinished" (*i.e.,* a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes.) The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

[7] A "veneer" is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard (MDF), high-density fiberboard (HDF), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.,* circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product.

Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of high-density fiberboard, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.3175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; and 4418.72.9500.

In addition, imports of subject merchandise may enter the U.S. under the following HTSUS subheadings: 4409.10.0500; 4409.10.2000; 4409.29.0515; 4409.29.0525; 4409.29.0535; 4409.29.0545; 4409.29.0555; 4409.29.0565; 4409.29.2530; 4409.29.2550; 4409.29.2560; 4418.71.1000; 4418.79.0000; and 4418.90.4605.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

[FR Doc. 2010–29119 Filed 11–17–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–971]

Multilayered Wood Flooring From the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* November 18, 2010.

FOR FURTHER INFORMATION CONTACT: Yasmin Nair and Joshua Morris, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3813 and (202) 482–1779, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On October 21, 2010, the Department of Commerce ("Department") received a petition filed in proper form by the Coalition for American Hardwood Parity ("Petitioner"), whose members (Anderson Hardwood Floors, LLC; Award Hardwood Floors; Baker's Creek Wood Floors, Inc.; From the Forest; Howell Hardwood Flooring; Mannington Mills, Inc.; Nydree Flooring; Shaw Industries Group, Inc.) are domestic producers of multilayered wood flooring.[1] In response to the Department's requests, Petitioner provided timely information supplementing the Petition on October 29, 2010, November 2, 2010, and November 3, 2010. Petitioner also provided information supplementing the Petition on November 9, 2010.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended ("the Act"), Petitioner alleges that manufacturers, producers, or importers of multilayered wood flooring from the People's Republic of China ("PRC") received countervailable subsidies within the meaning of section 701 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing multilayered wood flooring in the United States.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C), (E), and (F) of the Act, and Petitioner has demonstrated sufficient industry support with respect to the countervailing duty ("CVD") investigation (*see* "Determination of Industry Support for the Petition" section below).

On November 4, 2010, we received comments from Lumber Liquidators Services, LLC ("Lumber Liquidators") and Home Legend, LLC ("Home Legend"), U.S. importers of multilayered wood flooring (collectively, "importers"). Lumber Liquidators and Home Legend are interested parties as defined by section 771(9)(A) of the Act. The importers and U.S. Floors LLC ("US Floors") filed additional comments on November 9, 2010.

Period of Investigation

The period of investigation is January 1, 2009, through December 31, 2009.

Scope of Investigation

The products covered by the investigation are multilayered wood flooring products from the PRC. For a full description of the scope of the investigation, please *see* "Scope of the Investigation," in Appendix I of this notice.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. As a result, the "Scope of Investigation" language has been modified from the language in the Petition to reflect these clarifications. Moreover, as discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by November 30, 2010, twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of the scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on October 22, 2010, the Department invited representatives of

[1] *See* Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People's Republic of China, dated October 21, 2010 ("Petition").

the Government of the PRC ("GOC") for consultations with respect to the CVD petition. On October 27, 2010, the GOC's Ministry of Commerce, under the Bureau of Fair Trade for Imports & Exports, requested consultations. These consultations were held by telephone on November 1, 2010. *See* Memorandum from Joshua Morris to the File, entitled, "Consultations with Officials from the Government of the People's Republic of China on the Countervailing Duty Petition regarding Multilayered Wood Flooring," (November 8, 2010), which is on file in the Central Records Unit ("CRU") of the main Department of Commerce building, Room 7046. On November 9, 2010, Deputy Assistant Secretary for Import Administration Ronald Lorentzen met with representatives from the GOC to discuss the Petition. *See* Memorandum from Joshua Morris to the File, entitled, "Meeting with Officials from the Embassy of the People's Republic of China on the Countervailing Duty Petition regarding Multilayered Wood Flooring," (November 10, 2010) which is on file in the CRU.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that multilayered wood flooring constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* "Countervailing Duty Investigation Initiation Checklist: Multilayered Wood Flooring from the People's Republic of China" ("Initiation Checklist"), at Attachment II, Analysis of Industry Support for the Petitions Covering Multilayered Wood Flooring from the People's Republic of China, on file in the CRU.

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. To establish industry support, Petitioner provided its production volume of the domestic like product in 2009, and compared this to the estimated total production volume of the domestic like product for the entire domestic industry. *See* Volume I of the Petitions, at 4–5, and Exhibit I–3; *see also* Supplement to the AD/CVD Petitions dated November 2, 2010 at 2; *see also* Supplement to the AD/CVD Petitions dated November 3, 2010 at 1–2 and Exhibit I–K. Petitioner estimated 2009 production volume of the domestic like product by non-petitioning companies based on its knowledge of the industry. We have relied upon data Petitioner provided for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

On November 4, 2010, we received a submission on behalf of importers of multilayered wood flooring, interested parties to this proceeding as defined in section 771(9)(A) of the Act, questioning the industry support calculation. *See* Initiation Checklist at Attachment II. On November 8 and 9, 2010, Petitioner filed replies to the importers' industry support challenge. The importers filed an additional submission on November 9, 2010, on behalf of the importers and US Floors, in which they voice US Floors' opposition to the Petitions. For further discussion of these submissions, *see* Initiation Checklist at Attachment II.

Based on information provided in the Petition, supplemental submissions, and other information readily available to the Department, we determine that the domestic producers and workers have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. Because the Petition and supplemental submissions did not establish support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, the Department was required to take further action in order to evaluate industry support. *See* section 702(c)(4)(D) of the Act. In this case, the Department was able to rely on other information, in accordance with section 702(c)(4)(D)(i) of the Act, to determine industry support. *See* Initiation Checklist at Attachment II. Based on information provided in the Petition, other submissions, and additional information obtained by the Department, the domestic producers and workers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to,

the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See* Initiation Checklist at Attachment II.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in sections 771(9)(C), (E), and (F) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate. *Id.*

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of multilayered wood flooring from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the domestic industry producing multilayered wood flooring. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share, reduced production, reduced shipments, reduced capacity and capacity utilization, underselling and price depression or suppression, reduced employment, hours worked, and wages paid, decline in financial performance, lost sales and revenue, and increase in import penetration. *See* Volume I of the Petition, at 16–60. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist at Attachment III, Injury.

Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to Petitioner(s) supporting the allegations. The Department has examined the CVD petition on multilayered wood flooring from the PRC and finds that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of multilayered wood flooring in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* Initiation Checklist.

We are including in our investigation the following programs alleged in the Petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

A. Tax Benefit Programs

1. Income Tax Exemption/Reduction under "Two-Free/Three Half" Program.
2. Local Income Tax Exemption and Reductions for "Productive" Foreign-Invested Enterprises ("FIEs").
3. Tax Subsidies to FIEs Based on Geographic Location.

B. Indirect Tax and Import Tariff Programs

4. Value Added Tax and Tariff Exemptions on Imported Equipment.

C. Provision of Goods or Services for Less Than Adequate Remuneration ("LTAR")

5. Electricity for LTAR.
6. Provision of Electricity at LTAR for FIEs and "Technologically Advanced" Enterprises by Jiangsu Province.

For further information explaining why the Department is investigating these programs, *see* Initiation Checklist.

We are not including in our investigation the following program alleged to benefit producers and exporters of the subject merchandise in the PRC:

1. Currency Undervaluation

Petitioner alleges that the GOC ensures that the Renminbi ("RMB") exchange rate significantly understates the value of the RMB against the U.S. Dollar ("USD") from 25 to 50 percent. Petitioner alleges that Chinese exporters earning USD through export transactions receive an artificially inflated amount of RMB when they exchange the USD at the People's Bank of China, a Chinese government entity. Petitioner states that the GOC thus ensures exporters who receive USD from export activities receive more RMB than they otherwise would if the value of the RMB was set through market mechanisms. Petitioner alleges that the GOC's program to maintain artificial exchange rates qualifies as a financial contribution or, in the alternative, Petitioner alleges that GOC foreign exchange market interventions constitute a price support within the meaning of Article XVI of the GATT 1994. In both cases, Petitioner describes the benefit conferred as the excess of RMB received over what would have been received at a market rate ("excess RMB"), and alleges specificity within the meaning of section 771(5A)(B) of the Act. Petitioner notes that the U.S. House of Representatives has recently passed legislation in regard to subsidies relating to a fundamentally undervalued currency. According to Petitioner, this legislation states that a subsidy may be considered export contingent, even if the subsidy is also provided in non-export circumstances.

Section 771(5A)(B) of the Act describes an export subsidy as "* * * a subsidy that is, in law or fact, contingent upon export performance, alone or as 1 of 2 or more conditions." Petitioner has failed to sufficiently allege that the receipt of the excess RMB is contingent on export or export performance because receipt of the excess RMB is independent of the type of transaction or commercial activity for which the dollars are converted or of the particular company or individuals converting the dollars. Petitioner's reliance on legislation passed by the U.S. House of Representatives is premature as the proposed language does not yet equate to an enforceable statute. Consequently, consistent with previous cases, we do not plan on investigating this program because Petitioner has failed to properly allege the specificity element.[2]

Respondent Selection:

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the period of investigation. We intend to release the CBP data under Administrative Protective Order ("APO") to all parties with access to information protected by APO within five days of the announcement of the

[2] *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 75 FR 59212 (September 27, 2010); *see also Aluminum Extrusions From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 75 FR 54302 (September 7, 2010).

initiation of this investigation. Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of publication of this notice. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at *http://ia.ita.doc.gov/apo.*

Distribution of Copies of the Petition: In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the Petition has been provided to the GOC. Because of the large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

ITC Notification:

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC: The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is a reasonable indication that imports of subsidized multilayered wood flooring from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

November 10, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

APPENDIX I

Scope of the Investigation

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s) [3] in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.,* "engineered wood flooring" or "plywood flooring." Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.,* without a finally finished surface to protect the face veneer from wear and tear) or "prefinished" (*i.e.,* a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes.) The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard (MDF), high-density fiberboard (HDF), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.,* circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product.

Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of high-density fiberboard, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.3175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; and 4418.72.9500.

In addition, imports of subject merchandise may enter the U.S. under the following HTSUS subheadings: 4409.10.0500; 4409.10.2000; 4409.29.0515; 4409.29.0525; 4409.29.0535; 4409.29.0545; 4409.29.0555; 4409.29.0565; 4409.29.2530; 4409.29.2550; 4409.29.2560; 4418.71.1000; 4418.79.0000; and 4418.90.4605.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

[3] A "veneer" is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

[FR Doc. 2010–29117 Filed 11–17–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XA044

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's (Council) VMS/Enforcement Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, December 7, 2010 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Harborside Hotel, 250 Market Street, Portsmouth, NH 03801; telephone: (603) 431–2300; fax: (603) 433–5649.

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: The items of discussion in the committee's agenda are as follows:

The Committee will develop recommendations on proposed penalty schedule. Other business may be discussed.

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 identified 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

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.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 15, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–29082 Filed 11–17–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–008]

Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Notice of Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On June 30, 2010, the U.S. Department of Commerce (the Department) published a notice of initiation of an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Taiwan. The review covers two firms: Yieh Phui Enterprise Co., Ltd. (Yieh Phui) and Yieh Hsing Enterprise Co., Ltd. (Yieh Hsing). Based on a withdrawal of the request for review from United States Steel Corporation (Petitioner), we are now rescinding this administrative review with respect to Yieh Hsing.

DATES: *Effective Date:* November 18, 2010.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–1131 or (202) 482–0649, respectively.

Background

On June 30, 2010, the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Taiwan covering the period May 1, 2009, through April 30, 2010. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 75 FR 37759, 37762 (June 30, 2010).

On July 1, 2010, the Department issued questionnaires to both of the respondents, Yieh Hsing and Yieh Phui. Yieh Hsing did not respond to the Department's questionnaire.

On October 26, 2010, the Petitioner withdrew its request for an administrative review for Yieh Hsing. The Petitioner was the only interested party to request a review of Yieh Hsing.

Partial Rescission

19 CFR 351.213(d)(1) of the Department's regulations provides that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the of publication of the notice of initiation of the requested review, or withdraws at a later date if the Department determines it is reasonable to extend the time limit for withdrawing the request. Therefore, although the Petitioner withdrew its request with regard to Yieh Hsing after the 90-day deadline, the Department has the discretion to extend this time limit. Consistent with the Department's practice, we find it reasonable to extend the withdrawal deadline, and to rescind the review with respect to Yieh Hsing, because the Department has not devoted significant time or resources to review Yieh Hsing, and the Petitioner was the only party to request a review. *See, e.g., Welded Large Diameter Line Pipe From Japan: Notice of Rescission of Antidumping Duty Administrative Review,* 75 FR 38989, 38990 (July 7, 2010); *see also Persulfates from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review,* 71 FR 13810, 13811 (March 17, 2006). The Department will continue this administrative review with respect to Yieh Phui.

Assessment Instructions

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For the company for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a final reminder to importers for whom this review is being rescinded of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: November 12, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–29123 Filed 11–17–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to section 251 of the Trade Act of 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE 10/28/2010 THROUGH 11/10/2010

Firm name	Address	Date accepted for investigation	Products
Aermotor Company	4277 Dan Hanks Lane, San Angelo, TX 76902.	10/29/2010	The firm manufactures of windmills and the related pumps and mounting towers.
A–Z Acquisition Corporation d/b/a A–Z Mfg and Sales Co, Inc.	10405 E. 11th St., Independence, MO 64052.	11/1/2010	The firm produces custom metal fabrication.
Colonial Circuits, Inc	1026 Warrenton Road, Fredericksburg, VA 22406.	11/4/2010	The firm produces printed circuit boards for high reliability applications; primarily military, space and flight.
Delta Engineered Plastics, LLC	1350 Harmon Road, Auburn Hills, MI 48326.	11/2/2010	The firm produces plastic injection molded truck and automotive vehicle parts.
Howe Corporation	1650 North Elston Avenue, Chicago, IL 60642.	11/8/2010	The firm designs and manufactures industrial and commercial refrigeration equipment such as flake ice machines, ice storage bins, multi-cylinder compressors, pump out compressors pressure vessels and heat exchangers.
Insight Lighting, Inc	4341 Fulcrum Way, Rio Rancho, NM 87144.	11/3/2010	The firm fabricates raw materials such as extruded aluminum and sheet steel into subassemblies, powder coated and assembled with purchased components into finished lighting fixtures.
Lafayette Venetian Blind, Inc	3000 Klondike Road, West Lafayette, IN 47996.	11/1/2010	The firm produces custom window coverings and top of the bed products along with other fabric accessories such as draperies, pillows, head boards and benches.
Lake Country Woodworkers Ltd	PO Box 400, 12 Clark St., Naples, NY 14512.	10/28/2010	The Company produces hardwood furniture for office and bathrooms including conference tables, occasional tables, reception stations, vanities and credenzas.
Miller Welding and Machine Company	111 2nd Street, Brookville, PA 15825	11/8/2010	The firm engages in many different types of sheet metal work—as specified by the customer—such as mechanical assembly, painting and finishing, machining, welding, fabricating, punching and precision bending.
Pantheon Guitars, LLC	2 Cedar Street, Lewiston, ME 04240	11/3/2010	The firm manufactures wood acoustic guitars ranging from small parlor guitars to larger Dreadnoughts. Materials used in the manufacturing process include mahogany, Brazillian and Madagascar rosewoods, adirondacks and sitka sprucewoods. Miscellaneous mat
Raven Industries, Inc	205 E. 6th Street, Sioux Falls, SD 57117	11/3/2010	The firm produces electronic contract manufacturing services of commercial and industrial circuit card and system assemblies.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public

hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: November 10, 2010.

Miriam Kearse,

Eligibility Certifier.

[FR Doc. 2010–29084 Filed 11–17–10; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment Request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before December 20, 2010.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: November 15, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Extension.

Title of Collection: Civil Legal Assistance Attorney Student Loan Repayment Program.

OMB Control Number: 1845–0104.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: Individuals or households; Not-for-profit institutions.

Total Estimated Number of Annual Responses: 1,666.

Total Estimated Annual Burden Hours: 375.

Abstract: Under this program, civil legal assistance attorneys who meet certain qualifications may have a portion of certain Federal student loans repaid by the Department based on qualifying full-time employment for at least three years. After acceptance into the program using the Application to Participate and Service Agreement, the borrower will be required to submit the Annual Certification of Employment for the subsequent three years to continue to receive this benefit. If the borrower doesn't continue to meet the employment requirments, they will have to repay any funding received through this program.

Requests for copies of the information collection submission for OMB review may be accessed from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4434. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–29109 Filed 11–17–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Spectrum Policy Seminar for the Utility Sector

AGENCY: Department of Energy.

ACTION: Notice of public meeting.

SUMMARY: On October 5, 2010, after an extensive public notice and comment process, the Department of Energy (DOE) issued a report entitled, "*Communications Requirements of Smart Grid Technologies.*" The complete text of the report, and of a second report addressing data access and privacy issues arising from the deployment of smart grid technologies, can be found at: *http://www.gc.energy.gov/1592.htm.*

One recommendation in the report was to provide more information to the utility sector on spectrum policy issues in light of the role wireless communications will surely play in the deployment of smart grid technologies. At this spectrum policy seminar, senior officials from the Federal Communications Commission and the Commerce Department's National Telecommunications and Information Administration will provide an overview designed for the utility sector of the current spectrum management process. They will also address some of the Federal programs currently available to ensure priority restoration and priority calling for utilities during times of emergency. All members of the public are invited to attend.

DATES: The Department will hold a public meeting on December 8, 2010, from 2 p.m. to 4:30 p.m. in Washington, DC.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room GH–019, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please pre-register to the extent possible by contacting Katharine Dickerson at 202–586–5281 or *Katharine.Dickerson@hq.doe.gov.* Additionally, please note that foreign nationals participating in the public meeting are subject to advance security screening procedures. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Katharine Dickerson so that the necessary procedures can be completed.

FOR FURTHER INFORMATION CONTACT: Lauren M. Van Wazer, Senior Advisor, Technology Law (202) 586–3421; *broadband@hq.doe.gov.*

For Media Inquires you may contact Jen Stutsman at 202–586–4940.

Issued in Washington, DC on November 12, 2010.

Scott Blake Harris,

General Counsel.

[FR Doc. 2010–29089 Filed 11–17–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. IC10–511–001 and IC10–515–001]

Commission Information Collection Activities (FERC–511 and FERC–515); Comment Request; Submitted for OMB Review

November 10, 2010.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission or FERC) has submitted the information collections described below to the Office of Management and Budget (OMB) for review of the information collections requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission issued a Notice in the **Federal Register** (75FR 157, 08/16/2010) requesting public comments. FERC received no comments on the FERC–511 or the FERC–515 and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by December 20, 2010.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include OMB Control Numbers 1902–0069 (for FERC–511) and 1902–0079 (for FERC–515) as a point of reference. For comments that pertain to only one of the collections, specify the appropriate collection and OMB Control Number. The Desk Officer may be reached by telephone at 202–395–4638.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission and should refer to Docket Nos. IC10–511–001 and IC10–515–001. (If comments apply to only one of the collections, indicate the corresponding docket and collection number.) Comments may be filed either electronically or in paper format. Those persons filing electronically do not need to make a paper filing. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines. Complete filing instructions and acceptable filing formats are available at *http://www.ferc.gov/help/submission-guide.asp*. To file the document electronically, access the Commission's Web site and click on Documents & Filing, E–Filing (*http://www.ferc.gov/docs-filing/efiling.asp)*, and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

For paper filings, the comments should be submitted to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426, and should refer to the appropriate Docket No.

Users interested in receiving automatic notification of activity in FERC Docket Nos. IC10–511 and IC10–515 may do so through eSubscription at *http://www.ferc.gov/docs-filing/esubscription.asp*. All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the "eLibrary" link. For user assistance, contact *ferconlinesupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by e-mail at *DataClearance@FERC.gov*, by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: For the purpose of publishing this notice and seeking public comment, FERC requests comments on both FERC–511 (Application for Transfer of License; OMB Control No. 1902–0069), and FERC–515 (Hydropower Licensing: Declaration of Intention; OMB Control No. 1902–0079). The associated regulations, reporting requirements, burdens, and OMB clearance numbers will continue to remain separate and distinct for FERC–511 and FERC–515.

FERC–511: The information collected under the requirements of FERC–511 is used by the Commission to implement the statutory provisions of sections 4(e) and 8 of the Federal Power Act (FPA) (16 U.S.C. 797(e) and 801). Section 4(e) authorizes the Commission to issue licenses for the construction, operation and maintenance of reservoirs, powerhouses, and transmission lines or other facilities necessary for the development and improvement of navigation and for the development, transmission, and utilization of power.[1] Section 8 of the FPA provides that the voluntary transfer of any license can only be made with the written approval of the Commission. Any successor to the licensee may assign the rights of the original licensee but is subject to all of the conditions of the license. The information filed with the Commission is a mandatory requirement contained in the format of a written application for transfer of license, executed jointly by the parties of the proposed transfer. The transfer of a license may be occasioned by the sale or merger of a licensed hydroelectric project. It is used by the Commission's staff to determine the qualifications of the proposed transferee to hold the license, and to prepare the transfer of the license order. Approval by the Commission of transfer of a license is contingent upon the transfer of title to the properties under license, delivery of all license instruments, and a showing that such transfer is in the public interest. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Part 9.

FERC–515: The information collected under the requirements of FERC–515 is used by the Commission to implement the statutory provisions of Part I, Section 23(b) of the Federal Power Act (16 USC 817). Section 23(b) authorized the Commission to make a determination as to whether it has jurisdiction over a proposed water project[2] not affecting navigable waters[3] but across, along, over, or in waters over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States. Section 23(b) requires that any person intending to construct project works on such waters must file a declaration of their intention with the Commission. If the Commission finds the proposed project will have an impact on interstate or foreign

[1] Refers to facilities across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several Sates, or upon any part of public lands and reservations of the United States, or for the purpose of utilizing the surplus water or water power from any Government dam.

[2] Dams or other project works (*see* 16 U.S.C. 817).

[3] *See* 16 U.S.C. 796(8) for the definition of "Navigable Waters".

commerce, then the person intending to construct the project must obtain a Commission license or exemption before starting construction.[4] The information is collected in the form of a written application, containing sufficient details to allow the Commission staff to research the jurisdictional aspects of the project. This research includes examining maps and land ownership records to establish whether or not there is Federal jurisdiction over the lands and waters affected by the project. A finding of non-jurisdictional by the Commission eliminates a substantial paperwork burden for the applicant who might otherwise have to file for a license or exemption application. The Commission implements these filing requirements under 18 CFR Part 24.

Action: The Commission is requesting a three-year extension of the current expiration dates for FERC–511 and FERC–515, with no changes.

Burden Statement: Total annual burden hours for these collections are estimated as:

FERC Data collection	Number of respondents annually (1)	Average number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)
FERC–511	23	1	40	920
FERC–515	10	1	80	800

Total annual costs for these collections are estimated as:

FERC data collection	Cost burden per respondent	Total cost burden to respondents[5]
FERC–511	$2,651	$60,983
FERC–515	$5,303	$53,028

[5] Estimated number of hours an employee works each year = 2080, estimated average annual cost per employee = $137,874. Ex: $60,983 = (920 hours/2080 hours) * $137,874

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collections 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–29059 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

[4] Upon a finding of non-jurisdictional by the Commission, and if no public lands or reservations are affected, permission is granted upon compliance with State laws.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–23–000]

Perryville Gas Storage LLC ; Notice of Application

November 10, 2010.

Take notice that on November 5, 2010, Perryville Gas Storage LLC (Perryville), Three Riverway, Suite 1350, Houston, Texas 77056, filed in Docket No. CP11–23–000, a petition for an Exemption of Temporary Acts and Operations, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(5), and section 7(c)(1)(B) of the Natural Gas Act, to perform specific temporary activities related to drill site preparation and drilling a test well in Franklin Parish, Louisiana. Specifically, Perryville proposes to drill a stratigraphic test well to provide direct subsurface data to support the geological and geophysical interpretations for the location of the edge of the salt dome relative to the approved natural gas storage Cavern Well 1 certificated in Docket No. CP09–418–000. Perryville avers the test well is essential to support necessary permitting in the State of Louisiana, all

as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to J. Gordon Pennington, 2707 N. Kensington St., Arlington, VA 22207, telephone no. (703) 533–7638, facsimile no. (703) 241–1842, and e-mail: *pennington5@verizon.net*; or Paul Lanham, Three Riverway, Suite 1350, Houston, TX 77056, telephone no. (713) 350–2514, facsimile no. (713) 350–2550, and e-mail: *paul.lanham@cardinalgs.com.*

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: November 24, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–29058 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–16–000]

Florida Gas Transmission Company, LLC; Notice of Application

November 10, 2010.

Take notice that on October 28, 2010, Florida Gas Transmission Company, LLC (FGT), 5444 Westheimer Road, Houston, Texas 77056, filed in Docket No. CP11–16–000, an application, pursuant to section 7(c) of the Natural Gas Act (NGA), as amended, and Parts 157 of the Federal Energy Regulatory Commission's (Commission) Regulations, to construct, own, operate and maintain natural gas transmission facilities (Miami Mainline Loop Project). Specifically, FGT proposes to construct, own and operate approximately 3 miles of 24-inch pipeline loop and install a pig receiver at Compressor Station No. 22, all of which are located in Miami-Dade County, Florida. The total estimated cost for the proposed Miami Mainline Loop Project is $35.4 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Stephen Veatch, Senior Director of Certificates & Tariffs, Florida Gas Transmission Company, LLC, 5444 Westheimer Road, Houston, Texas, 77056, or call (713) 989–2024, or fax (713) 989–1158, or by e-mail *Stephen.Veatch@sug.com.*

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public

record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: December 1, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–29057 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13226–003; Project No. 13368–002]

Blue Heron Hydro, LLC; Notice of Applications Tendered for Filing With the Commission and Soliciting Additional Study Requests

November 10, 2010.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection.

a. *Types of Application:* Original Major License.

b. *Project Nos.:* P–13226–003 and P–13368–002.

c. *Date filed:* November 1, 2010.

d. *Applicant:* Blue Heron Hydro, LLC.

e. *Name of Projects:* Ball Mountain Dam Hydroelectric Project; Townshend Dam Hydroelectric Project.

f. *Location:* Both projects would be constructed at existing U.S. Army Corps of Engineers dams (Corps) that are located on the West River in Windham County, Vermont. Each project would occupy Federal land managed by the Corps.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Lori Barg, Blue Heron Hydro, LLC 113 Bartlett Road, Plainfield, Vermont 05667. (802) 454–1874.

i. *FERC Contact:* Dr. Nicholas Palso, *nicholas.palso@ferc.gov* or (202) 502–8854.

j. *Cooperating agencies:* Federal, State, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* December 30, 2010.

All documents may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file,

mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

m. The applications are not ready for environmental analysis at this time.

n. *The Ball Mountain Dam Hydroelectric Project would utilize the Corps' existing Ball Mountain Dam and reservoir and would consist of:* (1) Two turbine generator modules located within the existing intake tower, each containing 6 horizontal mixed flow turbines directly connected to 6 submersible generator units for a total installed capacity of 2,200 kilowatts (kW); (2) a new 12.47-kilovolt (kV), 1,320-foot-long transmission line; and (3) appurtenant facilities. The project would have an estimated average annual generation of approximately 6,000 megawatt-hours (MWh).

The Townshend Dam Hydroelectric Project would utilize the Corps' existing Townshend Dam and reservoir and would consist of: (1) Two turbine generator modules located within the existing intake tower, each containing 6 horizontal mixed flow turbines directly connected to 6 submersible generator units for a total installed capacity of 925 kW; (2) a new 12.47-kV, 430-foot-long transmission line; and (3) appurtenant facilities. The project would have an estimated average annual generation of approximately 2,000 MWh.

o. Copies of the applications are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. Copies are also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Vermont State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, CFR, at 800.4.

q. *Procedural schedule:* The applications will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Notice of Acceptance/Notice of Ready for Environmental Analysis.	January 2010
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions.	March 2011
Commission issues Non-Draft EA.	August 2011
Comments on EA	September 2011
Modified terms and conditions.	November 2011

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–29062 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13849–000]

Natural Currents Energy Services, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

November 10, 2010.

On September 30, 2010, Natural Currents Energy Services, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Salem Tidal Energy Project, which would be located on the Salem River, in Salem County, New Jersey. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

Natural Currents proposes to develop this project in the stretch of the Salem River between the confluence of Fenwick Creek just north of the Penn's Neck Bridge (South Broadway, City of Salem, NJ) and the Mid Atlantic Port Terminal to the south. The project proposes between 10 and 30 NC Sea Dragon or Red Hawk tidal turbines at a rated capacity of 100 kilowatts (kW). The exact number would be dependent on further resource assessment, which would precisely characterize the water flow speeds. Initial estimated production would be a minimum of 3,504,000 kW hours per year with the installation of 10 units.

Applicant Contact: Mr. Roger Bason, Natural Currents Energy Services, LLC, 24 Roxanne Boulevard, Highland, NY 12561; phone (845) 691–4009.

FERC Contact: John M. Mudre, (202) 502–8902.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 Days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/efiling.asp*). Commenters can submit brief comments up to 6,000 characters without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13849) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–29064 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13817–000]

EBD Hydro; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

November 10, 2010.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 13817–000.

c. *Date filed:* July 16, 2010.

d. *Applicant:* EBD Hydro.

e. *Name of Project:* 45-Mile Hydroelectric Project.

f. *Location:* The proposed 45-Mile Hydroelectric Project would be located on the concrete drop structure of the North Unit Irrigation District's main irrigation canal in Jefferson County, near the Town of Culver, Oregon. The land on which all the project structures are located is leased by the applicant.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Jim Gordon, EBD Hydro, 20247 Gaines Court, Bend, Oregon 97702, phone (541) 318–1017.

i. *FERC Contact:* Robert Bell, (202) 502–6062, *robert.bell@ferc.gov.*

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing responsive documents:* In light of the comments received by resource agencies, the 60-day timeframe specified in 18 CFR 4.43(b) for filing all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions is shortened to 20 days from the issuance date of this notice. All reply comments filed in response to comments submitted by any resource agency, Indian Tribe, or person, must be filed with the Commission within 30 days from the issuance date of this notice.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the *http://www.ferc.gov/docs-filing/efiling.asp.* The Commission strongly encourages electronic filings.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Project:* The 45-Mile Hydroelectric Project would consist of: (1) A proposed intake structure; (2) a proposed 2,700-foot-long, 96-inch diameter reinforced Krah/HDPE pipe; (3) a proposed powerhouse containing three proposed generating units with a total installed capacity of 5,000 kilowatts; and (4) appurtenant facilities. The applicant estimates the project would have an average annual generation of 18.126 gigawatt-hours.

m. This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the "eLibrary" link. Enter the docket number, here P–13817, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item h above.

n. *Development Application*—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a competing development application. A notice of intent must be served on the applicant(s) named in this public notice.

p. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

q. All filings must (1) bear in all capital letters the title "PROTEST," "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and seven copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

r. *Waiver of Pre-filing Consultation:* On July 16, 2010, the applicant requested the agencies support to waive the Commission's consultation requirements under 18 CFR 4.38(c). On October 15, 2010, the U.S. Department of the Interior's Fish and Wildlife service concurred with this request. No other comments were received. Therefore, we intend to accept the consultation that has occurred on this project during the pre-filing period and we intend to waive pre-filing consultation under section 4.38(c), which requires, among other things, conducting studies requested by resource agencies, and distributing and consulting on a draft exemption application.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–29063 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12807–001]

BPUS Generation Development, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

November 10, 2010.

On October 4, 2010, BPUS Generation Development, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Mulqueeney Ranch Pumped Storage Project to be located on property known as Mulqueeney Ranch, near the City of Tracy, in Alameda County, California.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The project would consist of the following: (1) A proposed upper impoundment having a surface area of about 52 acres and a normal water surface elevation of 1,640 feet mean sea level; (2) a proposed lower impoundment having a surface area of about 40 acres and a normal surface area of 940 feet mean sea level; (3) a proposed waterway connecting the upper impoundment to the lower impoundment; (4) a proposed powerhouse containing two generator units with a total installed capacity of 280 megawatts; (5) a proposed 1.75-mile-long, 230- or 500-kilovolt transmission line; and (6) appurtenant facilities. The proposed project would have an estimated annual generation of about 368 gigawatt-hours (GWh) and a pumping energy requirement of about 472 GWh. The applicant plans to sell the generated energy to a local utility.

Applicant Contact: Michael Cutter, Vice President Engineering and Development, Brookfield Renewable Power, Inc., 200 Donald Lynch Blvd., Suite 300, Marlborough, MA 01752.

FERC Contact: Jim Fargo (202) 502–6095.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–12807) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–29061 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR10–92–001]

Enterprise Texas Pipeline LLC; Notice of Baseline Filing

November 10, 2010.

Take notice that on November 9, 2010, Enterprise Texas Pipeline LLC submitted a revised baseline filing of its Statement of Operating Conditions for services provided under section 311 of the Natural Gas Policy Act of 1978 (NGPA).

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–29066 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR11–71–000; Docket No. PR11–72–000; Docket No. PR11–73–000]

Notice of Baseline Filings

November 10, 2010.

Docket No. PR11–71–000
Southcross Gulf Coast Transmission Ltd,

Docket No. PR11–72–000
Southcross Mississippi Pipeline, L.P.,

Docket No. PR11–73–000
Southcross CCNG Transmission Ltd.,

Not Consolidated

Take notice that on November 9, 2010, the applicants listed above submitted their baseline filing of their Statement of Operating Conditions for services provided under Section 311 of

the Natural Gas Policy Act of 1978 ("NGPA").

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–29067 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

November 01, 2010.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC11–15–000.

Applicants: South Carolina Electric & Gas Company.

Description: Application for Authorization under Section 203 of the Federal Power Act for Acquisition of Jurisdictional Facilities of South Carolina Electric & Gas Company.

Filed Date: 10/29/2010.

Accession Number: 20101029–5251.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG11–7–000.

Applicants: Elk City II Wind, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Elk City II Wind, LLC.

Filed Date: 10/28/2010.

Accession Number: 20101028–5158.

Comment Date: 5 p.m. Eastern Time on Thursday, November 18, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER09–411–006.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Revisions of Midwest Independent Transmission System Operator, Inc.

Filed Date: 10/29/2010.

Accession Number: 20101029–5250.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER10–1998–001.

Applicants: California Independent System Operator Corporation

Description: California Independent System Operator Corporation submits tariff filing per 35: 2010–10–29 CAISO's Price Correction Compliance Filing to be effective 9/30/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5211.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER10–2056–001.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits tariff filing per 35: 2010–10–29 CAISO MSG Transition Cost Compliance to be effective 11/15/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5161.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER10–2524–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.17(b): CapX–Fargo T–T Amendment to be effective 9/3/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5150.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER10–2649–001.

Applicants: Ameren Illinois Company.

Description: Ameren Illinois Company submits tariff filing per 35.17(b): Amendment to ER10–2649 to be effective 12/31/9998.

Filed Date: 10/29/2010.

Accession Number: 20101029–5172.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER10–2776–001.

Applicants: Wells Fargo Commodities, LLC.

Description: Wells Fargo Commodities, LLC resubmits its Market-Based Rate Tariff, to be effective 9/17/2010 under ER10–2776. Filing Type: 140.

Filed Date: 10/29/2010.

Accession Number: 20101029–5000.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER10–2782–001.

Applicants: Midwest Generation LLC.

Description: Midwest Generation LLC submits tariff filing per 35: Midwest Generation, LLC Reactive Supply and Voltage Control Tariff to be effective 9/21/2010.

Filed Date: 11/01/2010.

Accession Number: 20101101–5091.

Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–2–001.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: ISO New England Inc. submits tariff filing per 35.17(b): Amendment to Schedule 24 Tariff Revisions to be effective 12/1/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5078.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–84–001.

Applicants: Carolina Power & Light Company.

Description: Carolina Power & Light Company submits tariff filing per 35.17(b): Errata to Rate Schedule No. 189 of Carolina Power and Light Co. to be effective 12/11/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5091.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1872–001.

Applicants: Carolina Power & Light Company.

Description: Carolina Power & Light Company submits tariff filing per 35.17(b): Errata to Rate Schedule No. 173 of Carolina Power and Light Co. to be effective 12/11/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5090.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1956–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 205 Filing—Amendments to Voltage Support Service Program to be effective 1/1/2011.

Filed Date: 10/29/2010.

Accession Number: 20101029–5160.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1957–000.

Applicants: Atlantic Path 15, LLC.

Description: Atlantic Path 15, LLC submits tariff filing per 35.13(a)(2)(iii: Atlantic Path 15—TRBAA Annual Update to be effective 1/1/2011.

Filed Date: 10/29/2010.

Accession Number: 20101029–5162.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1958–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 607R11 Westar Energy, Inc. NITSA and NOA to be effective 10/1/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5191.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1959–000.

Applicants: NorthWestern Corporation.

Description: NorthWestern Corporation submits tariff filing per 35.13(a)(2)(iii: NorthWestern Corporation First Revised Rate Schedule FERC No. 257 (MT) to be effective 1/1/2011.

Filed Date: 10/29/2010.

Accession Number: 20101029–5197.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1960–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii): PAC Energy NITSA to be effective 9/30/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5202.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1961–000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: Consolidated Edison Company of New York, Inc. submits tariff filing per 35.13(a)(2)(iii): Amendment to PASNY and EDDS Tariffs to be effective 11/1/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5220.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1962–000.

Applicants: Wheelabrator North Broward Inc.

Description: Wheelabrator North Broward Inc. submits tariff filing per 35.12: Wheelabrator North Broward Inc. MBR Tariff to be effective 12/28/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5222.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1963–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii): WAPA Purchase for Capacity in Casper-Dave Johnston Line to be effective 11/1/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5223.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1964–000.

Applicants: Dynegy Oakland, LLC.

Description: Dynegy Oakland, LLC submits tariff filing per 35.13(a)(2)(iii): Annual RMR Section 205 Filing and RMR Schedule F Informational Filing to be effective 1/1/2011.

Filed Date: 10/29/2010.

Accession Number: 20101029–5227.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1965–000.

Applicants: Public Service Company of Oklahoma.

Description: Public Service Company of Oklahoma submits tariff filing per 35.12: 20101029 PSO Baseline RS and SA to be effective 10/29/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5230.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1966–000.

Applicants: Verde Energy USA Inc.

Description: Verde Energy USA Inc. submits tariff filing per 35.12: Baseline Filing to be effective 10/29/2010.

Filed Date: 11/01/2010.

Accession Number: 20101101–5000.

Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1967–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): MidAmerican-CIPCO WDS to be effective 12/1/2010.

Filed Date: 11/01/2010.

Accession Number: 20101101–5037.

Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1968–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. Resource Termination Filing.

Filed Date: 10/29/2010.

Accession Number: 20101029–5244.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1969–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. Resource Termination Filing.

Filed Date: 10/29/2010.

Accession Number: 20101029–5247.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1970–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. Resource Termination Filing.

Filed Date: 10/29/2010.

Accession Number: 20101029–5249.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1971–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii): SCE Letter Agreement with Horizon for Homestead Wind Farm Project to be effective 10/15/2010.

Filed Date: 11/01/2010.

Accession Number: 20101101–5076.

Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1972–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii): 1765R3 KCP&L–GMO NITSA and NOAS to be effective 10/1/2010.

Filed Date: 11/01/2010.

Accession Number: 20101101–5077.

Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1973–000.

Applicants: Wildorado Wind, LLC, Golden Spread Panhandle Wind Ranch, LLC.

Description: Wildorado Wind, LLC submits tariff filing per 35.13(a)(2)(iii): Revised Assignment, Contenancy and Common Facilities Agreement with Succession to be effective 10/14/2010.

Filed Date: 11/01/2010.

Accession Number: 20101101–5086.

Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1974–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii): SCE Update ETC Reliability Services Rates to be effective 1/1/2011.
Filed Date: 11/01/2010.
Accession Number: 20101101–5088.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1975–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 205 Filing—Executed Standard LGIA–NYISO, LIPA, Long Island Solar Farm to be effective 10/15/2010.
Filed Date: 11/01/2010.
Accession Number: 20101101–5095.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1976–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): MidAmerican-Lake View WDS to be effective 1/1/2011.
Filed Date: 11/01/2010.
Accession Number: 20101101–5096.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1977–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. submits tariff filing per 35: Notice of Effective Date and Filing to Incorporate ER10–2152–000 into eTariff to be effective 1/1/2011.
Filed Date: 11/01/2010.
Accession Number: 20101101–5098.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1978–000.
Applicants: Interstate Power and Light Company.
Description: Interstate Power and Light Company submits tariff filing per 35: IPL and ITC Midwest O & T Agreement Compliance Filing to be effective 11/2/2010.
Filed Date: 11/01/2010.
Accession Number: 20101101–5099.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1979–000.
Applicants: Public Service Company of Oklahoma.
Description: Public Service Company of Oklahoma submits tariff filing per 35.13(a)(2)(iii): Elk City Wind 2—EPA to be effective 11/2/2010.
Filed Date: 11/01/2010.
Accession Number: 20101101–5100.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1980–000.
Applicants: Gateway Energy Services Corporation.
Description: Gateway Energy Services Corporation submits tariff filing per 35: Order No. 697 Compliance Filing to be effective 9/15/2010.
Filed Date: 11/01/2010.
Accession Number: 20101101–5101.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1981–000.
Applicants: Alcan Power Marketing, Inc.
Description: Alcan Power Marketing, Inc. submits tariff filing per 35.12: Baseline Filing to be effective 11/1/2010.
Filed Date: 11/01/2010.
Accession Number: 20101101–5103.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1982–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits tariff filing per 35.13(a)(2)(iii): GMC Tariff Update 2011 to be effective 1/1/2011.
Filed Date: 11/01/2010.
Accession Number: 20101101–5104.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1983–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits tariff filing per 35.13(a)(2)(iii): BART NITSA Modifications to be effective 1/1/2011.
Filed Date: 11/01/2010.
Accession Number: 20101101–5109.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1984–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii): Virginia Electric—Revised Mutual Operating Agreement—PJM SA No. 2692 to be effective 1/1/2011.
Filed Date: 11/01/2010.
Accession Number: 20101101–5114.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1985–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii): PSEG Request—Incentive Rate Treatment—Four Baseline Transmission Projects to be effective 1/1/2011.
Filed Date: 11/01/2010.
Accession Number: 20101101–5118.
Comment Date: 5 p.m. Eastern Time on Monday, November 22, 2010.

Docket Numbers: ER11–1986–000.
Applicants: Old Dominion Electric Cooperative, Inc.
Description: Request of Old Dominion Electric Cooperative to update depreciation rates.
Filed Date: 10/29/2010.
Accession Number: 20101029–5257.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES11–7–000.
Applicants: Baltimore Gas and Electric Company.
Description: Application of Baltimore Gas and Electric Company for Short-Term Borrowing Authority.
Filed Date: 10/29/2010.
Accession Number: 20101029–5245.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to

challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29045 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

October 29, 2010.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC10–98–000.

Applicants: GDF Suez S.A., International Power PLC.

Description: Supplemental Affidavit of Julie R. Solomon submitted by GDF Suez, S.A. its Indicated United States Subsidiaries and Electrabel S.A., International Power plc and its Indicated United States Subsidiaries.

Filed Date: 10/29/2010.

Accession Number: 20101029–5167.

Comment Date: 5 p.m. Eastern Time on Monday, November 8, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–1936–000.

Applicants: TPF Generation Holdings, LLC.

Description: TPF Generation Holdings, LLC submits an application for authorization to make Market-Based Wholesale sales of energy, and certain ancillary services under FERC Electric Tariff, Original Volume No 1, to be effective 12/28/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5001.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1937–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 205 Filing—Credit Requirements for Holding TCCs to be effective 1/19/2011.

Filed Date: 10/29/2010.

Accession Number: 20101029–5037.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1938–000.

Applicants: California Power Exchange Corporation.

Description: California Power Exchange Corporation submits tariff filing per 35.12: California Power Exchange FERC Rate Schedule No. 1 to be effective 1/1/2011.

Filed Date: 10/29/2010.

Accession Number: 20101029–5045.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1939–000.

Applicants: AP Gas & Electric (PA), LLC.

Description: AP Gas & Electric (PA), LLC submits tariff filing per 35.12: Petition for Approval of Initial Market-Based Rate Tariff to be effective 12/1/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5055.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1940–000.

Applicants: Florida Power Corporation.

Description: Florida Power Corporation submits tariff filing per 35.12: Filing to create Rate Schedules tariff identifier for Florida Power Corp. to be effective 10/29/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5070.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1941–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii): 2028 Sunflower Electric Power Corporation NITSA and NOA to be effective 11/1/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5076.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1942–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): ISO–NE 2011 Capital Budget to be effective 1/1/2011.

Filed Date: 10/29/2010.

Accession Number: 20101029–5087.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1943–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): 2011 Administrative Cost Budget to be effective 1/1/2011.

Filed Date: 10/29/2010.

Accession Number: 20101029–5089.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1944–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits tariff filing per 35.13(a)(2)(iii): DomVA Termination of Deferral Recovery Charge—ATT H–16E in PJM OATT to be effective 1/1/2011.

Filed Date: 10/29/2010.

Accession Number: 20101029–5092.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1945–000.

Applicants: Wisconsin Public Service Corporation.

Description: Wisconsin Public Service Corporation submits tariff filing per 35.13(a)(2)(iii): Revised Service Agreements under W–2A Tariff to be effective 1/1/2011.

Filed Date: 10/29/2010.

Accession Number: 20101029–5093.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1946–000.

Applicants: Gulf Oil Limited Partnership.

Description: Gulf Oil Limited Partnership submits tariff filing per 35.12: Gulf Oil FERC Electric Filing to be effective 10/29/2010.

Filed Date: 10/29/2010.

Accession Number: 20101029–5104.

Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1947–000.

Applicants: ISO New England Inc.
Description: Request for Waiver of ISO New England Inc.
Filed Date: 10/29/2010.
Accession Number: 20101029–5110.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1948–000.
Applicants: Wisconsin Public Service Corporation.
Description: Wisconsin Public Service Corporation submits tariff filing per 35.13(a)(2)(iii): Revised Attachment A Capacity Formula Rates for W–1A and W–2A Tariffs to be effective 7/23/2010.
Filed Date: 10/29/2010.
Accession Number: 20101029–5118.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1949–000.
Applicants: NSTAR Electric Company.
Description: Notice of Termination of NSTAR Electric Company and National Grid.
Filed Date: 10/29/2010.
Accession Number: 20101029–5129.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1950–000.
Applicants: Wisconsin Public Service Corporation.
Description: Wisconsin Public Service Corporation, Revised Capacity Ratings under Rate Schedule No. 51.
Filed Date: 10/29/2010.
Accession Number: 20101029–5135.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1951–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits tariff filing per 35.13(a)(2)(iii): ISA No. 2693, Queue O24, Lexington Chenoa Wind Farm LLC and ComEd to be effective 9/29/2010.
Filed Date: 10/29/2010.
Accession Number: 20101029–5139.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1952–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits tariff filing per 35.13(a)(1): 2011 CWIPBAA Update Filing to be effective 1/1/2011.
Filed Date: 10/29/2010.
Accession Number: 20101029–5140.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1953–000.
Applicants: Interstate Power and Light Company.
Description: Interstate Power and Light Company submits tariff filing per 35.13(a)(2)(iii): IPL WPL—LBA Agreement to be effective 12/28/2010.
Filed Date: 10/29/2010.
Accession Number: 20101029–5142.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1954–000.
Applicants: Wisconsin Power and Light Company.
Description: Wisconsin Power and Light Company submits tariff filing per 35.13(a)(2)(iii): IPL WPL—LBA Agreement to be effective 12/28/2010.
Filed Date: 10/29/2010.
Accession Number: 20101029–5143.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Docket Numbers: ER11–1955–000.
Applicants: Dairyland Power Cooperative.
Description: Dairyland Power Cooperative submits tariff filing per 35.12: Supply and Voltage Control from Generation Sources to be effective 1/1/2011.
Filed Date: 10/29/2010.
Accession Number: 20101029–5146.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES11–4–000.
Applicants: Entergy Louisiana, LLC.
Description: Application for Authorization to Consent to an Increase in Borrowings in Connection With Nuclear Fuel Lease and Request for Waiver of Competitive Bidding Requirements.
Filed Date: 10/28/2010.
Accession Number: 20101028–5164.
Comment Date: 5 p.m. Eastern Time on Thursday, November 18, 2010.

Docket Numbers: ES11–5–000.
Applicants: The Detroit Edison Company.
Description: Application of The Detroit Edison Company for Authorization to Issue Securities.
Filed Date: 10/28/2010.
Accession Number: 20101028–5165.
Comment Date: 5 p.m. Eastern Time on Thursday, November 18, 2010.

Docket Numbers: ES11–6–000.
Applicants: Entergy Louisiana, LLC.
Description: Application of Entergy Louisiana, LLC, to Amend Existing Authorization under Federal Power Act pursuant to section 204.
Filed Date: 10/28/2010.
Accession Number: 20101028–5166.
Comment Date: 5 p.m. Eastern Time on Thursday, November 18, 2010.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–34–005.
Applicants: Public Service Company of New Mexico.
Description: Notification Filing Pursuant to Order 890 and PNM Tariff Sections 19.10 and 32.5 for Q3 2010.
Filed Date: 10/29/2010.
Accession Number: 20101029–5038.
Comment Date: 5 p.m. Eastern Time on Friday, November 19, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies

of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29044 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–1939–000]

AP Gas & Electric (PA), LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 9, 2010.

This is a supplemental notice in the above-referenced proceeding AP Gas & Electric (PA), LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29030 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–1946–000]

Gulf Oil Limited Partnership; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding of Gulf Oil Limited Partnership's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29031 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–2021–000]

Domtar A.W. LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding of Domtar A.W. LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket

authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29034 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–2021–000]

Domtar A.W. LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding of Domtar A.W. LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29033 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–1962–000]

Wheelabrator North Broward Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding of Wheelabrator North Broward Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29032 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–2032–000]

New Harvest Wind Project LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding of New Harvest Wind Project LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29036 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–2037–000]

Elk City II Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding of Elk City II Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29038 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–2040–000]

Schuylkill Energy Resources, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding of Schuylkill Energy Resources, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket

authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERC OnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29040 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–1936–000]

TPF Generation Holdings, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 9, 2010.

This is a supplemental notice in the above-referenced proceeding TPF Generation Holdings, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29047 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–2041–000]

Innovative Energy Systems, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding Innovative Energy Systems, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29041 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–2039–000]

E-T Global Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request For Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding of E-T Global Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERC OnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29039 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–2029–000]

Cedar Creek II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding of Cedar Creek II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29035 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–2036–000]

AES Laurel Mountain, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding of AES Laurel Mountain, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29037 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–2018–000; ER02–2018–001]

Blythe Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding of Blythe Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.[1]

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29046 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

[1] Filing submitted June 5, 2002 in ER02–2018–000.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–2042–000]

Seneca Energy, II LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

November 8, 2010.

This is a supplemental notice in the above-referenced proceeding Seneca Energy, II LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 29, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the

Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–29042 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

[BPA File No.: BP–12]

Fiscal Year (FY) 2012–2013 Proposed Power Rate Adjustments Public Hearing and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTIONS: Notice of FY 2012–2013 Proposed Power Rate Adjustments.

SUMMARY: BPA is holding a consolidated rate proceeding, Docket No. BP–12, to establish power and transmission rates for FY 2012–2013. The purpose of this **Federal Register** Notice is to provide notice of the proposed power rates and the rates for control area services and certain ancillary services (listed below, Section IV.C.). BPA will issue a separate **Federal Register** Notice to provide notice of the proposed transmission rates and the rates for the other ancillary services.

The Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) provides that BPA must establish and periodically review and revise its rates so that they are adequate to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including amortization of the Federal investment in the Federal Columbia River Power System (FCRPS) over a reasonable number of years and BPA's other costs and expenses. The Northwest Power Act also requires that BPA's rates be established based on the record of a formal hearing, and for transmission rates only, that the costs of the Federal transmission system be equitably allocated between Federal and non-Federal power utilizing the system. By this notice, BPA announces the commencement of a rate adjustment proceeding for proposed power rates, control area services rates, and certain ancillary services rates that will be effective on October 1, 2011.

In the near future, BPA will begin a Residential Exchange Program (REP) Settlement Proceeding, Docket No. REP–12. This separate docket will provide a forum to review the terms and conditions of a proposed 17-year settlement of litigation regarding BPA's implementation of the REP. Even though the proposed REP settlement involves issues interrelated with the establishment of power rates for the FY 2012–2013 rate period, BPA has chosen to exclude certain issues from the development of power rates in the BP–12 rate proceeding and address them in the REP–12 proceeding. Specifically, the REP–12 proceeding will address whether BPA should adopt the REP settlement, issues regarding the terms of the REP settlement, the implementation of the section 7(b)(2) rate test, the implementation of the section 7(b)(3) allocation, the forecast of utilities' Average System Costs (ASC), the amount and application of the remaining Lookback balance, and the allocation of REP costs to BPA's power rates. The REP–12 proceeding will conclude prior to the publication of final studies and the issuance of the Record of Decision (ROD) in BP–12. The final decisions in REP–12 will be incorporated into the final studies and power rate calculations in BP–12. *See* section II.D.12.

DATES: Anyone wishing to become a party to the BP–12 proceeding must provide written notice, via U.S. Mail or electronic mail, which must be received by BPA no later than 3 p.m. on November 24, 2010.

The BP–12 rate adjustment proceeding begins with a prehearing conference at 9 a.m. on November 19, 2010, in the BPA Rates Hearing Room, 2nd floor, 911 NE 11th Avenue, Portland, Oregon 97232.

Written comments by non-party participants must be received by February 18, 2011, to be considered in the Administrator's ROD.

ADDRESSES: 1. Petitions to intervene should be directed to: Hearing Clerk—L–7, Bonneville Power Administration, 905 NE 11th Avenue, Portland, Oregon 97232, or may be e-mailed to *rateclerk@bpa.gov.* In addition, copies of the petition must be served concurrently on BPA's General Counsel and directed to both Mr. Peter J. Burger, LP–7, and Mr. Barry Bennett, LC–7, Office of General Counsel, 905 NE 11th Avenue, Portland, Oregon 97232, or via e-mail to *pjburger@bpa.gov* and *bbennett@bpa.gov* (*see* section III.A. for more information regarding interventions).

2. Written comments by participants should be submitted to the Public Engagement Office, DKE–7, Bonneville Power Administration, P.O. Box 14428, Portland, Oregon 97293. Participants may also submit comments by e-mail at: *http://www.bpa.gov/comment.* BPA requests that all comments and documents intended to be part of the Official Record in this rate proceeding contain the designation BP–12 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Heidi Y. Helwig, DKC–7, Public Affairs Specialist, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208; by phone toll free at 1–800–622–4520; or via e-mail to *hyhelwig@bpa.gov*.

Responsible Officials: Mr. Raymond D. Bliven, Power Rates Manager, is the official responsible for the development of BPA's power rates, and Ms. Rebecca E. Fredrickson, Transmission Rates Manager, is the official responsible for the development of BPA's ancillary and control area services (ACS) rates.

SUPPLEMENTARY INFORMATION:

Table of Contents

Part I. Introduction and Procedural Background
Part II. Scope of 2012 Rate Proceeding
Part III. Public Participation in BP–12
Part IV. Summary of Rate Proposals
Part V. Proposed 2012 Rate Schedules

Part I—Introduction and Procedural Background

Section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i), requires that BPA's rates be established according to certain procedures, including publication in the **Federal Register** of this notice of the proposed rates; one or more hearings conducted as expeditiously as practicable by a Hearing Officer; opportunity for both oral presentation and written submission of views, data, questions, and arguments related to the proposed rates; and a decision by the Administrator based on the record. BPA's rate proceedings are further governed by BPA's Procedures Governing Bonneville Power Administration Rate Hearings, 51 FR

7611 (1986), which implement and expand the statutory requirements.

This proceeding is being conducted under the rule for general rate proceedings, section 1010.4 of BPA's Procedures. The proposed schedule below applies to power rates and the ancillary and control area services rates that are covered by this **Federal Register** Notice. A final schedule will be established by the Hearing Officer at the prehearing conference.

Prehearing/BPA Direct Case.	November 19
Intervention Deadline	November 24
Clarification	December 6–10
Motions to Strike	December 13
Data Request Deadline.	December 13
Answers to Motions to Strike.	December 20
Data Response Deadline.	December 20
Parties File Direct Case.	January 21
Clarification	February 1–4
Motions to Strike	February 7
Data Request Deadline.	February 7
Answers to Motions to Strike.	February 14
Data Response Deadline.	February 14
Close of Participant Comments.	February 18
Litigants File Rebuttal	March 1
Clarification	March 7–8
Motions to Strike	March 9
Data Request Deadline.	March 9
Answers to Motions to Strike.	March 16
Data Response Deadline.	March 16
Cross-Examination	March 28–April 1
Initial Briefs Filed	May 2
Oral Argument	May 12
Draft ROD Issued	June 14
Briefs on Exceptions	June 24
Final ROD—Final Studies.	July 25

Section 1010.7 of BPA's Procedures prohibits *ex parte* communications. The *ex parte* rule applies to all BPA and DOE employees and contractors. Except as provided below, any outside communications with BPA and/or DOE personnel regarding the merits of any issue in BPA's rate proceeding by other Executive Branch agencies, Congress, existing or potential BPA customers (including Tribes), or nonprofit or public interest groups are considered outside communications and are subject to the *ex parte* rule. The rule does not apply to communications relating to: (1) Matters of procedure only (the status of the rate proceeding, for example); (2) exchanges of data in the course of business or under the Freedom of Information Act; (3) requests for factual information; (4) matters for which BPA is responsible under statutes other than the ratemaking provisions; or (5) matters which all parties agree may be made on an *ex parte* basis. The *ex parte* rule remains in effect until the Administrator's Final ROD is issued, which is scheduled to occur on or about July 25, 2011.

Part II—Scope of 2012 Rate Proceeding

A. Joint Rate Proceeding

BPA is holding a wholesale power rate proceeding. As noted above in the summary, BPA will issue a separate **Federal Register** Notice to provide notice of the proposed transmission rates and rates for the remaining ancillary services (Scheduling, System Control, and Dispatch Service and Reactive Supply and Voltage Control from Generation Sources Service).

B. 2010 Integrated Program Review

BPA began its 2010 Integrated Program Review (IPR) process in May 2010. The IPR process is designed to allow people interested in BPA's program levels an opportunity to review and comment on all of BPA's expense and capital spending level estimates in the same forum prior to the use of those estimates in setting rates. Concurrent with the IPR, BPA held regional conversations about risk mitigation and debt management practices.

The 2010 IPR focused on FY 2012 and 2013 program levels for BPA's Power Services and Transmission Services as well as a review of FY 2011 program levels. BPA held 19 technical workshops and two general manager meetings at which proposed spending levels were presented for each of BPA's programs. BPA carefully reviewed and considered the 26 written comments and numerous oral comments on FY 2012 and 2013 program levels that were provided during this public process.

On October 27, 2010, BPA issued the Final Close-Out Letter and accompanying final report for the IPR, which summarizes the comments received and outlines BPA's responses. The report also summarizes comments and BPA's responses on the regional conversations about risk mitigation and debt management. In the Final Close-Out Letter and report, BPA established the program level cost estimates for both power and transmission rates that are used in the Initial Proposal. BPA does not anticipate additional public review of proposed spending levels. However, an abbreviated IPR process may be held if conditions warrant. BPA would conduct this process separately from the rate proceeding to share updates and solicit feedback from customers and constituents before the final program levels are incorporated into the final rates.

C. Rate Case Workshops

In preparation for the BP–12 rate proceeding, BPA held several public rate case workshops with customers and interested parties from March through September 2010. During the workshops, BPA staff presented and discussed information about costs, load and resource forecasting, generation inputs pricing, segmentation, revenue forecasts, load forecasts, risk analysis and mitigation, products, pricing, and rate design. Customers and interested parties had extensive opportunity to participate, raise issues, present alternative proposals, and comment on the information BPA staff presented. The comments and alternatives received during these workshops have assisted in the preparation of the Initial Proposal.

D. Scope of the Rate Proceeding

This section provides guidance to the Hearing Officer as to those matters that are within the scope of the rate proceeding and those that are outside the scope.

1. Program Cost Estimates

Some of the decisions that determine program costs and spending levels have been made in the IPR public review process outside the rate proceeding. *See* section II.B. BPA's spending levels for investments and expenses are not determined or subject to review in rate proceedings.

Pursuant to section 1010.3(f) of BPA's Procedures, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that challenges the appropriateness or reasonableness of the Administrator's decisions on cost and spending levels. If, and to the extent that, any re-examination of spending levels is necessary, such re-examination will occur outside of the rate proceeding. This exclusion does not extend to portions of the revenue requirements related to interest rate forecasts, interest expense and credit, Treasury repayment schedules, forecasts of depreciation, forecasts of system replacements used in repayment studies, REP benefits, purchased power expenses, transmission acquisition expense incurred by Power Services, generation acquisition expense incurred by Transmission Services, minimum required net revenue, and the costs of risk mitigation actions resulting from the expense and revenue uncertainties

included in the risk analysis. The Administrator also directs the Hearing Officer to exclude argument and evidence regarding BPA's debt management practices and policies. *See* section II.D.7.

2. Regional Dialogue Policy Decisions

BPA's Subscription contracts expire September 30, 2011, at the end of the current rate period. BPA engaged customers and interested stakeholders in an extensive process that led to new power sales contracts. BPA issued its Long-Term Regional Dialogue Final Policy and ROD on July 19, 2007, its Long-Term Regional Dialogue Contract Policy and ROD on October 31, 2008, the Tiered Rate Methodology and ROD on November 10, 2008, and the Tiered Rate Methodology Supplemental ROD on September 2, 2009. On or about December 1, 2008, BPA and its customers signed new power sales contracts under which the customers will purchase Federal power for the FY 2012–2028 period. Several aspects of the Regional Dialogue process are still ongoing, such as establishing customer contract high water marks and contract demand quantities, and these processes and decisions are outside the scope of this rate proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to revisit the appropriateness or reasonableness of BPA's decisions made in the Long-Term Regional Dialogue Final Policy ROD, or Long-Term Regional Dialogue Contract Policy ROD.

3. Tiered Rate Methodology (TRM)

Modifications to the TRM are within the scope of this proceeding; however, the TRM restricts BPA and customers with Contract High Water Mark (CHWM) contracts from proposing changes unless certain procedures have been successfully concluded. BPA has concluded these procedures regarding five proposed revisions, and these proposed revisions are within the scope of this proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to propose other proposed revisions to the TRM made by BPA, customers with a CHWM contract, their representatives, or representatives of their consumers, unless it can be established that the TRM procedures for proposing a change to the TRM have been concluded. This restriction does not extend to a party or customer that does not have a CHWM contract.

4. Service to the Direct Service Industries (DSIs)

The manner and method by which BPA could provide service or financial payments to its DSI customers were evaluated in *Pacific Northwest Generating Cooperative, et al.,* v. *Bonneville Power Administration,* 580 F3d 792 (9th Cir. 2008) (PNGC I) and *Pacific Northwest Generating Cooperative, et al.,* v. *Bonneville Power Administration,* 590 F3d 1065 (9th Cir. 2010) (PNGC II). BPA is assuming for the Initial Proposal that BPA will continue to serve Alcoa, Inc. (Alcoa) as well as Port Townsend Paper Corporation (Port Townsend) during FY 2012–2013. BPA's decisions to serve the DSIs, along with the method and level of service to be provided DSIs in the FY 2012–2013 rate period, will not be determined in this proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to revisit the appropriateness or reasonableness of BPA's decisions regarding the service to the DSIs, including BPA's decision to offer a contract and the method or level of such service.

5. Generation Inputs

BPA provides a portion of the available generation from the FCRPS to enable Transmission Services to meet its various requirements. Transmission Services uses these generation inputs to provide ancillary and control area services. To recover the costs associated with providing generation inputs, BPA assigns a portion of the FCRPS costs to the transmission function. The forecast amount of generation inputs, cost allocations BPA is proposing to use to determine the generation input costs, and associated Ancillary and Control Area Service rates are matters that are included within the scope of the BP–12 proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to revisit the appropriateness or reasonableness of any other issues related to the generation inputs or Ancillary and Control Area Services. This exclusion includes, but is not limited to, issues regarding reliability of the transmission system, any existing or proposed Transmission Services dispatcher standing orders, e-Tag requirements, and business practices. These non-rates issues are generally addressed by BPA in accordance with industry, reliability, and other compliance standards and criteria and are not matters appropriate for the rate proceeding.

6. Proposal for the Post-2011 Conservation Program Structure

Through the post-2011 workgroup collaboration, customers and constituents provided input on the development of BPA's post-2011 conservation approach.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to revisit the appropriateness or reasonableness of BPA's conservation program established through the Post-2011 Conservation Program dated August 18, 2010.

7. Federal and Non-Federal Debt Service and Debt Management

During the 2010 IPR and in other forums, BPA provided the public with background information on BPA's internal Federal and non-Federal debt management policies and practices. While these policies and practices are not decided in the IPR forum, these discussions were intended to inform interested parties about these matters so that they would better understand BPA's debt structure. Notwithstanding the public discussions, BPA's debt management policies and practices remain outside the scope of the rate proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to address the appropriateness or reasonableness of BPA's debt management policies and practices.

8. Potential Environmental Impacts

Environmental impacts are addressed in a concurrent National Environmental Policy Act (NEPA) process. *See* section II.E.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to address the potential environmental impacts of the rates being developed in this rate proceeding.

9. Average System Cost Methodology

Section 5(c) of the Northwest Power Act established the REP, which provides benefits to residential and small-farm consumers of Pacific Northwest utilities

based, in part, on a utility's "average system cost" (ASC) of resources. Section 5(c)(7) of the Act requires the Administrator to consult with regional interests to develop an ASC Methodology (ASCM). The ASCM prescribes the methodology that the Administrator uses to calculate a utility's ASC. On September 4, 2009, the Federal Energy Regulatory Commission (Commission) granted final approval of BPA's 2008 ASCM. The 2008 ASCM is not subject to challenge or review in a section 7(i) proceeding.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to visit or revisit the appropriateness or reasonableness of the 2008 ASCM.

10. Average System Cost Review Processes

To receive REP benefits for FY 2012–2013, utilities must file proposed ASCs with BPA pursuant to the terms and conditions of the 2008 ASCM. These filings are reviewed by BPA staff and other interested parties in ASC review processes. The ASC review process is a separate administrative proceeding conducted by BPA under the terms of the 2008 ASCM. In the review process, BPA staff and other parties evaluate the ASC filed by a participating utility for conformance with the requirements of the 2008 ASCM. At the conclusion of the process, BPA issues an ASC Report, which formally establishes the utility's ASC for the Exchange Period, which coincides with BPA's rate period.

On June 1, 2010, ten utilities filed proposed ASCs with BPA for FY 2012–2013. One utility subsequently withdrew its ASC filing. BPA staff and other parties are currently reviewing the remaining nine filings in the ASC review processes. Once these ASC review processes are complete, and BPA has issued final ASC Reports, BPA will incorporate the final ASCs into the administrative record of this proceeding. Although these ASC determinations provide important information for setting BPA's rates, they are not rate proceeding matters. Parties intending to challenge the draft or final ASC determinations for FY 2012–2013 must raise such issues in the ASC review process according to the procedures established in the 2008 ASCM.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to visit or revisit the draft or final ASC determinations for FY 2012–2013.

11. Contract High Water Mark (CHWM) Process

Under the Tiered Rate Methodology (TRM), BPA will establish both CHWMs and FY 2012–2013 Rate Period High Water Mark (RHWMs) for Public customers that signed contracts for firm requirements power service providing for tiered rates, referred to as CHWM contracts. The CHWMs and RHWMs will be established in the CHWM Process, which will occur mainly in Spring 2011. In this process BPA will establish the maximum planned amount of power a customer is eligible to purchase at Tier 1 rates during the rate period. The CHWM Process provides customers an opportunity to review, comment, and, if necessary, challenge BPA's determinations regarding certain CHWM and RHWM determinations. To the extent they are available, the final RHWM determinations for FY 2012–2013 from the CHWM Process will be used in the final rates proposal.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to visit or revisit BPA's determination of a customer's CHWM or FY 2012–2013 RHWM.

12. Residential Exchange Program Settlement Proceeding (REP–12)

The REP was established in section 5(c) of the Northwest Power Act to provide utilities with high ASCs access to the benefits of the FCRPS for their residential and small farm consumers. As discussed in the summary above, BPA will commence a separate section 7(i) proceeding, Docket No. REP–12, to review the REP settlement. Certain issues will be excluded from the BP–12 rate proceeding and addressed in the REP–12 proceeding. This exclusion is one of efficiency, minimizing the need for duplicate argument, testimony, or other evidence in both proceedings; it is not meant to limit the opportunity for parties to file relevant argument, testimony, or other evidence regarding these REP issues. The REP–12 proceeding will conclude prior to the publication of final rates and the issuance of the ROD in BP–12. All argument, testimony, or other evidence in the REP–12 record will be incorporated into BP–12 record and the final decisions in REP–12 will be implemented in the final rate development in BP–12.

Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to visit issues related to the issues being addressed in the REP–12 proceeding, including, but not limited to, whether BPA should adopt the REP settlement, issues regarding the terms of the REP settlement, the implementation of the section 7(b)(2) rate test, the implementation of the section 7(b)(3) allocation, the forecast of utilities' Average System Costs, the amount and application of the remaining Lookback balance, and the allocation of REP costs to BPA's power rates.

E. The National Environmental Policy Act

BPA is in the process of assessing the potential environmental effects of its proposed power and transmission rates, consistent with the NEPA. The NEPA process is conducted separately from the rate proceeding. As discussed in section II.D.8, all evidence and argument addressing potential environmental impacts of rates being developed in the BP–12 rate proceeding are excluded from the rate proceeding hearing record. Rather, comments on environmental effects should be directed to the NEPA process.

Because this proposal involves BPA's ongoing business practices related to rates, BPA is reviewing the proposal for consistency with BPA's Business Plan Environmental Impact Statement (Business Plan EIS), completed in June 1995 (BOE/EIS–0183). This policy-level EIS evaluates the environmental impacts of a range of business plan alternatives for BPA that could be varied by applying various policy modules, including one for rates. Any combination of alternative policy modules should allow BPA to balance its costs and revenues. The Business Plan EIS also includes response strategies, such as adjustments to rates, that BPA could implement if BPA's costs exceed its revenues.

In August 1995, the BPA Administrator issued a ROD (Business Plan ROD) that adopted the Market-Driven Alternative from the Business Plan EIS. This alternative was selected because, among other reasons, it allows BPA to: (1) Recover costs through rates; (2) competitively market BPA's products and services; (3) develop rates that meet customer needs for clarity and simplicity; (4) continue to meet BPA's legal mandates; and (5) avoid adverse environmental impacts. BPA also committed to apply as many response strategies as necessary when BPA's costs and revenues do not balance.

In April 2007, BPA completed and issued a Supplement Analysis to the Business Plan EIS. This Supplement Analysis found that the Business Plan EIS's relationship-based and policy-level analysis of potential environmental impacts from BPA's business practices remains valid, and that BPA's current business practices remain consistent with BPA's Market-Driven Alternative approach. The Business Plan EIS and ROD thus continue to provide a sound basis for making determinations under NEPA concerning BPA's policy-level decisions, including rates.

Because the proposed rates likely would assist BPA in accomplishing the goals identified in the Business Plan ROD, the proposal appears consistent with these aspects of the Market-Driven Alternative. In addition, this rate proposal is similar to the type of rate designs evaluated in the Business Plan EIS; thus, implementation of this rate proposal would not be expected to result in environmental impacts significantly different from those examined in the Business Plan EIS. Therefore, BPA expects that this rate proposal likely will fall within the scope of the Market-Driven Alternative that was evaluated in the Business Plan EIS and adopted in the Business Plan ROD.

As part of the Administrator's ROD that will be prepared for the BP–12 rate proceeding, BPA may tier its decision under NEPA to the Business Plan ROD. However, depending upon the ongoing environmental review, BPA may instead issue another appropriate NEPA document. Comments regarding the potential environmental effects of the proposal may be submitted to Katherine Pierce, NEPA Compliance Officer, KEC–4, Bonneville Power Administration, 905 NE 11th Avenue, Portland, OR 97232. Any such comments received by the comment deadline for Participant Comments identified in section III.A. below will be considered by BPA's NEPA compliance staff in the NEPA process that will be conducted for this proposal.

Part III—Public Participation in BP–12

A. Distinguishing Between "Participants" and "Parties"

BPA distinguishes between "participants in" and "parties to" the hearings. Apart from the formal hearing process, BPA will receive written comments, views, opinions, and information from "participants," who may submit comments without being subject to the duties of, or having the privileges of, parties. Participants' written comments will be made part of the official record and considered by the Administrator. Participants are not entitled to participate in the prehearing conference; may not cross-examine parties' witnesses, seek discovery, or serve or be served with documents; and are not subject to the same procedural requirements as parties. BPA customers whose rates are subject to this proceeding, or their affiliated customer groups, may not submit participant comments. Members or employees of organizations that have intervened in the rate proceeding may submit general comments as participants but may not use the comment procedures to address specific issues raised by their intervenor organizations.

Written comments by participants will be included in the record if they are received by February 18, 2011. Written views, supporting information, questions, and arguments should be submitted to the address listed in the **ADDRESSES** section of this Notice.

Entities or people become parties to the proceeding by filing petitions to intervene, which must state the name and address of the entity or person requesting party status and the entity's or person's interest in the hearing. BPA customers and affiliated customer groups will be granted intervention based on petitions filed in conformance with BPA's Procedures. Other petitioners must explain their interests in sufficient detail to permit the Hearing Officer to determine whether the petitioners have a relevant interest in the hearing. Pursuant to Rule 1010.1(d) of BPA's Procedures, BPA waives the requirement in Rule 1010.4(d) that an opposition to an intervention petition be filed and served 24 hours before the prehearing conference. The time limit for opposing a timely intervention will be established at the prehearing conference. Any party, including BPA, may oppose a petition for intervention. All petitions will be ruled on by the Hearing Officer. Late interventions are strongly disfavored. Opposition to an untimely petition to intervene must be filed and received by BPA within two days after service of the petition.

B. Developing the Record

The hearing record will include, among other things, the transcripts of the hearing, written evidence and argument entered into the record by BPA and the parties, written comments from participants, and other material accepted into the record by the Hearing Officer. The Hearing Officer will then review the record and certify the record to the Administrator for final decision.

The Administrator will develop final rates based on the record and such other materials and information as may have been submitted to or developed by the Administrator. The Administrator will serve copies of the Final ROD on all parties. BPA will file its rates with the Commission for confirmation and approval after issuance of the Final ROD.

Part IV—Summary of Rate Proposals

A. Power Rates

BPA is proposing five different rates for sales of Federal power or use of Federal resources.

Priority Firm Power Rate (PF–12)—The PF rate schedule applies to net requirements power sales to public body, cooperative, and Federal agency customers made pursuant to section 5(b) of the Northwest Power Act and includes the PF Public rates for the sale of firm requirements power under CHWM Contracts and the PF Exchange rates for sales under a Residential Purchase and Sale Agreement. The PF Public rate applies to customers taking load following or Slice/block service. Consistent with the TRM, Tier 1 rates include three customer charges, a demand charge and a load shaping charge. The billing determinants to which these rates apply are changing significantly from BPA's current PF rate structure. In addition, two Tier 2 rates, corresponding to contract options, are provided for customers that have chosen to purchase power from BPA for their load growth.

While an exact comparison of the proposed rates to the prior rates is difficult because of the transition to the tiered rate construct in this proceeding, BPA has developed the Tier 1 Net Average Cost to represent a close approximation of the average PF rate under the old rate design. The Tier 1 Average Net Cost under the initial proposal is $29.05/MWh, which represents about an 8.3 percent increase over the FY 2010–2011 equivalent of the Tier 1 Average Net Cost. This level of rate increase assumes that the proposed settlement of the REP is adopted. In the event the settlement is not adopted, the Tier 1 Average Net Cost would be an 8.5 percent increase over FY 2010–2011.

The Base PF Exchange rate and its associated surcharges apply to the sale of power to regional utilities that participate in the REP established under section 5(c) of the Northwest Power Act. 16 U.S.C. 839c(c). Because BPA's BP–12 Initial Rate Proposal contains PF Public rates based on the proposed REP Settlement, the Initial Rate Proposal's PF Exchange rates were established

consistent with the terms of the proposed REP Settlement. These rates would likely change if the proposed REP Settlement is not adopted by BPA. Utility-specific REP Surcharges are developed consistent with the expected terms of the REP settlement. If the REP settlement is not adopted, BPA would develop final rates consistent with the results of the section 7(b)(2) rate test and reallocations of rate protection costs pursuant to section 7(b)(3) of the Northwest Power Act, as those procedures are determined in the REP–12 proceeding.

In addition, the proposed PF–12 rate schedule includes rates for customers with non-Federal resources that have elected to take Diurnal Flattening Service or Secondary Crediting Service and a melded PF rate for Public customers should any elect a power sales contract other than a CHWM Contract for firm requirements service.

New Resource Firm Power Rate (NR–12)—The NR–12 rate applies to net requirements power sales to Investor-Owned Utilities (IOUs) made pursuant to section 5(b) of the Northwest Power Act, for direct consumption, for construction, test and start-up, and station service. The NR–12 rate is also applied to sales of firm power to Public customers serving new large single loads. BPA is forecasting no sales at the NR rate in the Initial Proposal. As with the PF rate, the NR–12 rate has been calculated in a manner consistent with the expected terms of the REP settlement. The proposed average NR–12 rate is $68.62/MWh, a decrease of 0.1 percent from the NR–10 rate.

Industrial Firm Power Rate (IP–12)—The IP rate is applicable to firm power sales to DSI customers authorized by section (5)(d)(1)(A) of the Northwest Power Act. 16 U.S.C 839c(d)(1)(A). BPA is forecasting annual sales of 340 average megawatts (aMW) to DSIs in the Initial Proposal. *See* section IV.B.3. As with the PF rate, the Initial Proposal IP–12 rate has been calculated in a manner consistent with the expected terms of the REP settlement. The proposed average IP–12 rate is $36.46/MWh, an increase of 5.4 percent over the IP–10 rate. In the event the settlement is not adopted, the IP–12 rate would be $38.71/MWh, which would represent an 11.9 percent increase over FY 2010–2011.

Firm Power Products and Services Rate (FPS–12)—The FPS rate schedule is applicable to purchasers of Firm Power, Capacity Without Energy, Supplemental Control Area Services, Shaping Services, Reservation and Rights to Change Services, and Reassignment or Remarketing of Surplus Transmission Capacity, for use inside and outside the Pacific Northwest. The rates for these products are negotiated between BPA and the purchaser. In addition, the FPS rate schedule includes rates for customers with non-Federal resources that have elected to take Resource Support Services or Resource Shaping Services or Transmission Scheduling Service/Transmission Curtailment Management Service and Forced Outage Reserve Service.

General Transfer Agreement Service Rate (GTA–12)—The GTA rate schedule includes the GTA Delivery Charge and Transfer Service Operating Reserve Charge. The GTA Delivery Charge applies to customers that purchase Federal power that is delivered over non-Federal low-voltage transmission facilities. For FY 2012–2013, BPA is proposing to continue the GTA Delivery Charge at the same level as the GTA–10 rate. In addition, BPA is proposing to continue an Operating Reserves rate for transfer service customers that will become effective when proposed changes to Western Electricity Coordinating Council (WECC) Operating Reserve Requirements become effective.

B. Significant Changes in the BP–12 Initial Rate Proposal for Power Rates and Ancillary Service and Control Area Service Rates

1. Tiered PF Rate

In this BP–12 rate proceeding, Power Services is implementing the TRM for the first time to coincide with the commencement of power deliveries under new CHWM power sales contracts. The TRM provides for a two-tiered PF rate design applicable to firm requirements power service for those customers that signed new CHWM contracts that provide for service under tiered rates. Tiered rate design differentiates between the costs of service associated with the existing Federal system resources (Tier 1) and the cost associated with additional amounts of power needed to serve the remaining portion of customers' net requirements (Tier 2). This rate design assures, to the extent possible, that customers will be able to purchase power at a Tier 1 rate that does not include the costs of serving other customers' load growth.

Among other things, the TRM addresses how costs will be allocated to the PF Tier 1 and Tier 2 rate pools and how rates for Tier 1 and Tier 2 sales and resource support services will be designed. These cost allocation and rate design methods are being implemented for the first time in the BP–12 rate proceeding. The TRM also addresses the rate design for Tier 1 rates, including the form of the rates and the billing determinants to which the rates are applied. Specifically, the TRM provides for three customer charge rates, a set of load shaping rates, and a new determination and application of demand rates.

BPA is proposing to make five revisions to the TRM in this rate proceeding. Procedures set forth in the TRM, Chapter 13, were followed prior to this initial rate proposal to enable BPA to propose the changes. The five proposed revisions are assumed to be in effect in the development of the initial power rate proposal.

2. Generation Inputs; Ancillary and Control Area Services

BPA's proposed allocation of generation input costs and associated ancillary and control area services rates are similar to the generation input cost allocations and rates in the 2010 BPA rates, with a few significant differences. First, BPA is proposing to change the name of the "Wind Balancing Service" rate to Variable Energy Resource Balancing Service (VERBS) rate to reflect the broader application of the rate to solar as well as wind resources. VERBS provides the generation capability (ability to both increase and decrease generation) to follow within-hour variations of variable energy resources in the BPA Balancing Authority Area.

The proposed VERBS rate recovers the cost of regulating reserves, following reserves, and imbalance reserves that provide balancing reserve capacity. BPA is proposing to directly assign certain costs associated with providing VERBS. BPA is also proposing two formula rate adjustments under the VERBS rate to recover the costs associated with: (1) The Administrator's decision to replace, if necessary, FCRPS balancing reserve capacity that becomes unavailable during the rate period with reserve acquisitions from non-Federal sources in order to continue providing VERBS; and (2) the Administrator's decision to make any acquisitions of non-Federal balancing reserve capacity to provide VERBS for the rate period.

Also included in the proposed VERBS rate schedule is the rate for the proposed Provisional Variable Energy Resource Balancing Service ("Provisional Balancing Service"), a new Control Area Service that would be offered to generating customers that: (1) Have elected to self-supply, but are unable to continue to do so; or (2) accelerate their interconnection date into the FY 2012–2013 rate period from a future rate period. The billing factor

and rate for Provisional Balancing Service is the same as the VERBS rate.

BPA is proposing a rate for the new Dispatchable Energy Resource Balancing Service (DERBS), a new Control Area Service for all thermal generators in the BPA Balancing Authority Area. This service is necessary to support the within-hour deviations of thermal generation from the hourly generation estimate (*i.e.,* schedule). A thermal generator in the BPA Balancing Authority Area is charged for DERBS based on its monthly use of balancing reserve capacity. BPA is also proposing a penalty charge under DERBS that will apply to any thermal generator's excessive use of balancing reserve capacity.

In addition to hourly settlement of energy and generation imbalance service charges, BPA is proposing to settle generation and energy imbalance service charges for half-hour schedules on an integrated half-hour basis upon 30 days' notice that BPA has completed the technical and operational modifications that are necessary to implement intra-hour scheduling. BPA is also proposing to exempt solar resources from Deviation Band 3 penalty charges under the Energy and Generation Imbalance rates.

Furthermore, BPA is proposing to add certain criteria to clarify the definition of "Persistent Deviation" for Imbalance Services. If BPA determines that a customer's scheduling accuracy performs at 30-minute persistence scheduling accuracy, or better, in one or more hours of a Persistent Deviation event, BPA is proposing to exempt that hour from Persistent Deviation penalty charge, but not the adjacent hours that would otherwise qualify for a Persistent Deviation penalty charge.

BPA is proposing to replace the four-hour standard for Persistent Deviation with a three-hour standard to measure schedule deviations once BPA implements intra-hour scheduling on a permanent basis. BPA will provide 30 days notice before implementing the three-hour standard.

BPA is also proposing to update the language in Part C of the definition of Persistent Deviation to clarify that a pattern of under- or over-delivery or over- or under-use of energy that occurs generally or at specific times of the day constitutes a Persistent Deviation.

Finally, BPA is proposing to subject the following ACS rates to BPA's Cost Recovery Adjustment Clause, Dividend Distribution Clause and NFB Mechanisms: Regulation and Frequency Response Service, Operating Reserve—Spinning Reserve Service, Operating Reserve—Supplemental Reserve Service, VERBS, Provisional Balancing Service, and DERBS rates.

3. DSI Service for FY 2012–2013

For the Initial Proposal, BPA is forecasting sales of 340 aMW to Alcoa and Port Townsend for the FY 2012–2013 rate period. Uncertainty exists regarding the level of service to the DSIs during the upcoming rate period. Following the Ninth Circuit's decisions in PNGC I and PNGC II, BPA and Alcoa signed a power sales contract terminating in 2016 but with periodic service decision points during its term; service under this contract was recently extended through May 2012. It is not known at this point whether or not Port Townsend will extend its current contract, which expires at the end of May 2011. In addition, even though Columbia Falls Aluminum Company is currently not operating, it could begin operation and request service at some point during the FY 2012–2013 rate period. Uncertainty associated with the amount and cost of service is accounted for in the Power Risk and Market Price Study.

4. Risk Mitigation Tools

The main financial risk mitigation tool BPA relies upon is financial liquidity, comprising cash, other investments in the Bonneville Fund at the U.S. Treasury, and a short-term liquidity facility with the U.S. Treasury. BPA proposes to include provisions for two rate adjustments: The Cost Recovery Adjustment Clause (CRAC), which can generate additional cash within the rate period, and the Dividend Distribution Clause (DDC), which can return cash to customers when BPA's financial reserves are larger than needed to meet its Treasury Payment Probability (TPP) standard. When available liquidity and the CRAC are insufficient to meet the TPP standard, BPA includes Planned Net Revenues for Risk (PNRR) in its rates. In the Initial Proposal, BPA proposes to include no PNRR and to cap the maximum revenue recoverable through the CRAC at $300 million. BPA will also rely on $150 million of reserves attributed to transmission as part of its risk mitigation package.

BPA is proposing some changes to the risk mitigation tools in the BP–12 Initial Proposal, including a minor revision to the metric used to determine whether a CRAC or DDC triggers. In the past, this metric has been Accumulated Modified Net Revenues. In this proceeding, BPA is proposing to use Accumulated Net Revenue. The thresholds for triggering the CRAC and DDC remain unchanged from WP–10 equivalent reserve levels ($0.00 and $750 million respectively). BPA anticipates discussing in the rate case whether the current threshold levels are sufficient to protect against future risks. BPA also proposes to continue the National Marine Fisheries Service FCRPS Biological Opinion Adjustment (NFB Adjustment) and the Emergency NFB Surcharge, given that litigation regarding the Biological Opinion continues.

5. Settlement of the Residential Exchange Program Disputes

To establish rates and determine REP benefits for exchanging utilities for FY 2012–2013, BPA is assuming in the BP–12 Initial Proposal that the REP settlement will be adopted. This assumption is intended to be a placeholder while BPA evaluates the proposed REP settlement in the related REP–12 proceeding. Whether BPA establishes final rates based on the terms and conditions in the REP settlement will depend on the Administrator's final decision in the REP–12 proceeding. Once a final decision is reached, it will be reflected in the final studies. BPA will incorporate all relevant material from the REP–12 proceeding into the record of the BP–12 rate proceeding.

6. Rate Schedules

Implementing the TRM rate design required significant reworking of the PF rate schedule. In addition, the changes to the way the demand charges will be calculated under the IP and NR rates also led to changes in those rate schedules. These proposed changes to rate schedules will be available for examination by parties during the rate proceeding.

7. Other Changes to Power General Rate Schedule Provisions

BPA proposes to modify the UAI, LDD (consistent with the TRM), an irrigation rate discount (also consistent with the TRM), and an Unanticipated Load Charge (to replace the current Targeted Adjustment Clause).

C. Ancillary and Control Area Services Rates

BPA is proposing rates for four ancillary services: Regulation and Frequency Response Service; Energy Imbalance Service; Operating Reserve—Spinning Reserve Service; and Operating Reserve—Supplemental Reserve Service. In addition to the rates for Ancillary Services, BPA is proposing rates for six control area services: Regulation and Frequency Response Service; Generation Imbalance Service; Operating Reserve—Spinning Reserve Service; Operating Reserve—

Supplemental Reserve Service; Variable Energy Resource Balancing Service; and Dispatchable Energy Resource Balancing Service.

D. Overview of Studies

The initial rate proposal for power rates and ancillary service and control area service rates is explained and documented in the following studies.

1. Power Rates Study

The Power Rates Study (formerly the Wholesale Power Rate Development Study) explains and documents the development of power rates and billing determinants for BPA's power products and services. The new Priority Firm rate design, as set forth in the Tiered Rate Methodology, is implemented with this proposal for the first time. The TRM provides for a two-tiered PF rate design applicable to firm requirements power service for Public customers that signed a CHWM contract providing for tiered rates. The TRM also addresses other rate design changes, particularly for power sold at Tier 1 rates. As explained in section IV.A. of this notice, the Power Rates Study reflects the assumption of a specific REP settlement outcome to model the rates. The results of the study are reflected in the proposed power rate schedules.

2. Power Loads and Resources Study

The Power Loads and Resources Study explains and documents the compilation of the load and resource data and forecasts necessary for developing BPA's wholesale power rates. The Study has three major interrelated components: The Federal system load forecast; The Federal system resource forecast; and the Federal system loads and resources balance.

3. Power Revenue Requirement Study

The Power Revenue Requirement Study explains and documents the level of revenues from power rates necessary to recover, in accordance with sound business principles, the FCRPS costs associated with the production, acquisition, marketing, and conservation of electric power. Cost estimates in the Power Revenue Requirement Study are based on the results of the IPR, as presented in the Final Close-Out Letter dated October 27, 2010. The repayment studies reflect actual and projected repayment obligations and transactions related to BPA's Debt Optimization program. All new capital investments are assumed to be financed from debt or appropriations. The adequacy of projected revenues to recover the rate test period revenue requirement and to recover the Federal investment over the prescribed repayment period is tested and demonstrated for the generation function.

4. Power Risk and Market Price Study

The Power Risk and Market Price Study has three major components: Quantification of the risks accounted for in setting power rates; the electricity market price forecast used in setting power rates; and the set of risk mitigation measures to include in rates that ensure that power rates meet the established TPP. The TPP is a measure of the probability that BPA will make its Treasury payments on time and in full during the rate period. If the TPP is below BPA's two-year 95 percent standard, a combination of risk mitigation tools is proposed to meet the TPP standard.

The electricity market price forecast portion of the study explains and documents forecasts of the variable cost of the marginal resource for transactions in the wholesale energy market. The specific market used in this analysis is the Mid-Columbia trading hub in the State of Washington, although this forecast is influenced by conditions in other regions within the Western Interconnection. The Power Risk and Market Price Study also explains and documents the natural gas price forecast used in setting rates.

5. Generation Inputs Study

The Generation Inputs Study includes the study and documentation for generation inputs costs and other inter-business line costs. The study also includes the development and design of the proposed ACS–12 Ancillary and Control Area Services rate schedule, which had been issued in a separate study starting with the 2010 rate proceeding. The forecasts for balancing reserve capacity to provide regulation and frequency response, variable energy resource balancing service, dispatchable energy resource balancing service, operating reserve, and load following are explained and documented in the Generation Inputs Study. The Study explains and documents the embedded and variable cost methodologies for these balancing reserve capacity obligations and the resulting revenue credits reflected in the power rates. The proposed design for rates under the ACS–12 rate schedule is also described.

6. Related Studies in the REP–12 Proceeding

The following studies will be described in the REP–12 notice in the **Federal Register** and will be included as part of the initial proposal in that proceeding.

REP Settlement Evaluation and Analysis Study.

Section 7(b)(2) Rate Test Study.

Lookback Recovery and Return.

Part V—Proposed 2012 Rate Schedules

BPA's proposed 2012 Power Rate Schedules are a part of this notice and are available for viewing and downloading on BPA's Web site at *http://www.bpa.gov/corporate/ratecase/2012/*. Copies of the proposed rate schedules also are available for viewing in BPA's Public Reference Room at the BPA Headquarters, 1st Floor, 905 NE. 11th Avenue, Portland, OR 97232.

Issued this 12th day of November, 2010.

David J. Armstrong,

Acting Deputy Administrator.

[FR Doc. 2010–29090 Filed 11–17–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12690–003]

Public Utility District No. 1 of Snohomish County, WA; Notice of Teleconference

November 10, 2010.

a. *Date and Time of Meeting:* Monday, November 15, 2010 starting at 12 p.m. and ending by 2 p.m. (Eastern Standard Time).

b. *FERC Contact:* David Turner, (202) 502–6091 or *david.turner@ferc.gov.*

c. *Purpose of Meeting:* Commission staff will meet with the Snohomish County Public Utility District (District) to clarify the Commission's August 6, 2010, request for additional information on the District's draft license application for the Admiralty Inlet Pilot Tidal Project, which would be located in the Puget Sound, in Washington.

d. If you would like to attend the meeting or have any questions, contact David Turner via e-mail by November 11, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–29060 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR08–12–002]

ONEOK WesTex Transmission, LLC; Notice of Motion for Extension of Rate Case Filing Deadline

November 10, 2010.

Take notice that on November 2, 2010, ONEOK WesTex Transmission, LLC (OWT) filed a request to extend the date for filing its next rate case to January 3, 2013. OWT states that in Order No. 735 the Commission modified its policy concerning periodic reviews of rates charges by section 311 and Hinshaw pipelines to extend the cycle for such reviews from three to five years.[1] Therefore, OWT requests that the date for OWT's next rate filing be extended to January 3, 2013, which is five years from the date of OWT's most recent rate filing with this Commission.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Monday, November 15, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–29065 Filed 11–17–10; 8:45 am]

BILLING CODE 6717–01–P

[1] Contract Reporting Requirements of Intrastate Natural Gas Companies, Order No. 735, 131 FERC ¶ 61,150 (May 20, 2010).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD11–1–000]

Reliability Monitoring, Enforcement and Compliance Issues; Announcement of Panelists for Technical Conference

November 10, 2010.

The Federal Energy Regulatory Commission (Commission) issued a notice on October 1, 2010 that it will hold a Commissioner-led Technical Conference on November 18, 2010 in the above-referenced proceeding to explore issues associated with reliability monitoring, enforcement and compliance. The Commission announced the conference in its September 16, 2010 order that accepted the North American Electric Reliability Corporation's initial assessment in Docket No. RR09–7–000 of its performance as the nation's Electric Reliability Organization (ERO), and performance by the Regional Entities, under their delegation agreements with the ERO.[1]

This Technical Conference will be held in the Commission Meeting Room (2C) at Commission Headquarters, 888 First Street, NE., Washington, DC 20426, from 1 p.m. until 5 p.m. EST. On November 2, 2010, the Commission issued a notice with the agenda for the conference. The Commission is now announcing the panelists for the conference.

The conference will be transcribed and Webcast. Transcripts of the conference will be immediately available for a fee from Ace-Federal Reporters, Inc. (202–347–3700 or 1–800–336–6646). A free webcast of the conference is also available through *http://www.ferc.gov.* Anyone with Internet access who desires to listen to this event can do so by navigating to *http://www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the webcasts and offers the option of listening to the meeting via phone-bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or call 703–993–3100.

All those that are interested are invited and there is no registration list or registration fee to attend this technical conference.

For further information, contact Gregory Campbell by e-mail at *gregory.campbell@ferc.gov* or by phone at 202–502–6465 (after November 11, 2010).

Kimberly D. Bose,

Secretary.

[1] *North American Electric Reliability Corporation; Reliability Standards Development and NERC and Regional Entity Enforcement,* 132 FERC ¶ 61,217 at P 12 (2010).

Attachment: Panelists and Agenda for the Technical Conference

November 18, 2010

PANELISTS and AGENDA FOR THE TECHNICAL CONFERENCE

I. Opening Statements (1–1:15 pm)

II. Panel 1: Reliability Standards Compliance and its Monitoring by Regional Entities and NERC (1:15–2:45)

Panelists:

Thomas Galloway, Senior Vice President and Chief Reliability Officer, NERC

Daniel Skaar, President, Midwest Reliability Organization

Steven Goodwill, General Counsel, Western Electricity Coordinating Council

Douglas Curry, General Counsel, Lincoln Electric System

Chris Hajovsky, Director, Regulatory Affairs and NERC Reliability Standards, RRI Energy, Inc.

Topics

- Status of compliance: what are the current trends in possible violations and levels of compliance, including the numbers of audits, possible violations, self-reports and penalties

Critical Infrastructure Protection (CIP) and non-CIP Violations

"Documentation" Violations and "Performance" Violations

- Are Regional Entities and NERC conducting compliance audits and other compliance processes consistently across the country? How does NERC test for consistency?

Are there inconsistencies in audit processes and audit results? If so, what kinds and why? What are current specific examples?
How do NERC and the Regional Entities set priorities of what to audit, and are they doing a good job setting priorities?
Do audits focus too much on documentation? Would alternative auditing methods also demonstrate compliance and improve reliability?
Possible improvements or solutions
• Event Analysis and Compliance
Focus on the potential tension between event analysis/lessons learned and NERC/RE compliance and enforcement activities
• How can the Commission, NERC and the Regional Entities help create a culture of compliance?
III. Break (2:45–3:00)
IV. Panel 2: Violation Processing and Penalties (3:00–4:30)

Panelists:

Gerry W. Cauley, President and Chief Executive Officer, NERC
Stacy Dochoda, General Manager, SPP Regional Entity
Al Fohrer, Chief Executive Officer, Southern California Edison Company
David Mohre, Executive Director, Energy and Power Division, National Rural Electric Cooperative Association
John DiStasio, Chief Executive Officer, Sacramento Municipal Utility District
Stephen T. Naumann, Vice President for Wholesale Market Development, Exelon Corporation

Topics

• Streamlining processes to reduce compliance violation backlogs and minimize future backlogs
Regional Entity and NERC levels of review
Appropriate Notice of Penalty records
Development of "traffic tickets," "parking tickets" and "warning tickets"
• How effective are the NERC Sanction Guidelines, and are they applied consistently? What changes may be warranted to improve effectiveness and/or consistency of the Sanction Guidelines?
• Do current enforcement and compliance processes provide proactive approaches and improve reliability by reducing future reliability standard violations and system disturbances?
What metrics are currently utilized for compliance-based reliability improvement?
What do these metrics show?
How can the Commission, NERC and the Regional Entities promote transparency of results and dissemination of lessons learned?
V. Questions from the Audience (4:30–4:50)
VI. Closing Statement

* * * * *

[FR Doc. 2010–29068 Filed 11–17–10; 8:45 am]
BILLING CODE 6717–01–P

POSTAL REGULATORY COMMISSION

[Docket No. MT2011–1; Order No. 584]

Market Test Involving Greeting Cards

AGENCY: Postal Regulatory Commission.
ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service proposal to conduct a market test involving greeting cards. A key feature of the market test is an alternative arrangement for payment of postage. Under this alternative, participating companies would be responsible for paying applicable postage, rather than having the sender of the card affix postage. This document describes the proposal, addresses procedural aspects of the filing, and invites public comment.

DATES: *Comment deadline:* December 8, 2010.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Background
III. Notice of Filing
IV. Ordering Paragraphs

I. Introduction

On November 8, 2010, the Postal Service filed a notice, pursuant to 39 U.S.C. 3641(c)(1), announcing its intent to initiate a market test beginning on or about January 1, 2011, of an experimental market dominant product, Alternate Postage Payment Method for Greeting Cards.[1] The market research test will consist of providing a means for individuals to mail greeting cards without affixing postage. *Id.* at 1.

II. Background

The Postal Service states that First-Class Mail single-piece correspondence has been a declining part of U.S. mail volume, and the communication alternatives, such as e-mail, use of the Internet, and cellular services, have had an impact on the mail volume of personal correspondence. *Id.* at 3–4. It proposes the instant market test as a convenient method for individuals to purchase a greeting card without the need to pay postage. *Id.* at 4. The Postal Service expects that the simplicity of the product design, which allows the customer to sign and address the card and place it in a collection box, will make greeting cards more likely to be purchased and mailed. *Id.*

The Postal Service explains that under the proposed market test participating businesses will produce and distribute pre-approved envelopes according to specific design requirements which will be packaged for sale with greeting cards. Individuals can mail the greeting cards in the pre-approved envelopes without affixing postage. *Id.* at 2. The Alternate Postage Payment Method has a two-stage process for businesses to pay postage. *Id.* at 1. First, at least 50 percent of the postage will be paid based on the company's reports on the number of cards sold to customers or third-party vendors. Generally, this payment would be retained by the Postal Service regardless of whether the cards are also mailed. Second, the balance of the postage due will be collected based on scans of the cards that are mailed. *Id.* at 1, 6.

Statutory authority. The Postal Service indicates that its proposal satisfies the criteria of section 3641, which imposes certain conditions on experimental products. 39 U.S.C. 3641. For example, the Postal Service asserts that the Alternate Postage Payment Method for Greeting Cards is significantly different from all products offered by the Postal Service within the meaning of section 3641(b)(1). Notice at 8–9. In addition, it contends that the market test will be limited to a small portion of the total greeting card volume and therefore does not create an unfair or inappropriate competitive advantage for the Postal Service or any mailer. *Id.* at 9; *see also* section 3641(b)(2). The Postal Service states that the Alternative Postage Payment Method for Greeting Cards is correctly classified as a market dominant product. *Id.* at 10–11; *see also* section 3641(b)(3). The Postal Service

[1] Notice of the United States Postal Service of Market Test of Experimental Product—Alternative Postage Payment Method for Greeting Cards, November 8, 2010 (Notice).

states that the duration of the market test will not exceed 24 months. *Id.* at 8.

The Postal Service does not anticipate that the annual revenues from the market test will exceed $50 million. However, it does anticipate that annual revenues will exceed $10,000,000 and therefore requests that the Commission exempt this market test from the annual revenue limitation under 39 U.S.C. 3641(e)(2). *Id.* at 8, 12.

Description and nature of market test. Pursuant to section 3641(c)(1)(B), the Postal Service provides a description of the nature and scope of the market test. The Postal Service explains that participating businesses will produce and distribute pre-approved envelopes with specific design requirements that will be included as a part of the greeting card packaging. The company producing the cards will add markings as defined by the Postal Service to identify the greeting cards in the mailstream and individuals can mail the greeting cards in the pre-approved envelopes without affixing postage. These markings are scanned to produce a count. *Id.* at 1. The Alternate Postage Payment Method derives part of the postage payment on sales data reported to the Postal Service by participating mailers. *Id.* at 2. The process involves the use of Intelligent Mail (IM®) technology to identify and scan each unique item's movement through the postal system which produces a count of the number during normal processing. *Id.* Each participating business will receive a unique Mailer ID only for this market test. *Id.* at 5. This count is used to debit the card producer's Centralized Automated Processing System (CAPS) account for the portion of postage that was not based on the sales data. *Id.* at 2.

Product description. Postage will be paid by the card producer based on sales information, along with the data captured during mail processing. The mailpieces include a combination of four elements:

- Intelligent Mail Barcode (IMb) enables the recording of piece-level information for volume and revenue reporting;
- Legend identifies the business customer responsible for paying the postage;
- Facing Identification Mark (FIM) facilitates mail processing and allows separate identification of this mail for future use; and
- Imprint: "No Postage Necessary if Mailed in the United States" will be printed in the upper right corner of the address side of the item.

Id. at 5.

Under the proposed market test, the Postal Service states that participating companies must meet specific mail item design requirements which must be approved prior to distribution. *Id.* The Postal Service also states that market test mail items will be processed and delivered according to single-piece First-Class Mail letter standards. *Id.* The Postal Service expects that greeting card companies will use the product to increase the sale of greeting cards, and customers will have a simpler manner of mailing the cards. *Id.* at 6.

The Postal Service states that Alternate Postage Payment Method will be a premium product with a price above First-Class Mail single-piece postage. *Id.* The proposed price is 48 cents for cards and envelopes with a combined weight of no more than one ounce for sales or scans completed during the first year. For mail and envelopes with a combined weight between one and two ounces, the price will be 48 cents plus the second ounce price for sales or scans during the first year of the market test. In the test's second year, the Postal Service will determine how to modify the price based on market conditions and changes in the single-piece price. It also plans to test more than one postage rate during the second year. Thus, the Postal Service proposes a range of rates during the market test period. *Id.* at 7.

The Postal Service contends that the benefits of the market test include reduction in the costs of selling stamps to the public, proportional increase in the mailing of greeting cards, convenience, and a cost effective product for customer. *Id.* Additionally, it asserts that the product should contribute to the financial stability of the Postal Service.

The Notice also addresses the Postal Service's plan to monitor performance and its data collection plan. *Id.* at 13.

III. Notice of Filing

The Commission establishes Docket No. MT2011–1 for consideration of matters raised by the Notice. Interested persons may submit comments on whether the Postal Service's filing in the captioned docket is consistent with the policies of 39 U.S.C. 3641. Comments are due no later than December 8, 2010. The filing can be accessed via the Commission's Web site (*http:www.prc.gov*).

The Commission appoints Katrina R. Martinez to serve as Public Representative in this docket.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MT2011–1 for consideration of the matters raised by the Notice.
2. Pursuant to 39 U.S.C. 505, Katrina R. Martinez is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments by interested persons are due no later than December 8, 2010.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2010–29086 Filed 11–17–10; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. MC2011–5; Order No. 583]

Postal Classification Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request announcing a classification change affecting bundle and container charges for Outside County Periodicals pieces in combined mailings of Standard Mail and Periodicals. This notice addresses procedural steps associated with this filing.

DATES: *Comment deadline:* November 24, 2010.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Additional Details
III. Commission Analysis and Initial Action
IV. Ordering Paragraphs

I. Introduction

On November 5, 2010, the United States Postal Service, invoking Commission rules 3020.90 and 91, filed a Notice with the Commission announcing a classification change

established by the Governors.[1] The change affects bundle and container charges for Outside County Periodicals pieces in combined mailings of Standard Mail and Periodicals. *Id.* at 1. An attachment to the Notice presents conforming revisions to the Mail Classification Schedule (MCS). These revisions affect Periodicals MCS section 1320.4, Price Categories. They do not affect any Standard Mail sections in the MCS, nor do they affect any Within County MCS sections. The Notice does not provide a date certain for the planned change.

II. Additional Details

Relationship to co-mailing and co-palletizing. The Postal Service notes that the planned change means that when bundles or containers include both Standard Mail and Periodicals pieces, the Outside County Periodicals bundle and container prices apply based on the proportion of Periodicals pieces in bundles or weight in the container. *Id.* It explains:

> Specifically, mailers using the Mixed Class preparation option may combine Standard Mail and Periodicals mailpieces within the same bundle (comail), or combine separate same-class bundles on the same pallet (copalletize), to maximize presorting or to qualify for deeper destination entry discounts.

Id.

The Postal Service asserts, without elaboration, that the changes provide "a fair price application for Mixed Class mailings of Standard Mail and Periodicals." *Id.* In a similar vein, it also asserts that it believes the changes are consistent with 39 U.S.C. 3642 and should be incorporated by the Commission into the MCS. *Id.*

III. Commission Analysis and Initial Action

Rules 3020.90 and 91, which the Postal Service cites as the administrative vehicle for its filing, are part of Subpart E of Part 3020—Product Lists. This subpart is captioned "Requests Initiated by the Postal Service to Change the Mail Classification Schedule." The first two individual rules within this subpart address Postal Service responsibilities. They require that the Postal Service assure that product descriptions in the MCS accurately reflect current offerings (§ 3020.90) and submit corrections that do not constitute a proposal to modify the product lists by filing a notice of the proposed change no later than 15 days prior to effective date (§ 3020.91).

The remaining two rules address Commission responsibilities. They require the Commission to publish the proposed change on its Web site and provide interested persons with an opportunity to comment on the consistency of the planned change with 39 U.S.C. 3642 (§ 3020.92). They also require the Commission to review the change and comments and, upon a finding that there is no inconsistency with 39 U.S.C. 3642, to change the MCS to coincide with the effective date of the change (§ 3020.93(a)).

The rules in Subpart E were adopted as part of a series of rulemakings implementing the Postal Accountability and Enhancement Act (PAEA) of 2006. At the time, the Commission viewed Subpart E as a vehicle for minor classification changes. The Postal Service's Notice indicates that it considers Subpart E as an appropriate vehicle for effecting the modification proposed here, which it characterizes as a matter of rate application for practices associated with co-mailing and co-palletizing in mixed class mailings.

The Commission interprets the Postal Service's presentation of proposed MCS revisions and its assertion regarding consistency with 39 U.S.C. 3642, which addresses changes to the product lists, as a demonstration of its interest in facial compliance with Subpart E requirements and the apparent lack of other viable alternatives under the existing administrative framework.

With the perspective gained over the past few years, it appears that Subpart E may not be optimally suited for the type of change the Postal Service proposes here. This is because the proposal may have rate and price cap implications, raising questions about how the Commission's compliance function will be affected. At the same time, it is also appears that no practical alternative exists for expedited consideration of the proposal, and that compliance concerns can be addressed, at least preliminarily, in the context of this case.

The Commission therefore establishes Docket No. MC2011–5, Modification of Mail Classification Schedule Regarding Combined Mailings of Standard Mail and Periodicals, to address the Postal Service's filing. In conformance with rule 3020.92, the planned change appears on the Commission's Web site. In addition, the Notice will be published in the **Federal Register**. The Commission invites interested persons to comment on the consistency of the change with 39 U.S.C. 3622 and 3642. Comments are due no later than November 24, 2010.

In conformance with 39 U.S.C. 505, the Commission appoints Robert N. Sidman to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2011–5, Modification of Mail Classification Schedule Regarding Combined Mailings of Standard Mail and Periodicals, for consideration of matters raised in the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, Robert N. Sidman is designated officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments are due no later than November 24, 2010.
4. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2010–29083 Filed 11–17–10; 8:45 am]

BILLING CODE P

[1] Notice of the United States Postal Service of Classification Change Related to Combined Mailings of Standard Mail and Periodicals, November 5, 2010 (Notice).

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with § 103(c)(6) of the Presidio Trust Act, 16 U.S.C. 460bb appendix, and in accordance with the Presidio Trust's bylaws, notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held commencing 6:30 p.m. on Wednesday, December 8, 2010, at the Golden Gate Club, 135 Fisher Loop, Presidio of San Francisco, California. The Presidio Trust was created by Congress in 1996 to manage approximately eighty percent of the former U.S. Army base known as the Presidio, in San Francisco, California.

The purposes of this meeting are to approve minutes of a previous Board meeting, to provide the Executive Director's report, to provide the Chairperson's report, to provide the Finance and Audit Committee report, to approve a Revised Fiscal Year 2011 Budget Forecast and Five-Year Construction Plan, to provide project updates, and to receive public comment on other matters in accordance with the Trust's Public Outreach Policy.

Individuals requiring special accommodation at this meeting, such as

needing a sign language interpreter, should contact Mollie Matull at 415.561.5300 prior to December 1, 2010.

Time: The meeting will begin at 6:30 p.m. on Wednesday, December 8, 2010.

ADDRESSES: The meeting will be held at the Golden Gate Club, 135 Fisher Loop, Presidio of San Francisco.

FOR FURTHER INFORMATION CONTACT: Karen Cook, General Counsel, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: 415.561.5300.

Dated: November 12, 2010.

Karen A. Cook,

General Counsel.

[FR Doc. 2010–29133 Filed 11–17–10; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63309; File No. SR–MSRB–2010–16]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Amendments to Rule G–5, on Disciplinary Actions by Appropriate Regulatory Agencies, Remedial Notices by Registered Securities Associations; and Rule G–17, on Conduct of Municipal Securities Activities

November 12, 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 November 1, 2010, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB is filing a proposed rule change consisting of amendments to Rule G–5, on disciplinary actions by appropriate regulatory agencies, and Rule G–17, the Board's basic fair practice rule, to apply the rules to municipal advisors. The text of the proposed rule change is available on the MSRB's Web site at *http://www.msrb.org/Rules-and-Interpretations/SEC–Filings/2010–Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 Board has prepared summaries, set forth in Section 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

Rule G–5 currently provides that brokers, dealers, and municipal securities dealers ("dealers") may not engage in municipal securities activities in contravention of restrictions imposed on them by the Commission, a registered securities association, or another appropriate regulatory agency. The purposes of the portion of the proposed rule change consisting of amendments to Rule G–5 are to remove a reference to an outdated NASD rule and to provide that municipal advisors and their associated persons may not engage in the municipal advisory activities described in Section 15B(e)(4)(A)(i) and (ii) of the Act in contravention of restrictions imposed upon them by the Commission.

Rule G–17 currently provides that, in the conduct of its municipal securities activities, each dealer shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice. The purpose of the portion of the proposed rule change consisting of amendments to Rule G–17 is to apply the MSRB's core fair dealing rule to municipal advisors in the same manner that it currently applies to dealers.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2) of the Act, which provides that:

> The Board shall propose and adopt rules to effect the purposes of this title with respect to transactions in municipal securities effected by brokers, dealers, and municipal securities dealers and advice provided to or on behalf of municipal entities or obligated persons by brokers, dealers, municipal securities dealers, and municipal advisors with respect to municipal financial products, the issuance of municipal securities, and solicitations of municipal entities or obligated persons undertaken by brokers, dealers, municipal securities dealers, and municipal advisors.

Section 15B(b)(2)(C) of the Act provides that the rules of the MSRB shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The proposed rule change is consistent with Section 15B(b)(2) of the Act, because it provides that: (i) Municipal advisors shall deal fairly with all persons and not engage in any deceptive, dishonest, or unfair practice and (ii) municipal advisors and their associated persons shall not conduct the activities described in Section 15B(e)(4)(A)(i) and (ii) of the Act in contravention of restrictions imposed upon them by the Commission.

Section 15B(2)(L) of the Act requires that rules adopted by the Board

> not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud.

The proposed rule change is necessary for the robust protection of investors against fraud. Many municipal advisors play a key role in the structuring of offerings of municipal securities and the preparation of offering documents used to market those securities to investors. In some cases, they advise on the appropriateness of derivatives entered into by municipal issuers, the effectiveness of which may have a substantial impact on the finances of those issuers. In other cases, they solicit public pension fund investment advisory business that, if not conducted according to the highest standards, may have a substantial effect on the finances of the State and local governments that control those funds. Investors, therefore, have a substantial interest in municipal advisors conducting their municipal advisory activities fairly, not engaging in fraudulent conduct, and not engaging in municipal advisory activities contrary to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

disciplinary actions imposed by the SEC.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB 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, since it would apply equally to all municipal advisors. In particular, the MSRB believes that the amendments to Rule G–5 impose no regulatory burden on any municipal advisor because Section 15B(c) of the Act already permits the SEC to limit the activities of municipal advisors in the manner provided for in amended Rule G–5. Further, the MSRB believes that the amendment to Rule G–17 imposes no regulatory burden on any municipal advisor not necessary or appropriate in furtherance of the purposes of the Act since most municipal advisors already comport themselves in accordance with the standards of behavior required by Rule G–17 and no municipal advisor has a legitimate interest in engaging in behavior that is fraudulent or otherwise unfair.

C. Self-Regulatory Organization's Statement on Comments Received on the Proposed Rule Change by Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2010–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MSRB–2010–16. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's 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 MSRB's offices. 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–MSRB–2010–16 and should be submitted on or before December 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[3]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–29077 Filed 11–17–10; 8:45 am]

BILLING CODE 8011–01–P

[3] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63311; File No. SR–FINRA–2010–044]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change Relating to the Expansion of the Order Audit Trail System to All NMS Stocks

November 12, 2010.

I. Introduction

On August 6, 2010, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] a proposed rule change to amend its Order Audit Trail System rules to extend the recording and reporting requirements to all NMS stocks and to exclude certain firms that have limited trading activities. The proposed rule change was published for comment in the **Federal Register** on August 25, 2010.[2] The Commission received three comment letters on the proposed rule change.[3] FINRA responded to these comment letters in a letter dated October 28, 2010.[4] This order approves the proposed rule change.

II. Description of Proposal

FINRA Rules 7410 through 7470 (the "OATS Rules") impose obligations on FINRA members to record in electronic form and report to FINRA, on a daily basis, certain information with respect to orders originated, received, transmitted, modified, canceled, or executed by members in OTC equity securities and equity securities listed and traded on The Nasdaq Stock Market, Inc. ("Nasdaq").[5] This

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 62739 (August 18, 2010), 75 FR 52380.

[3] *See* letter from Steve Allread, Equity Trader, Cutter Company, to Commission, dated September 10, 2010 ("Cutter Letter"); letter from Joan Conley, Senior Vice President and Corporate Secretary, Nasdaq OMX Group, Inc., to Elizabeth M. Murphy, Secretary, Commission, dated September 15, 2010 ("Nasdaq Letter"); and letter from Manisha Kimmel, Executive Director, Financial Information Forum, to Elizabeth M. Murphy, Secretary, Commission, dated September 17, 2010 ("FIF Letter").

[4] *See* letter from Brant K. Brown, Associate General Counsel, FINRA, to Elizabeth M. Murphy, Secretary, Commission, dated October 28, 2010 ("FINRA Response").

[5] As amended by SR–FINRA–2010–003, FINRA Rule 7410 defines an "OTC equity security" for purposes of the OATS Rules as an equity security that is not an NMS stock, except that the term does not include restricted equity securities and direct

Continued

information is used by FINRA staff to oversee the markets and to determine if members are complying with FINRA's rules.

FINRA is proposing to extend the OATS recording and reporting requirements to cover all NMS securities.[6] FINRA is also proposing to exclude from the definition of "Reporting Member"[7] in FINRA Rule 7410 certain firms that became FINRA members pursuant to NASD IM–1013–1 (Membership Waive-In Process for Certain New York Stock Exchange Member Organizations), or NASD IM–1013–2 (Membership Waive-In Process for Certain NYSE Alternext US LLC[8] Member Organizations), and the rules of the NYSE,[9] and that engage in the floor activities permitted in NASD IM–1013–1 and IM–1013–2 and receive orders through systems operated and regulated by the NYSE or NYSE Amex.

III. Discussion of Comment Letters

The Commission received three comment letters on the proposed rule change and FINRA responded to these comments.[10] One commenter, FIF, supported the proposal, but specified a variety of terms and provisions that it believed should be incorporated by FINRA in its expansion of OATS.[11] Specifically, FIF suggested that FINRA ensure that the terms currently used in the Order Tracking System (OTS) Rules are harmonized with those used in the OATS Rule and noted, for example, that account types currently are treated differently by NYSE and FINRA. The commenter suggested using the "FIX" protocol to ensure standardization. FIF also requested that FINRA take into consideration that certain FINRA member firms do not have MPIDs, which are required for OATS reporting, and that FINRA configure OATS to accept symbols under the different Nasdaq and NYSE symbology plans.

FIF suggested that FINRA enhance its capacity and processing bandwidth to accommodate the millions of additional OATS reports it would receive under the proposed rule to ensure timely processing of files and error free testing. FIF also requested that FINRA extend the deadline to submit reports due to the additional volume of reports that would be required. FIF also requested an extension of the current time frame for members to repair and resubmit OATS rejections.[12]

FINRA responded to these comments by stating that it is currently reviewing OATS for potential efficiencies and will consider the issues raised with respect to revising its reporting and rejection repair and resubmission deadlines, as well as capacity limitations. FINRA believes that a phased-in approach for inclusion of NMS stocks in OATS is acceptable.

FIF also requested that FINRA adopt an exemption for, or provide additional time for inclusion in OATS of, convertible and non-convertible preferred stock listed on the NYSE explaining that these securities managed by firms' Fixed Income Desks and systems and may not be easily reportable on existing platforms.

FINRA responded that NYSE's current OTS rules do not contain an exemption for preferred stock, and therefore, members are already required to capture order information for these securities. Consequentially, FINRA does not believe that preferred stock should be exempted from OATS, or that it should provide additional time for implementation of the requirement.

Another commenter questioned the regulatory usage of the data that currently is required to be submitted to OATS.[13] In response, FINRA explained that it currently uses OATS data to conduct surveillance and investigations of its members, and that the expansion of this data to include NMS securities traded on other exchanges would enhance FINRA's ability to surveil its members' trading activity across multiple markets.

The third commenter, Nasdaq, argued that the timing of the OATS proposal, in light of the Commission's proposed consolidated audit trail, is an effort by FINRA to make OATS the default consolidated audit trail choice for the industry, and submitted questions for FINRA regarding the cost, timing and use of its proposal.[14] In response, FINRA stated that its proposal is not intended to replace the Commission's consolidated audit trail proposal, and that FINRA views it instead as an effort to improve its own regulatory oversight. It recognized that the proposal may impose costs on its members, but believes that most of those affected would already have in place the OTS infrastructure, which would allow them to adopt the proposed changes quickly.

IV. Commission Findings

The Commission has carefully reviewed the proposed rule change, the comments received, and FINRA's response to the comments, and 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 association.[15] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[16] which, among other things, requires that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change, by requiring members to record and report order information for all NMS stocks, not just those securities listed on Nasdaq or traded over-the-counter, will enhance FINRA's market surveillance and investigative capabilities. FINRA has stated that it is currently unable to view a complete order and transaction audit trail for all over-the-counter transactions in NMS stocks; thus, the proposed expansion of surveillance to NMS stocks listed on non-Nasdaq markets should enhance FINRA's oversight of the U.S. equity markets.

The Commission believes the proposed rule change is a positive step toward a cross-market audit trail. The Commission views FINRA's proposed expansion of OATS as an interim measure that will improve FINRA's regulatory capabilities by broadening its oversight. The Commission notes that FINRA's proposal will also remove redundancies, as FINRA has represented that OTS is expected to be retired by NYSE upon the expansion of OATS.

Additionally, the Commission agrees that FINRA's amendment to its definition of "Reporting Members" is

participation programs, as those terms are defined in FINRA Rule 6420. *See* Securities Exchange Act Release No. 61979 (April 23, 2010), 75 FR 23316 (May 3, 2010) (Order Approving File No. SR–FINRA–2010–003).

[6] Rule 600(b)(47) of Regulation NMS defines "NMS stock" as "any NMS security other than an option." 17 CFR 242.600(b)(47). An "NMS security" is defined as "any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options." 17 CFR 242.600(b)(46).

[7] A "reporting member" is defined in FINRA Rule 7410(o) as a member that receives or originates an order and has an obligation to record and report information under Rules 7440 and 7450.

[8] In March 2009, NYSE Alternext US LLC changed its name to NYSE Amex LLC ("NYSE Amex"). *See* Securities Exchange Act Release No. 59575 (March 13, 2009), 74 FR 11803 (March 19, 2009).

[9] *See* NYSE Rule 2.

[10] *See supra* notes 3 and 4.

[11] *See* FIF Letter, *supra* note 3.

[12] *See* FIF Letter, *supra* note 3.

[13] *See* Allread Letter, *supra* note 3.

[14] *See* Nasdaq Letter, *supra* note 3.

[15] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78o–3(b)(6).

appropriate, as it excludes from the OATS recording and reporting requirements those members who conduct a floor business through NYSE and NYSE Amex and who are currently not subject to OTS, but to the requirements of NYSE Rule 123 and NYSE Amex Equities Rule 123 (Record of Orders).[17] By exempting these members from the OATS requirements, FINRA is not altering their current audit trail obligations.[18] The Commission believes that FINRA's proposed amendment to Rule 7410 is appropriate as these members would continue to be required to record and report information under NYSE Rule 123 and NYSE Amex Equities Rule 123, and would continue to be subject to FINRA regulation.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–FINRA–2010–044), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–29079 Filed 11–17–10; 8:45 am]

BILLING CODE 8011–01–P

[17] NYSE Rule 123 and NYSE Amex Equities Rule 123 pertain to orders or commitments or obligations to trade originated on or transmitted to the floor of each exchange.

[18] These members would be subject to FINRA's oversight, as FINRA assumed the market surveillance and enforcement functions of NYSE Regulation, Inc. in June 2010, pursuant to a multi-party regulatory services agreement with NYSE Regulation, Inc., NYSE, NYSE Amex, and NYSE Arca. *See* "FINRA and NYSE Euronext Complete Agreement for FINRA to Perform NYSE Regulation's Market Oversight Functions," FINRA News Release (June 14, 2010), available at *http://www.finra.org/Newsroom/NewsReleases/2010/P121622.*

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63313; File No. SR–MSRB–2010–14]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Amendments to Rule A–12, on Initial Fee, and Rule A–14, on Annual Fee

November 12, 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 November 9, 2010, the Municipal Securities Rulemaking Board ("Board" or "MSRB"), 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 MSRB. The MSRB has designated the proposed rule change as changing a fee applicable to municipal advisors pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing a proposed rule change consisting of amendments to Rule A–12, on initial fee, and Rule A–14, on annual fee, to provide for the payment to the Board by municipal advisors of initial and annual fees. The proposed rule change is effective immediately upon filing.

The proposed rule change would apply to municipal advisors immediately; however, it will have a deferred compliance date of December 31, 2010. The text of the proposed rule change is available on the MSRB's Web site at *http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2010-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide for the assessment of reasonable fees to defray a portion of the increased costs and expenses associated with the operation and administration of the Board attributable to the Board's regulation of municipal advisors, including an initial fee of $100 and an annual fee of $500. Except as described below, the proposed rule change applies the provisions of Rules A–12 and A–14 to municipal advisor firms in the same manner that they currently apply to brokers, dealers, and municipal securities dealers ("dealers"). Individuals will not be required to pay these fees unless they are sole proprietorships. Although the initial fee under Rule A–12 normally would be payable to the Board prior to a municipal advisor engaging in any municipal advisory activities, the proposed rule change would permit a municipal advisor firm to engage in such activities prior to January 1, 2011 so long as the initial fee is paid by January 1, 2011. Similarly, although the annual fee under Rule A–14 normally would be payable by October 31 of each fiscal year (or, for municipal advisor firms becoming subject to MSRB rules in the current fiscal year, simultaneously with the initial fee under Rule A–12), the proposed rule change would permit a municipal advisor firm to engage in such activities prior to January 1, 2011 so long as the annual fee for the current fiscal year of the Board is paid by January 1, 2011. Each firm subject to the rules of the Board shall be required to pay the initial fee only once, and the annual fee only once each fiscal year, even if a firm is both a dealer and a municipal advisor.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(J) of the Act, which provides that the Board's rules shall:

> Provide that each municipal securities broker, municipal securities dealer, and municipal advisor shall pay to the Board such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the Board.

The $100 initial fee imposed on municipal advisors by amended Rule A–12 and the $500 annual fee imposed on municipal advisors by amended Rule A–14 are reasonable. In its filing, the MSRB noted that the annual fee is comparable to the fees that municipal advisors must pay to State regulators if they must register as investment advisers. The initial fee is less than most States impose for the initial registration of investment advisers. The revenue resulting from these fees will defray only a small portion of the cost of MSRB regulation of municipal advisors.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

Section 15B(2)(L) of the Act requires that rules adopted by the Board

> not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud.

The proposed rule change does not impose a regulatory burden on small advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons and for the robust protection of investors against fraud. The MSRB stated that it considers the $100 initial fee and $500 annual fee to be *de minimis.* The annual fee is comparable to the fees that municipal advisors must pay to State regulators if they must register as investment advisers. The initial fee is less than most States impose for the initial registration of investment advisers. The MSRB stated that, while the proposed rule change, at best, imposes only a *de minimis* burden on municipal advisors, the proposed rule change is necessary to help defray the costs of the MSRB's registration of municipal advisors, which in turn permits the MSRB to have a record of the municipal advisors it regulates, so that it may keep them abreast of regulatory developments, better target its rulemaking and professional qualifications examinations to different types of municipal advisors, and identify to the Commission those municipal advisors who have reportedly violated MSRB rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB 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, since it would apply equally to all municipal advisors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [5] and Rule 19b–4(f)(2) [6] thereunder, in that it establishes fees applicable to municipal advisors. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[7]

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–MSRB–2010–14 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–MSRB–2010–14. 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 MSRB. 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–MSRB–2010–14 and should be submitted on or before December 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–29080 Filed 11–17–10; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

[7] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63310; File No. SR–MSRB–2010–12]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Revisions to the Study Outline and Selection Specifications for the Municipal Securities Representative Qualification Examination (Series 52) Program

November 12, 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 November 10, 2010, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change (File No. SR–MSRB–2010–12) ("the proposed rule change") as described in Items I, II, and III below, which Items have been prepared by the MSRB. The MSRB has designated the proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization pursuant to Section 19(b)(3)(A)(i) [3] of the Act and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. The MSRB proposes to implement the revised Series 52 examination program on January 3, 2011. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing with the Commission revisions to the study outline and selection specifications for the Municipal Securities Representative Qualification Examination (Series 52) program.[5]

The revised study outline is available on the MSRB's Web site at *http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2010-Filings.asp,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15B(b)(2)(A) of the Act[6] authorizes the MSRB to prescribe standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons. The MSRB has developed examinations that are designed to establish that persons associated with brokers, dealers and municipal securities dealers that effect transactions in municipal securities have attained specified levels of competence and knowledge. The MSRB periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

MSRB Rule G–3(a)(i) states that the activities of a municipal securities representative include one or more of the following activities relating to municipal securities: Underwriting, trading or selling municipal securities; rendering financial advisory or consultant services to issuers of municipal securities; research or investment advice, or communications with customers, about any of the activities named heretofore. A municipal securities representative may also qualify as such by taking the General Securities Representative Examination (Series 7). An individual who takes the Investment Company Products/Variable Contracts Examination (Series 6) may qualify as a limited representative, but activities are limited to those in municipal fund securities.

A committee of industry members and MSRB staff recently undertook a review of the Series 52 examination program. As a result of this review, the MSRB is proposing to make revisions to the study outline to regroup certain topics to allow more detailed testing of certain product knowledge and MSRB rules and eliminate redundancy; delete dated references to certain topics in the current outline; provide detail about products covered in the examination; and incorporate generic terms instead of proprietary names. The revised examination continues to cover areas of knowledge required to conduct municipal securities activities.

A summary of the changes to the content outline for the Series 52 Examination, detailed by major topic headings, is provided below. Changes are stated as revisions to the current outline.

Part One: Municipal Securities

- The emphasis given this section has been increased from 55% to 57% of the examination.

Part One—I: Types of Municipal Securities

Special type bonds

- "Variable rate securities" is moved and tested as "Variable rate demand obligations" under "Short-term obligations."
- "Taxable municipals" are tested under a new section entitled "Taxable municipal securities."

Taxable municipal securities

- "Build America Bonds (BABs)," "Taxable municipal bonds" and "Other tax credit bonds" are added.

Short-term obligations

- "Variable rate demand notes" are tested as "Variable rate demand obligations."

Municipal fund securities

- "Municipal fund securities (Basic characteristics, ownership and contribution limits)" are added.

Part One—II: Characteristics

Basic characteristics

- "Basis price" is removed from "Method of quotations."
- "Bearer" and "Registered as to principal only" are deleted from "Forms of Ownership."
- The subtopics "Interchangeable with bearer" and "Non-interchangeable" are deleted from "Fully registered."
- "When as and if issued (WI)" under "Delivery procedures" is moved to "Syndicate operational procedures."
- "As mutually agreed upon" becomes a descriptor for "Special settlement."
- "Forwards (forward delivery)" is stated as "Forward delivery."
- "Zeros" are added as a subtopic under "Rates."
- "Convertible" is changed to "Convertible/stepped coupons."

Tax considerations

- "Original issue discount" is tested as "Original issue discount/premium."
- "Market discount/premium" is added.

Factors affecting marketability and liquidity

- "Quality" is deleted.
- "Dollar price" is changed to "Dollar/yield price."
- "Registered, bearer, or book-entry only form" is deleted.
- "Credit and liquidity support," "Denominations," "Type of issuance" and "Source of funds" are added.

Part One—III: The Market for Municipal Securities

Primary market

Methods of primary financing

- "Limited offering" is added as a parenthetical after "Private placement."

Information sources

- "Direct mail from issuers or financial advisors" is stated as "Issuers or financial advisors."
- The following topics have been deleted: "*The Bond Buyer;*" "Munifacts;" "Dalnet;" "Newspaper and publications;" "*Bond Buyer* New Issue Worksheets;" "Moody's Bond Survey;" "Bloomberg;" and "Other sources (*e.g.,* Bond Express and Bondtrac)."
- The following subtopics are added: "EMMA;" "New issue wires;" and "Print and electronic news services."

Underwriting procedures

- The parenthetical descriptor "eastern account" is deleted from the topic "Undivided."
- The parenthetical descriptor "western account" is deleted from the topic "Divided."
- "Formation of selling groups" is changed to "Selling groups."
- "Bid form" under topic "Determination of syndicate bid" is deleted.
- "Terms and conditions" and "Submission of bid" are added under "Computation of bid."

[5] The MSRB is also proposing corresponding revisions to the Series 52 question bank, but based upon instructions from the Commission staff, the MSRB is submitting SR–MSRB–2010–12 for immediate effectiveness pursuant to Section 19(b)(3)(A)(i) of the Act and Rule 19b–4(f)(1) thereunder, and is not filing the question bank for Commission review. *See* letter to Diane G. Klinke, General Counsel, MSRB, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question bank is available for Commission review.

[6] 15 U.S.C. 78o–4(b)(2)(A).

• "Gross interest cost" is added as a subtopic under "Basis for award."
• "Bond years" is added under "Computation of bid."

Syndicate operational procedures

• "Retail orders" is added as a subtopic under "Priority provisions."
• "Establish time of first trade" is added.
• "Required disclosures" is added with subtopics "(a) EMMA;" "(i) Primary offerings;" "(ii) Material event notices;" "(b) NIIDS;" "(c) SHORT;" and "(d) Delivery of official statement."

Secondary market

• Heading "Characteristics" and subtopic "Negotiated versus auction" are deleted.
• Subtopic "Over-the-Counter (OTC)" is changed to "Traded over-the-counter (OTC)."

Information sources

• "The Bond Buyer," "Munifacts," and "Bloomberg" are deleted; "Alternative trading systems (ATS)," "EMMA," and "Electronic information services" are added.

Market participants

• "Dealers" is added.

Secondary market procedures

• "Quote," "Firm bid," "Firm offering," and "Multiples of" are deleted from "Trading terms."
• "Offering," "Minimums and multiples," and "Cover bid" are added to "Trading terms."

Market indicators

• The heading "The Bond Buyer" and subtopics "Placement ratio" and "Indices" (and indices listed thereunder) are deleted.
• The following topics are added under new heading "Published indices:" "Bond Buyer indices" and subtopics "Visible supply" and "Placement ratio" thereunder; "MMD curve;" "SIFMA index;" subtopic "U.S. Treasuries;" and "London Interbank Offered Rate (LIBOR)."

Other market-level indicators

• The following topics are deleted: "Secondary market activity;" "Dollar bond market activity;" "Financial futures" and subtopics "Municipal bond contract" and "Municipal over bond (MOB) spread" thereunder.

Customer suitability considerations

Kinds of investment risks

• The following topics are added: "Legislative risk;" "Price risk;" "Selection risk;" "Timing risk;" and "Liquidity risk."

Part One—IV: Analyzing Municipal Credit

Revenue bonds

Security

• "Non-discrimination covenant" under the topic "Bond indenture" is deleted.
• The word "fund" has been deleted in each of the types of funds named under "Flow of funds."
• The parenthetical "depreciation" has been deleted from "Renewal and replacement."

Sources of credit information

• "Continuing disclosure information (EMMA)" has been added.

Credit enhancements

• "Enhanced securities" and "Guaranteed investment contract (GIC)" have been deleted.
• "Insured" has been changed to "Insurance."
• "Escrow" has been added.

Part One—V: Mathematical Calculations and Methods

• The order of certain topics under this section has been changed to facilitate assignment of questions on the test. Changes in content are as indicated below.

Relationship of bond prices to change in:

• "Call/put features" has been added.

Accretion of discount

• Parenthetical "OID" has been added.

Underwriting computations

• This header has been removed with each topic thereunder ("Bond years;" "Production;" "Spread;" "Net interest cost;" and "True interest cost") because all are covered under "Underwriting procedures."

Part Two: U.S. Government, Federal Agency and Other Financial Instruments

• The emphasis given this section has decreased from 7% to 4% of the examination.

Part Two—I: Types

Obligations of the U.S. Treasury

• "TIPS" has been added.

Obligations of Federal agencies

• "Student Loan Marketing Association (SLMA or Sallie Mae)" has been deleted.

Money market instruments

• "Bankers acceptances" has been deleted.

Other financial instruments

• Topics detailed under this heading have been removed; revised heading is "Other financial instruments (corporate bonds, CMOs, etc.)."

Part Two—II: Characteristics of Various U.S. Government, Federal Agency and Other Financial Instruments

Marketability

• "Ratings" and "Economic indicators" are added.

Delivery

• Detail under this topic ("Book-entry only;" "Bearer;" and "Registered") has been deleted; revised header is "Form of Delivery."

Part Two—III: The Market for U.S. Government, Federal Agency and Other Financial Instruments

• The major heading for this section has been revised: "The Market for U.S. Government, Federal Agency and Other Financial Instruments—Impact and Relationship to Other Fixed Income Markets."
• These topics and all associated subtopics have been deleted: "New Issue Marketing Methods;" "Secondary market;" and "Federal Reserve's open-market participation in the market for each security, where applicable."
• The topics "Index floaters" and "Credit spreads" have been added.

Part Four: Federal Legal Considerations

• The emphasis given to this section has increased to 26% from 25% of the examination.

Part Four—I: Regulation of Municipal Market Professionals Securities Exchange Act of 1934

• The reference to "National Association of Securities Dealers Regulation, Inc. (NASDR)" under "Enforcement" has been changed to "FINRA."

Part Four—II: Securities Investor Protection Act of 1970

• Heading "Inapplicable to bank dealers" has been deleted.

Part Four—III: MSRB rules

• Detail under "Advertising (G–21)" has been deleted.
• "Delivery of Official Statements, Advance Refunding Documents and Forms G–36 (OS) and G–36 (ARD) to the Board or Its Designee (G–36)" has been deleted.
• "Anti-money laundering compliance program (G–41)" has been added.

ATTACHMENT A: Contents of a Typical Notice of Bond Sale

• "Terms and Conditions" has been added.

ATTACHMENT B: Outline of a Typical Official Statement

• "Organization and management" has been revised to "Organization" under "Description of issuer."

The MSRB is proposing similar changes to the Series 52 selection specifications and question bank. The increased length of the examination permits testing of certain key concepts or rules without decreasing representation of related topics under the general topic heading. The examination will consist of 115 multiple choice-questions assigned to the four areas of the examination as shown below. The percentages given for each section are rounded to an even number.

Municipal Securities	57%
U.S. Government, Federal Agency and Other Financial Instruments	4%
Economic Activity, Government Policy and the Behavior of Interest Rates	13%
Federal Legal Considerations	26%

Candidates will now be allowed three and one-half hours (instead of the current three hours) for each testing session because of the increase in the length of the examination from 100 to 115 questions. Each question will continue to count one point, and each candidate must correctly answer 70 percent of the questions in order to receive a passing grade.

2. Statutory Basis

The MSRB believes that the proposed revisions to the Series 52 examination program are consistent with the provisions of Section 15B(b)(2)(A) of the Act, which authorizes the MSRB to prescribe standards of training,

experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons. Section 15B(b)(2)(A) of the Act also provides that the Board may appropriately classify municipal securities brokers, municipal securities dealers, and municipal advisors, and persons associated with municipal securities brokers, municipal securities dealers, and municipal advisors and require persons in any such class to pass tests prescribed by the Board.

The MSRB believes that the proposed revisions to the Series 52 examination program are consistent with the provisions of Section 15B(b)(2)(A) of the Act in that the revisions will provide more updated material covered on the examination as well as ensure that certain key concepts or rules are tested on each administration of the examination in order to test the competency of individuals seeking to qualify as municipal securities representatives with respect to their knowledge about MSRB rules and the municipal securities market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[7] and Rule 19b–4(f)(1)[8] thereunder, in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization. The MSRB proposes to implement the revised Series 52 examination program on January 3, 2011. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[9]

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–MSRB–2010–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MSRB–2010–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's 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 MSRB's offices. 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–MSRB–2010–12 and should be submitted on or before December 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–29078 Filed 11–17–10; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(i).

[8] 17 CFR 240.19b–4(f)(1).

[9] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12377 and #12378]

Texas Disaster #TX–00363

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Texas dated 11/09/2010.

Incident: Tropical Storm Hermine.

Incident Period: 09/06/2010 through 09/10/2010.

Effective Date: 11/09/2010.

Physical Loan Application Deadline Date: 01/10/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 08/09/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Bell, Tarrant, Williamson.

Contiguous Counties:

Texas: Bastrop, Burnet, Coryell, Dallas, Denton, Ellis, Falls, Johnson, Lampasas, Lee, Mclennan, Milam, Parker, Travis, Wise.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.000
Homeowners without Credit Available Elsewhere	2.500

	Percent
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	3.625
Non-Profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12377 B and for economic injury is 12378 0.

The State which received an EIDL Declaration # is Texas.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: November 9, 2010.

Karen G. Mills,

Administrator.

[FR Doc. 2010–29135 Filed 11–17–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Information Security Task Force

AGENCY: U.S. Small Business Administration.

ACTION: Notice of meeting minutes.

SUMMARY: The SBA is issuing this notice to publish meeting minutes for the Small Business Information Security Task Force Meeting.

DATES: 1 p.m., Wednesday, October 13, 2010.

ADDRESSES: The meeting was held via teleconference.

SUPPLEMENTARY INFORMATION: Pursuant to section 507(i)(4)(A) of the Credit Card Accountability Responsibility and Disclosure Act of 2009, SBA submits the meeting minutes for the first meeting of the Small Business Information Security Task Force. Chairman, Rusty Pickens, called the meeting to order on October 13, 2010 at 1 p.m. Roll call was taken and a quorum was established. Mr. Pickens thanked the Task Force members for agreeing to serve and for making themselves available for the meeting, noting that the group represented a powerhouse of expertise in information security matters. After covering the general expectations for Task Force meetings, most of which will be conducted by teleconference, Mr. Pickens proposed that one in-person meeting be attempted in the spring of 2011.

Mr. Pickens set forth the ground rules for Task Force operations. Noting that the Task Force is chartered through 2013, he expressed the expectation that its work might be accomplished sooner, proposing a target deadline for the end of 2011 for completion of the Task Force Report to Congress. Mr. Pickens advised the group that as Chair, he will be responsible for providing regular updates on the work of the Task Force to the SBA Administrator. He concluded his introduction by encouraging all members to participate as fully as possible in all discussions to maximize the value of their expertise to the Task Force. He then introduced Frances Henderson of the Council of Better Business Bureaus as Vice-Chair of the Task Force.

Ms. Henderson welcomed the other members to the Task Force and expressed the Council of Better Business Bureau's appreciation for the opportunity to work with the SBA and a distinguished panel of experts on this important topic. She noted that while much valuable work has already been done in both the public and private sectors to disseminate information security standards, guidance and resources to the business community as a whole, there is evidence that these resources have not fully trickled down to, or are not being well utilized by many small businesses, including those in greatest need of help with their information security needs. She expressed the hope that the Task Force could identify the gaps in the information security resources available to small businesses and propose solutions that would benefit both small businesses and consumers.

The other Task Force members each briefly introduced themselves and their organizations, identifying their specific interests and expertise in the work of the Task Force.

The remainder of the meeting was devoted to an open discussion on the focus of the Task Force's work, including the development of a skeleton work plan to be circulated in advance of the next meeting.

The members agreed that meeting frequency should be monthly and that the next meeting date would be November 10, 2010. No other decisions were reached.

In closing, Mr. Pickens introduced Jackie Woodward and Kristi Harmel as support personnel assigned to the Chairperson and the Task Force, and encouraged members to reach out to them with questions.

The meeting was adjourned at 2 p.m.

FOR FURTHER INFORMATION CONTACT: Rusty Pickens, Special Consultant to the Office of the CIO, U.S. Small Business Administration, *Rusty.Pickens@sba.gov.*

Paul T. Christy,

SBA Chief Information Officer.

[FR Doc. 2010–29136 Filed 11–17–10; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 7230]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Study of the U.S. Institutes for Student Leaders on New Media in Journalism

Announcement Type: New Cooperative Agreements.

Funding Opportunity Number: ECA/A/E/USS–11–11.

Catalog of Federal Domestic Assistance Number: 19.009.

Key Dates: May to August, 2011.

Application Deadline: January 10, 2011.

Executive Summary: The Branch for the Study of the United States, Office of Academic Exchange Programs, Bureau of Educational and Cultural Affairs, invites proposal submissions for the design and implementation of two (2) Study of the United States Institutes for Student Leaders on New Media in Journalism. Each taking place over the course of five weeks, the Institutes will be scheduled in summer 2011.

Both Institutes should take place at U.S. academic institutions and provide groups of highly motivated undergraduate students from the countries and regions noted below with in-depth seminars on New Media and Journalism. Each Institute should include four weeks of academic residency followed by a one-week integrated educational travel tour that will expose participants to a different region of the United States. The one-week educational study tour should conclude with a three day session in Washington, DC.

Each Institute will host up to 20 participants, for a total of approximately 40 students. ECA plans to provide one to two awards for the administration of the two Study of the U.S. Institutes and welcomes applications from accredited post-secondary education institutions in the United States and public and private non-profit organizations (*see* Eligibility Information, section III). The awarding of Cooperative Agreements for this program is contingent upon the availability of FY 2011 funds.

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

The Study of the U.S. Institutes for Student Leaders on New Media in Journalism are intensive academic programs whose purpose is to provide groups of foreign undergraduate students with a deeper understanding of the United States while also exposing Americans to the diverse cultures and traditions of the exchange participants.

The principal objective of the Institutes is to provide undergraduate leaders an introduction to new media in journalism, while also heightening their awareness of the history and evolution of U.S. society, culture, values, and institutions, broadly defined. In this context, the Institutes should incorporate a focus on contemporary American life, as it is shaped by historical and/or current political, social, and economic issues and debates. The role and influence of principles and values such as democracy, the rule of law, individual rights, freedom of expression, equality, and diversity and tolerance should be addressed.

I. 3. Overview

The Study of the U.S. Institute on New Media in Journalism should examine major topics in journalism, including the changing landscape of traditional and new forms of media. The program should underscore the impact of digital journalism, and give participants new skills such as uploading original audio/visual content; utilizing twitter; publishing blogs; operating social networking Web sites; and other new media platforms. The Institute should also explore the concept of a free press, First Amendment rights, journalistic ethics, the media's relationship to the public interest, and media business models. The Institute should include a field placement component, providing participants with hands-on experience covering various aspects of journalism: Researching, writing, editing, and reporting with particular emphasis on new forms of digital media. In addition to journalism and new media, the Institutes should explore American history, government, society, and culture.

The Institutes should also develop the participants' leadership skill, specifically as they relate to journalism. In this context, the academic program should include group discussions, trainings, and exercises that focus on topics such as leadership, teambuilding, collective problem-solving skills, effective communication, and management skills for diverse organizational settings. Institutes should include a community service component in which the students experience firsthand how not-for-profit organizations and volunteerism play a key role in American civil society.

Local site visits and educational travel should provide opportunities to observe varied aspects of American life and to discuss topics addressed in the academic program. The program should also include opportunities for participants to meet American citizens from a variety of backgrounds, to interact with their American peers, and to speak to appropriate student and civic groups about their experiences and life in their home countries.

I. 4. Recipient Organizations

ECA is seeking detailed proposals from U.S. colleges, universities, and other not-for-profit organizations that have an established reputation in one or more of the following fields: Journalism, media studies, communication studies, and/or other disciplines or sub-disciplines related to the study of the United States.

I. 5. Participants

Participants will be identified and nominated by the U.S. Embassies and Consulates and/or Fulbright Commissions with final selection made by ECA. ECA will make the final decisions regarding participating countries and reserves the right to adjust the countries or regions participating in this activity based upon Department priorities.

Participants in the Study of the U.S. Institutes for Student Leaders will be highly motivated undergraduate students from colleges, universities, and other institutions of higher education in selected countries overseas who demonstrate achievement and leadership through academic work, community involvement, and extracurricular activities. Their academic fields of study will be varied, and may include journalism, sciences, social sciences, humanities, education, and business. All participants will have a good knowledge of English and will have demonstrated interest in new media and journalism.

Every effort will be made to select a balanced mix of male and female participants, and to recruit participants who are from non-elite or underprivileged backgrounds, from both rural and urban areas, and have had little or no prior experience in the United States or elsewhere outside of their home country.

It is anticipated that participants in the two Institutes will come from the following regions and countries:

(1) South Asia: Bangladesh, India, Nepal, Sri Lanka. This Institute should take place in *May and June, 2011.*

(2) Middle East: Iraq, Lebanon, Oman, West Bank. This Institute should take place in *July and August, 2011.*

I. 6. Program Guidelines

It is essential that proposals provide a detailed and comprehensive narrative describing the objectives of the Institute; the title, scope, and content of each session; planned site visits; and how each session relates to the overall Institute theme. Proposals must include a syllabus that indicates the subject matter for each lecture, panel discussion, group presentation, or other activity. The syllabus also should confirm or provisionally identify proposed speakers, trainers, and session leaders, and clearly show how assigned readings will advance the goals of each session. Overall, proposals will be reviewed on the basis of their responsiveness to RFGP criteria, coherence, clarity, and attention to detail. The accompanying Project Objectives, Goals, and Implementation (POGI) document provides program-specific guidelines that all proposals must address fully.

Please note: In a Cooperative Agreement, the Branch for the Study of the United States is substantially involved in program activities above and beyond routine grant monitoring. The Branch will assume the following responsibilities for the Institute: Participate in the final selection of participants; debrief participants in Washington, DC at the conclusion of the Institute; and engage in follow-on communication with the participants after

they return to their home countries. The Branch may request that the recipient make modifications to the academic residency and/or educational travel components of the program. The recipient will be required to obtain approval of significant program changes in advance of their implementation.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: FY 2011.

Approximate Total Funding: $480,000.

Approximate Number of Awards: Up to two.

Floor of Award Range: $240,000.

Ceiling of Award Range: $480,000.

Anticipated Award Date: Pending availability of funds, April 1, 2011.

Anticipated Project Completion Date: April, 2012.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this cooperative agreement for one additional fiscal year, 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 USC 501(c)(3).

An applicant organization is defined by the DUNS number of the organization and by the signature of the authorized representative contained on the "Application for Federal Assistance Form" (SF–424) submitted under this competition.

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, the recipient institution must maintain written records to support all costs which are claimed as a 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 the recipient institution does 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.) Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. ECA anticipates that the minimum award under this competition will be approximately $240,000. 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: It is ECA's intent to fund a total of two (2) institutes as a result of this solicitation.

All applicants are strongly encouraged to read this RFGP thoroughly, prior to developing and submitting a proposal, to ensure that proposed activities are appropriate and responsive to the goals, objectives and criteria outlined in the solicitations.

Total available funding is up to $240,000 (one institute) or up to $480,000 (two institutes). Applicant organizations (colleges, universities, or NGOs) are invited to submit one application to host one or both Institutes.

If proposing to host one institute, the proposals should clearly indicate the desired country group from Section I.5 above if appropriate and any regional expertise, if applicable. ECA reserves the right to alter or reassign the final country groupings.

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 Branch for the Study of the United States, ECA/A/E/USS; SA–5, Fourth Floor; U.S. Department of State; Washington, DC 20037, (202) 632–3339 to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/E/USS–11–11 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.

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 Kevin Orchison and refer to the Funding Opportunity Number ECA/A/E/USS–11–11 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 section IV.6 Application Deadline and Methods of Submission, indicated 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.4 Program Regulations

IV.4.1 Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs places critically important emphases on the security and proper administration of the Exchange Visitor (J visa) Programs and adherence by award recipients and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR part 62, including the oversight of 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.

ECA will issue participant DS 2019 forms for organizations with direct agreements with ECA.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office Designation, Private Sector Programs Divison, ECA/EC/D/PS, SA–5, 5th Floor, Department of State, Washington, DC 20037.

Please refer to Solicitation Package for further information.

IV.4.2 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.4.3 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 proposals include a draft survey questionnaire or other technique plus a description of a methodology used 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. An evaluation plan should include a description of project's objectives, anticipated project outcomes, and how and when outcomes will be measured (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. Applicants should also show how project objectives link to the goals of the program described in this RFGP.

Monitoring and evaluation plans 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 applicants 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 a 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.5 Budget

IV.5.1 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.5.2 Allowable costs for the program include the following:

(1) Institute staff salary and benefits.

(2) Participant housing and meals.

(3) Participant U.S. travel and per diem.

(4) Textbooks, educational materials, and admissions fees.

(5) Honoraria for guest speakers.

(6) Follow-on programming for alumni of Study of the United States programs.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV. 6 Application Deadline and Methods of Submission

Application Deadline Date: January 10, 2011.

Reference Number: ECA/A/E/USS–11–11.

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.6.1 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 (6) copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/A/E/USS–11–11, SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20037.

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 a CD–ROM. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. embassy(ies) for its (their) review.

IV.6.2 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. *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.6.3 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 cooperative agreements 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:

1. *Quality of Program Plan and Ability to Achieve Program Objectives:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. A detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Objectives should be reasonable, feasible, and flexible. Proposals should demonstrate clearly how the institution will meet the program's objectives and plan.

2. *Support for Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, presenters, and resource materials).

3. *Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. The Bureau recommends that the proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives.

4. *Cost-effectiveness/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. *Institutional Track Record/Ability:* 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 fully qualified to achieve the project's goals.

6. *Follow-Up and Follow-on Activities:* Proposals should discuss provisions made for follow-up with returned participants as a means of establishing longer-term individual and institutional linkages. Proposals should also provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

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 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) An interim program report no more than 90 days after the completion of the Institute;

(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.

VII. Agency Contacts

For questions about this announcement, contact: Kevin Orchison, Study of the U.S. Branch, ECA/A/E/USS, U.S. Department of State, Fourth Floor, SA–5, 2200 C Street, NW., Washington, DC 20522–0504, phone: (202) 632–3339, e-mail: *OrchisonKH@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/E/USS–11–11.

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. In addition, it reserves the right to accept proposals in whole or in part and to make an award or awards in the best interest of the program. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: *November 10, 2010.*

Ann Stock,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2010–29122 Filed 11–17–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7231]

U.S. National Commission for UNESCO Notice of Meeting and Closed Meeting

The U.S. National Commission for UNESCO will hold a meeting on Wednesday, December 1, 2010, from 10 a.m. until 12:45 p.m. Eastern Time at the U.S. Department of State, with the option of participation by telephone conference. The open session will have a series of subject-specific reports, during which the Commission will accept brief oral comments or questions from the public or media. The open session is expected to be two hours and forty-five minutes in duration. The public comment period will be limited to approximately 15 minutes in total, with two minutes allowed per speaker.

The second portion of the meeting will be closed to the public to allow the Commission to discuss applications for the UNESCO Associated Schools Network Program and the UNESCO Club Network. The closed session will begin at 12:45 p.m. This portion of the call will be closed to the public pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(6) because it is likely to involve discussion of information of a personal and financial nature regarding the relative merits of individual applicants where disclosure would constitute a clearly unwarranted invasion of privacy.

For more information or to arrange to participate in the open portion of the the meeting, individuals must make arrangements with the Executive Secretariat of the National Commission by November 29, 2010.

The National Commission may be contacted via e-mail at *DCUNESCO@state.gov,* or via phone at (202) 663–0026. Its Web site can be accessed at: *http://www.state.gov/p/io/unesco/.*

Dated: November 9, 2010.

Elizabeth Kanick,

Executive Director, U.S. National Commission for UNESCO, Department of State.

[FR Doc. 2010–29128 Filed 11–17–10; 8:45 am]

BILLING CODE 4710–19–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments Concerning Compliance With Telecommunications Trade Agreements

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for public comment and reply comment.

SUMMARY: Pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) ('Section 1377'), the United States Trade Representative ("USTR") is reviewing and requests comments on the operation, effectiveness, and implementation of and compliance with the following agreements regarding telecommunications products and services of the United States: the World Trade Organization ("WTO") General Agreement on Trade in Services; the North American Free Trade Agreement ("NAFTA"); U.S. free trade agreements ("FTAs") with Australia, Bahrain, Chile, Morocco, Oman, Peru, and Singapore; and the Dominican Republic–Central America–United States Free Trade Agreement ("CAFTA–DR"). The USTR will conclude the review by March 31, 2011.

DATES: Comments are due by noon on December 17, 2010 and reply comments by noon on January 14, 2011.

ADDRESSES: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, or Catherine Hinckley, Director, Telecom Trade Policy, ATTN: Section 1377 Comments, Office of the United States Trade Representative, 1724 F Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Catherine Hinckley, Office of Services and Investment (202) 395–9539; or Will Martyn, Office of the General Counsel (202) 395–3582.

SUPPLEMENTARY INFORMATION: Section 1377 requires the USTR to review annually the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into an FTA or other telecommunications trade agreement with the United States is inconsistent with the terms of such agreement or otherwise denies U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities for telecommunications products and services. For the current review, the USTR seeks comments on:

(1) Whether any WTO member is acting in a manner that is inconsistent with its obligations under WTO agreements affecting market opportunities for telecommunications products or services, *e.g.,* the WTO General Agreement on Trade in Services, including the Agreement on Basic Telecommunications Services, the

Annex on Telecommunications, and any scheduled commitments, including the Reference Paper on Pro-Competitive Regulatory Principles;

(2) Whether Canada or Mexico has failed to comply with its telecommunications obligations under the NAFTA;

(3) Whether Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, or Nicaragua has failed to comply with its telecommunications obligations under the CAFTA–DR;

(4) Whether Australia, Bahrain, Chile, Morocco, Oman, Peru, or Singapore has failed to comply with its telecommunications obligations under its FTA with the United States (*see http://www.ustr.gov/trade-agreements/free-trade-agreements* for links to U.S. FTAs);

(5) Whether any country has failed to comply with its obligations under telecommunications trade agreements with the United States other than FTAs, *e.g.,* Mutual Recognition Agreements (MRAs) for Conformity Assessment of Telecommunications Equipment (*see http://gsi.nist.gov/global/index.cfm/L1-4/L2-16* for links to certain U.S. telecommunications MRAs);

(6) Whether any act, policy, or practice of a country cited in a previous section 1377 review remains unresolved (*see http://www.ustr.gov/trade-topics/services-investment/telecom-e-commerce/section-1377-review for recent reviews*); and

(7) Whether any measures or practices impede access to telecommunications markets or otherwise deny telecommunications products and services market opportunities with respect to any country that is a WTO member or for which an FTA or telecommunications trade agreement has entered into force between such country and the United States. Measures or practices of interest include, for example, efforts by a foreign government or a telecommunications service provider to block services delivered over the Internet (including, but not limited to voice over Internet protocol services, social networking, and search services); requirements for access to or use of networks that limit the products or services U.S. suppliers can offer in specific foreign markets; the imposition of excessively high licensing fees; unreasonable wholesale roaming rates that mobile telecommunications services suppliers in specific foreign markets charge U.S. suppliers that seek to supply international mobile roaming services to their U.S. customers; discriminatory procedures that foreign governments apply in allocating or allowing use of spectrum or other scarce resources; and the imposition by foreign governments of unnecessary or discriminatory technical regulations or standards for telecommunications products or services.

Public Comment and Reply Comment: Requirements for Submission

Comments in response to this notice must be written in English, must identify (on the first page of the comments) the telecommunications trade agreement(s) discussed therein, and must be submitted electronically by 5 p.m. on December 17, 2010. Reply comments must also be in English and must be submitted by 5 p.m. on January 14, 2011. Comments and reply comments, with the exception of business confidential comments, must be submitted using *http://www.regulations.gov*, docket number USTR–2010–0034. Instructions for submitted business confidential versions are provided below. In the unusual case where submitters are unable to make submissions through Regulations.gov, the submitter must contact Gloria Blue at (202) 395–3475 to make alternate arrangements.

To submit comments using *http://www.regulations.gov*, enter docket number USTR–2010–0034 under "Key Word or ID" on the home page and click "Search". The site will provide a search-results page listing all documents associated with this docket. Locate the reference to this notice by selecting "Notices" under "Document Type" on the search-results page, and click on the link entitled "Submit a Comment." Follow the instructions given on the screen to submit a comment. The *http://www.regulations.gov* Web site offers the option of providing comments by filling in a "Type Comment" field or by attaching a document. While both options are acceptable, USTR prefers submissions in the form of an attachment.

Business Confidential Submissions

Persons wishing to submit business confidential information must submit that information by fax to (202) 395–3891. Business confidential submissions will not be accepted at *http://www.regulations.gov*. The submitter must include in the comments a written explanation of why the information should be protected in accordance with 15CFR 2007.7(b).

In addition, a non-confidential version of the comments must be submitted to *http://www.regulations.gov*, docket number USTR–2010–0034. The submission must indicate, with asterisks, where confidential information was redacted or deleted. The top and bottom of each page of the non-confidential version must be marked either "PUBLIC VERSION" or "NON–CONFIDENTIAL".

Business confidential comments that are submitted without the required markings or that do not have a properly marked non-confidential version submitted to regulations.gov as set forth above may not be accepted or may be treated as public documents.

Submitters should provide updated information on all issues they cite in their filings; USTR will not review submissions that are copies of earlier submissions.

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 2010–29112 Filed 11–17–10; 8:45 am]

BILLING CODE 3190–W1–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2010–0157]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system, as detailed below.

Applicant: Twin Cities & Western Railroad Company, Mr. Mark Wegner, President, 2925 12th Street East, Glencoe, Minnesota 55336.

The Twin Cities & Western Railroad Company (TC&W) seeks approval of the proposed modification of the interlocking at milepost 543.0, in Granite Falls, Minnesota. The modification consists of the movement of the west bound home signal, 98LA, to a point west of the west siding switch; the conversion of the west siding switch from push-button control to hand-operation; the discontinuance and removal of the 98LB signal; and the removal of the "B" head from the 98R signal.

The reason given for the proposed change is to eliminate components that are not necessary for present day operations.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest

shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

All communications concerning this proceeding should be identified by Docket Number FRA–2010–0157 and may be submitted by one of the following methods:

- *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the DOT electronic site;
- *Fax:* 202–493–2251;
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; or
- *Hand Delivery:* Room W12–140 of the U.S. Department of Transportation West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on November 12, 2010.

Michael Logue,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 2010–29102 Filed 11–17–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Intent To Prepare an Environmental Impact Statement, WIS 47, Outagamie and Shawano Counties, Wisconsin

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent To Prepare an Environmental Impact Statement.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for long-range transportation improvements in the WIS 47 corridor in Outagamie and Shawano Counties, Wisconsin. The EIS is being prepared in conformance with 40 CFR part 1500 and FHWA regulations.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA), in cooperation with the Wisconsin Department of Transportation (WisDOT), will prepare a tiered Environmental Impact Statement (EIS) on long-range improvements to address transportation demand, traffic operations, safety concerns, and corridor preservation needs on an approximate 33-mile portion of WIS 47 between U.S. 41 in Outagamie County and WIS 29 in Shawano County. The tiered EIS will evaluate the no build alternative and a range of short-term and long-term improvement alternatives. The tiered EIS will also serve as a corridor preservation tool for protecting the land needed for future transportation improvements and to assist local officials in making compatible land use decisions. More detailed Tier 2 environmental documents would be prepared for specific improvement projects when factors such as safety concerns, traffic volumes and existing deficiencies indicate the need for such improvements.

Participation by the public, local officials, State and Federal regulatory agencies, Native American Tribes and other interests will be solicited through a stakeholder committee, public information meetings, agency coordination meetings, and a public hearing. Opportunities to be a participating and/or cooperating agency and to provide input on the project's coordination plan and impact assessment methodology will also be provided under Section 6002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).

This study shall comply with Title VI of the Civil Rights Act and of Executive Order 12898, which prohibits discrimination on the basis of race, color, age, sex, or country of national origin in the implementation of this action. To ensure that the full range of issues related to this proposed action is addressed, and all substantive issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action should be directed to FHWA or WisDOT at the addresses provided below (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

FOR FURTHER INFORMATION CONTACT: Tracey McKenney, Major Projects Program Manager/Team Leader, Federal Highway Administration, 525 Junction Road, Suite 8000, Madison, WI 53717–2157; *Telephone:* (608) 829–7510. You may also contact Eugene Johnson, Director, Bureau of Equity and Environmental Services, Wisconsin Department of Transportation, P.O. Box 7916, Madison, Wisconsin 53707–7916: *Telephone:* (608) 267–9527.

An electronic copy of this document may be downloaded from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661 by using a computer modem and suitable communications software. Internet users may reach the Office of Federal Register's home page at: *http://www.archives.gov/* and the Government Printing Office's database at: *http://www.gpoaccess.gov/nara/index.html.*

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: November 12, 2010.

Tracey McKenney,

Major Projects Program Manager, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 2010–29131 Filed 11–17–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 12, 2010.

The Department of the Treasury will submit the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be

addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

DATES: Written comments should be received on or before December 20, 2010 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0172.

Type of Review: Revision to a currently approved collection.

Title: Form 4562—Depreciation and Amortization (Including Information on Listed Property).

Form: 4562.

Abstract: Taxpayers use Form 4562 to: (1) Claim a deduction for depreciation and/or amortization; (2) make a section 179 election to expense depreciable assets; and (3) answer questions regarding the use of automobiles and other listed property to substantiate the business use under section 274(d).

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 1,671,337,275 hours.

OMB Number: 1545–0531.

Type of Review: Extension without change to a currently approved collection.

Title: Form 706–NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.

Form: 706–NA.

Abstract: Under section 6018, executors must file estate tax returns for nonresident non-citizens that had property in the U.S. Executors use Form 706–NS for this purpose. IRS uses the information to determine correct tax and credits.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 3,584 hours.

OMB Number: 1545–0798.

Type of Review: Extension without change to a currently approved collection.

Title: 26 CFR 31.6001–1 Records in general; 26 CFR 31.6001–2 Additional Records under FICA; 26 CFR 31.6001–3, Additional records under Railroad Retirement Tax Act; 26 CFR 31.6001–5 Additional records.

Abstract: IRC section 6001 requires, in part, that every person liable for tax or for the collection of that tax keep such records and comply with such rules and regulations as the Secretary may from time to time prescribe. 26 CFR 31.6001 has special application to employment taxes. These records are needed to ensure compliance with the Code.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 30,273,950 hours.

OMB Number: 1545–1142.

Type of Review: Extension without change to a currently approved collection.

Title: INTL–939–86 (NPRM) Insurance Income of a Controlled Foreign Corporation for Taxable Years Beginning After December 31, 1986.

Abstract: The information is required to determine the location of moveable property; allocate income and deductions to the proper category of insurance income, determine those amounts for computing taxable income that are derived from an insurance company annual statement, and permit a CFC to elect to treat related person insurance income as income effectively connected with the conduct of a U.S. trade or business. The respondents will be businesses or other for-profit institutions.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 14,100 hours.

OMB Number: 1545–1357.

Type of Review: Extension without change to a currently approved collection.

Title: PS–78–91 (TD 8521) (TD 8859) (Final) Procedures for Monitoring Compliance with Low-Income Housing Credit Requirements; PS–50–92 (Final) Rules to Carry Out the Purposes of Section 42 and for Correcting.

Abstract: PS–78–91 (TD 8859)—The regulations require State allocation plans to provide a procedure for State and local housing credit agencies to monitor for compliance with the requirements of section 42 and report any noncompliance to the I.R.S. PS–50–92. These regulations concern the Secretary's authority to provide guidance under section 42, and provide for the correction of administrative errors and omissions made in connection with allocations of low-income housing credit dollar amounts and recordkeeping within a reasonable period after their discovery. The final regulations affect State and local housing credit agencies, owners of building projects for which the low income housing credit is allocated, and taxpayers claiming the low-income housing credit.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 104,899 hours.

OMB Number: 1545–1597.

Type of Review: Extension without change to a currently approved collection.

Title: Revenue Procedure 2000–12, Application Procedures for Qualified Intermediary Status Under Section 1441; Final Qualified Intermediary Withholding Agreement.

Abstract: Revenue Procedure 2000–12 describes application procedures for becoming a qualified intermediary and the requisite agreement that a qualified intermediary must execute with the IRS. The information will be used by the IRS to ensure compliance with the U.S. withholding system under the 1441 regulations (especially proper entitlement to treaty benefits). Revenue Procedure 2003–64 amends Revenue Procedure 2000–12. Revenue Procedure 2004–21 amends Revenue Procedure 2003–64. Revenue Procedure 2005–77 modifies Revenue Procedure 20004–21.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 301,018 hours.

OMB Number: 1545–1622.

Type of Review: Extension without change to a currently approved collection.

Title: Form 8866—Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method.

Form: 8866.

Abstract: Taxpayers depreciating property under the income forecast method and placed in service after September 13, 1995, must use Form 8866 to compute and report interest due or to be refunded under IRC 167(g)(2). The IRS uses Form 8866 to determine if the interest has been figured correctly.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 44,121 hours.

OMB Number: 1545–1847.

Type of Review: Extension without change to a currently approved collection.

Title: Revenue Procedure 2004–29, Statistical Sampling in Sec. 274 Context.

Abstract: For taxpayers desiring to establish for purposes of Sec. 274(n)(2), (A), (C), (D), or (E) that a portion of the total amount of substantiated expenses incurred for meals and entertainment is excerpted from the 50% limitation of Sec. 274(n), the revenue procedure requires that taxpayers maintain adequate documentation to support the statistical application, sample unit findings, and all aspects of the sample plan.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 3,200 hours.

OMB Number: 1545–0020.

Type of Review: Extension without change to a currently approved collection.

Title: United States Gift (and Generation-Skipping Transfer) Tax Return.

Form: 709.

Abstract: Form 709 is used by individuals to report transfers subject to the gift and generation-skipping transfer taxes and to compute these taxes. IRS uses the information to enforce these taxes and to compute the estate tax.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 1,609,730 hours.

OMB Number: 1545–0814.

Type of Review: Extension without change to a currently approved collection.

Title: EE–44–78 (TD 8100—Final) Cooperative Hospital Service Organizations.

Abstract: This regulation establishes the rules for cooperative hospital service organizations which seek tax-exempt status under section 501(e) of the Internal Revenue Code. Such an organization must keep records in order to show its cooperative nature and to establish compliance with other requirements in section 501(c).

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 1 hour.

OMB Number: 1545–0997.

Type of Review: Extension without change to a currently approved collection.

Title: Proceeds From Real Estate Transactions.

Form: 1099–S.

Abstract: Form 1099–S is used by the real estate reporting person to report proceeds from a real estate transaction to the IRS.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 510,456 hours.

OMB Number: 1545–1112.

Type of Review: Extension without change to a currently approved collection.

Title: IA–96–88 (Final) Certain Elections under the Technical and Miscellaneous Revenue Act of 1988 and the Re-designation of Certain Other Temporary Elections Regulations.

Abstract: These regulations establish various elections with respect to which immediate interim guidance on the time and manner of making the elections is necessary. These regulations enable taxpayers to take advantage of the benefits of various Code provisions.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 6,712 hours.

OMB Number: 1545–1153.

Type of Review: Extension without change to a currently approved collection.

Title: PS–73–89 (TD 8370) (Final) Excise Tax on Chemicals That Deplete the Ozone Layer and on Products Containing Such Chemicals.

Abstract: Section 4681 imposes a tax on ozone-depleting chemicals sold or used by a manufacturer or importer thereof and imported taxable products sold or used by an importer thereof. A floor stocks tax is also imposed. This regulation provides reporting and recordkeeping rules.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 75,142 hours.

OMB Number: 1545–1331.

Type of Review: Extension without change to a currently approved collection.

Title: PS–55–89 (TD 8566—Final) General Asset Accounts Under the Accelerated Cost Recovery System.

Abstract: The regulations describe the time and manner of making the election described in IRC Section 168(i)(4). Basic information regarding this election is necessary to monitor compliance with the rules in the IRC Section 168.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 250 hours.

OMB Number: 1545–1413.

Type of Review: Extension without change to a currently approved collection.

Title: IA–30–95 (TD 8672—Final) Reporting on Non-payroll Withheld Tax Liabilities.

Abstract: These regulations concern the Secretary's authority to require a return of tax under section 6011 and provide for the requirement of a return by persons deducting and withholding income tax from "Non-payroll" payments.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 1 hour.

OMB Number: 1545–1600.

Type of Review: Extension without change to a currently approved collection.

Title: REG–251703–96 (TD 8813—Final) Residence of Trusts and Estates-7701.

Abstract: Section 1161 of the Taxpayer Relief Act of 1997, Public Law 105–34, 111 Stat. 788 (1997), provides that a trust that was in existence on August 20, 1996 (other than a trust treated as owned by the grantor under subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986) and that was treated as a United States person on August 19, 1996, may elect to continue to be treated as a United States person notwithstanding § 7701(a)(30)(E) of the Code. The election will require the Internal Revenue Service to collect information. This regulation provides the procedure and requirements for making the election to remain a domestic trust.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 114 hours.

OMB Number: 1545–1621.

Type of Review: Extension without change to a currently approved collection.

Title: W–8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding, W–8ECI, Certificate of Foreign Person's Claim for Exemption From Withholding on Income.

Form: W–8BEN; W–8ECI; W–8EXP; W–8IMY.

Abstract: Form W–8BEN is used for certain types of income to establish that the person is a foreign person, is the beneficial owner of the income for which Form W–8BEN is being provided and, if applicable, to claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty. Form W–8ECI is used to establish that the person is a foreign person, is the beneficial owner of the income for which Form W–8ECI is being provided, and to claim that the income is effectively connected with the conduct of a trade or business within the United States.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 43,280,135 hours.

OMB Number: 1545–1751.

Type of Review: Extension without change to a currently approved collection.

Title: REG–107151–00 (TD 9035—Final) Constructive Transfers and Transfers of Property to a Third Party on Behalf of a Spouse.

Abstract: The regulation sets forth the required information that will permit spouses or former spouses to treat a redemption by a corporation of stock of

one spouse or former spouse as a transfer of that stock to the other spouse or former spouse in exchange for the redemption proceeds and a redemption of the stock from the latter spouse or former spouse in exchange for the redemption proceeds.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 500 hours.

OMB Number: 1545–1886.

Type of Review: Extension without change to a currently approved collection.

Title: Revenue Procedure 2004–35, Late Spousal S Corp Consents in Community Property States.

Abstract: This revenue procedure requires the collection of certain information in order for the taxpayer to gain relief for late shareholder consents for Subchapter S elections. The information is designed to make sure that applications for relief meet the requirements set out in the revenue procedure.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 500 hours.

OMB Number: 1545–1900.

Type of Review: Extension without change to a currently approved collection.

Title: REG–208254–90 (TD 9212—final) Source of Compensation for Labor or Personal Services.

Abstract: The proposed regulation describes the appropriate bases for determining the source of income from labor or personal services performed partly within and partly without the United States. The information required in Sec. 1.861–4(b)(2)(ii)(D) and (D)(6) will enable an employee to source certain fringe benefits on a geographical basis. The collections of information will, likewise, allow the IRS to verify these determinations.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 10,000 hours.

OMB Number: 1545–2058.

Type of Review: Extension without change to a currently approved collection.

Title: U.S. Electronic Large Partnership Declaration for an I.R.S. e-file return.

Form: 8453–B.

Abstract: If you are filing a 2006 Form 1065–B through an ISP and/or transmitter and you are not using an ERO, you must file Form 8453–B with your electronically filed return. An ERO can use either Form 8453–B or Form 8879–B to obtain authorization to file the partnership's Form 1065–B.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 144 hours.

OMB Number: 1545–2062.

Type of Review: Extension without change to a currently approved collection.

Title: Reconciliation of Schedule M–3 Taxable Income with Tax Return Taxable Income for Mixed Groups.

Form: 8916.

Abstract: The Form 8916 reconciles taxable income per the Schedule M–3 for the Forms 1120, 1120–L, or 1120–PC with the taxable income on mixed groups filing Form 1120, 1120–L, or 1120–PC. This is necessary because certain special adjustments are required to match taxable income of mixed groups as reported on the Schedule M–3 with taxable income they report on Forms 1120, 1120–L, or 1120–PC.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 3,385 hours.

OMB Number: 1545–2066.

Type of Review: Extension without change to a currently approved collection.

Title: Notice of Recapture Event for New Markets Credit.

Form: 8874–B

Abstract: Form 8874–B, Notice of Recapture Event for New markets Credit was developed because qualified CDEs must provide Taxpayers holding a qualified equity investment with a completed Form 8874–B when a recapture event occurs. Regulations section 1.45D–1(g)(2)(i)(B).

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 2,755 hours.

OMB Number: 1545–2070.

Type of Review: Extension without change to a currently approved collection.

Title: Rev. Proc. 2007–48 Rotable Spare Parts Safe Harbor Method.

Abstract: The information for which the agency is requesting to collect will support a taxpayer's claim for eligibility to use the safe harbor method of accounting for rotable spare parts provided in the proposed revenue procedures. The information will be submitted as a supporting schedule for the Form 3115, Application for Change in Accounting Method.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 75 hours.

Bureau Clearance Officer: R. Joseph Durbala, Internal Revenue Service, 1111 Constitution Avenue, NW., Room 6129, Washington, DC 20224; (202) 622–3634.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. 2010–29027 Filed 11–17–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 12, 2010.

The Department of the Treasury will submit the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

Dates: Written comments should be received on or before December 20, 2010 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1902.

Type of Review: Extension without change to a currently approved collection.

Title: Qualified Severance of a Trust for Generation-Skipping Transfer (GST) Tax Purposes (TD 9348—Final).

Abstract: This Regulation requires taxpayers to report a qualified severance by filing a Form 706–GS(T), or such other form that may be published by the Internal Revenue Service in the future that is specifically designated to be utilized to report qualified severances. Where Form 706–GS(T) is used, the filer should attach a Notice of Qualified Severance to the return that clearly identifies the trust that is being severed and the new trusts created as a result of the severance. The Notice must also provide the inclusion ratio of the trust that was severed and the inclusion ratios of the new trusts resulting from the severance. The information collected will be used by the IRS to identify the trusts being severed and the new trusts created upon severance. The collection of information is required in

order to have a qualified severance. If there was no reporting requirement, the IRS would be unable to achieve its objectives.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 12,500 hours.

OMB Number: 1545–0923.

Type of Review: Extension without change to a currently approved collection.

Title: REG–209274–85 (NPRM) and (Temporary) Tax Exempt Entity Leasing.

Abstract: These regulations provide guidance to persons executing lease agreements involving tax-exempt entities under section 168(h) of the Internal Revenue Code. The regulations are necessary to implement congressionally enacted legislation and elections for certain previously tax-exempt organizations and certain tax-exempt controlled entities.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 2,000 hours.

OMB Number: 1545–1051.

Type of Review: Extension without change to a currently approved collection.

Title: INTL–29–91 (Final) Computation and Characterization of Income and Earnings and Profits under the Dollar Approximate Separate Transactions Method of Accounting (DASTM).

Abstract: For taxable years after the final regulations are effective, taxpayers operating in hyperinflationary currencies must use the U.S. dollar as their functional currency and compute income using the dollar approximate separate transactions method (DASTM). Small taxpayers may elect an alternate method by which to compute income or loss. For prior taxable years in which income was computed using the profit and loss method, taxpayers may elect to recompute their income using DASTM.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 1,000 hours.

OMB Number: 1545–1141.

Type of Review: Extension without change to a currently approved collection.

Title: Notice 89–102, Treatment of Acquisition of Certain Financial Institutions; Tax Consequences of Federal Financial Assistance.

Abstract: Section 597 of the Internal Revenue Code provides that the Secretary provide guidance concerning the tax consequences of Federal financial assistance received by qualifying institutions. These institutions may defer payment of Federal income tax attributable to the assistance. Required information identifies deferred tax liabilities.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 125 hours.

OMB Number: 1545–1355.

Type of Review: Extension without change to a currently approved collection.

Title: REG–208985–89 (formerly INTL–848–89)(NPRM) Taxable Year of Certain Foreign Corporations Beginning After July 10, 1989.

Abstract: Proposed regulations set forth the "required year" for "specified foreign corporations" for taxable years beginning after July 10, 1989, and give guidance on which foreign corporations must change their taxable year and how to effect the change in taxable year. Specified foreign corporations must conform to the required year and must state so on Form 5471.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 700 hours.

OMB Number: 1545–1601.

Type of Review: Extension without change to a currently approved collection.

Title: Revenue Procedure 98–32, EFTPS Programs for Reporting Agents.

Abstract: The Batch and Bulk Filer programs are used by Filers for electronically submitting enrollments, Federal tax deposits, and Federal tax payments on behalf of multiple taxpayers. These programs are part of the Electronic Federal Tax Payment System (EFTPS).

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 246,877 hours.

OMB Number: 1545–1616.

Type of Review: Extension without change to a currently approved collection.

Title: REG–115393–98 (Final) Roth IRAs

Abstract: The regulations provide guidance on establishing Roth IRAs, contributions to Roth IRAs, converting amounts to Roth IRAs, re-characterizing IRA contributions, Roth IRA distributions, and Roth IRA reporting requirements.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 125,000 hours.

OMB Number: 1545–2067.

Type of Review: Extension without change to a currently approved collection.

Title: Mine Rescue Team Training Credit.

Form: 8923.

Abstract: Form 8923, Mine Rescue Team Training Credit, was developed to carry out the provisions of new code section 45N. 45N was added by section 405 of the Tax Relief and Health Care Act of 2006. The new form provides a means for the qualified mining company to compute and claim the credit.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 292 hours.

OMB Number: 1545–2063.

Type of Review: Extension without change to a currently approved collection.

Title: 26 CFR 1.932–1 (Formerly Not-2007–19 As Amended by Not-2007–31), Statute of Limitations and Exchange of Information Concerning Certain Individuals Filing Income Tax Returns with the U.S. VI.

Abstract: This Regulation concerns the statute of limitations on assessment of the U.S. income tax liability, if any, of U.S. citizens or resident aliens who are bona fide residents of the USVI. In general, the Regulation provides rules allowing bona fide residents of the USVI to start the period of limitations by properly filing a return with the USVI tax administration and, in the case of individuals with $75,000 or more of gross income during the taxable year, by filing an income tax return with the IRS reporting no gross income and no taxable income on lines 22 and 43 (in addition to a proper USVI filing). The Regulation provides for a new collection of information in the form of an annual information statement, under sections 932(c) and 7654, for U.S. citizens or residents with $75,000 or more of gross income who claim bona fide residency status in the USVI. Taxpayers subject to the new collection of information must attach a statement to their US 1040 return, for taxable years ending on or after December 31, 2006, that answers several questions relating to their claim of bona fide residency status in the USVI.

Respondents: Individuals or households.

Estimated Total Burden Hours: 42,500 hours.

OMB Number: 1545–1731.

Type of Review: Extension without change to a currently approved collection.

Title: Revenue Procedure 2001–37, Extraterritorial Income Exclusion Elections.

Abstract: A taxpayer that wants to revoke its election to be treated as a domestic corporation for all purposes of the Internal Revenue Code ("Code") must file a revocation statement with the Internal Revenue Service ("IRS"). This revenue procedure provides guidance for implementing the elections (and revocation of such elections) established under the "FSC Repeal and Extraterritorial Income Exclusion Act of 2000."

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 19 hours.

OMB Number: 1545–1884.

Type of Review: Extension without change to a currently approved collection.

Title: Announcement 2004–43, Election of Alternative Deficit Reduction Contribution.

Abstract: Announcement 2004–43 describes the notice that must be given by an employer to plan participants and beneficiaries and to the Pension Benefit Guaranty Corporation within 30 days of making an election to take advantage of the alternative deficit reduction contribution described in Public Law, 108–18, and gives a special transition rule for the 1st quarter.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 12,000 hours.

OMB Number: 1545–1899.

Type of Review: Extension without change to a currently approved collection.

Title: REG–138176–02 (NPRM) Timely Mailing Treated As Timely Filing.

Abstract: Section 7502(a) of the Internal Revenue Code provides that a document received after the due date for filing will be treated as filed on the date of the United States postmark on the envelope containing the document if the postmark date is on or before the date for filing the document and the document is placed in the U.S. mail on or before the due date. Under I.R.C. Sec. 7502, in order for taxpayers to establish the postmark date and prima facie evidence of delivery when using registered or certified mail to file documents with the IRS, taxpayers will need to retain the sender's receipt.

Respondents: Individuals or households.

Estimated Total Burden Hours: 1,084,765 hours.

OMB Number: 1545–1906.

Type of Review: Extension without change to a currently approved collection.

Title: REG–149524–03, LIFO Recapture Under Section 1363(d).

Abstract: This collection of information is required to inform the IRS of partnerships electing to increase the basis of inventory to reflect any amount included in a partner's income under section 1363(d). Section 1.1363–2(e)(ii) allows a partnership to elect to adjust the basis of its inventory to take account of LIFO recapture. Section 1.1363–2(e)(3) provides guidance on how to make this election.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 200 hours.

OMB Number: 1545–2060.

Type of Review: Extension without change to a currently approved collection.

Title: Notice 2007–46—Credit for New Medium-Duty and Heavy-Duty Hybrid Motor Vehicles.

Abstract: This notice sets forth a process that allows taxpayers who purchase medium-duty and heavy-duty hybrid vehicles to rely on the domestic manufacturer's (or, in the case of a foreign manufacturer, its domestic distributor's) certification that both a particular make, model, and year of vehicle qualifies as a qualified hybrid motor vehicle under § 30B(3) and (d), and the amount of the credit allowable with respect to the vehicle.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 280 hours.

OMB Number: 1545–2068.

Type of Review: Extension without change to a currently approved collection.

Title: TD 9340 (Final) Revised Regulations Concerning Section 403(b) Tax-Sheltered Annuity Contracts.

Abstract: The collection of information in the regulations is in § 1.403(b)–10(b)(2) of the Income Tax Regulations, requiring, in the case of certain exchanges or transfers, that the section 403(b) plan sponsor or administrator enter into an agreement to exchange certain information with vendors of section 403(b) contracts. Such information exchange is necessary to ensure compliance with tax law requirements relating to loans and hardship distributions from section 403(b) plans.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 45,000 hours.

OMB Number: 1545–0121.

Type of Review: Revision of a currently approved collection.

Title: Foreign Tax Credit (Individual, Estate, or Trust).

Form: 1116.

Abstract: Form 1116 is used by individuals (including nonresident aliens) estates or trusts that paid foreign income taxes on U.S. taxable income to compute the foreign tax credit. This information is used by the IRS to verify the foreign tax credit.

Respondents: Individuals or households.

Estimated Total Burden Hours: 25,066,693 hours.

OMB Number: 1545–0796.

Type of Review: Extension without change to a currently approved collection.

Title: Office of Chief Counsel—Application.

Form: 6524.

Abstract: The Chief Counsel Application form provides data we deem critical for evaluating an attorney applicant's qualifications such as LSAT score, bar admission status, type of work preference, law school, and class standing. OF–306 does not provide this information.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 900 hours.

OMB Number: 1545–1189.

Type of Review: Extension without change to a currently approved collection.

Title: Dollar Election Under Section 985.

Form: 8819.

Abstract: Form 8819 is filed by U.S. and foreign businesses to elect the U.S. dollar as their functional currency or as the functional currency of their controlled entities. The IRS uses Form 8819 to determine if the election is properly made.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 3,220 hours.

Bureau Clearance Officer: R. Joseph Durbala, Internal Revenue Service, 1111 Constitution Avenue, NW., Room 6129, Washington, DC 20224; (202) 622–3634.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. 2010–29026 Filed 11–17–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 12, 2010.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before December 20, 2010 to be assured of consideration.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0007.

Type of Review: Revision of a currently approved collection.

Title: Brewer's Report of Operations and Brew pub Report of Operations.

Form: TTB F 5130.9; TTB F 5130.26.

Abstract: Brewers periodically file these reports of their operations to account for activity relating to taxable commodities. TTB uses this information primarily for revenue protection, for audit purposes, and to determine whether the activity is in compliance with the requirements of law. We also use this information to publish periodical statistical releases of use and interest to the industry.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 12,152 hours.

OMB Number: 1513–0015.

Type of Review: Revision of a currently approved collection.

Title: Brewer's Bond and Brewer's Bond Continuation Certificate/Brewer's Collateral Bond and Brewer's Collateral Bond Continuation Certificate.

Form: TTB F 5130.22; TTB F 5130.25; TTB F 5130.27; TTB F 5130.23.

Abstract: The Internal Revenue Code requires brewers to give a bond to protect the revenue and to ensure compliance with the requirements of law and regulations. The Continuation Certificate is used to renew the bond every 4 years after the initial bond is obtained. Bonds and continuation certificates are required by law and are necessary to protect government interests in the excise tax revenues that brewers pay.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 380 hours.

OMB Number: 1513–0036.

Type of Review: Extension without change of a currently approved collection.

Title: Signing Authority for Corporate Officials.

Form: TTB F 5100.1.

Abstract: TTB F 5100.1 is used to document the authority of an individual or office to sign for the corporation in TTB matters. The form identifies the corporation, the individual or, office authorized to sign, and documents the authorization.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 250 hours.

OMB Number: 1513–0041.

Type of Review: Extension without change of a currently approved collection.

Title: Monthly Report of Processing Operations—TTB REC 5110/03.

Form: TTB F 5110.28.

Abstract: The information collected accounts for and verifies the processing of distilled spirits in bond. It is used to monitor proprietor activities, in auditing plant operations, compiling statistics.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 5,737 hours.

OMB Number: 1513–0095.

Type of Review: Extension without change of a currently approved collection.

Title: Application for Registration for Tax-Free Transactions Under 26 U.S.C. 4221.

Form: TTB F 5300.28.

Abstract: Businesses, State and local governments apply for registration to sell or purchase firearms or ammunition tax-free on this form. TTB uses the form to determine if a transaction is qualified for tax-free status.

Respondents: State, Local, and Tribal Governments.

Estimated Total Burden Hours: 951 hours.

Clearance Officer: Gerald Isenberg, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G Street, NW., Washington, DC 20005; (202) 453–2097.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Celina M. Elphage,

Treasury PRA Clearance Officer.

[FR Doc. 2010–29029 Filed 11–17–10; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of amendment to a system of records.

SUMMARY: The Privacy Act of 1974, 5 U.S.C. 552(a)(e) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA), Office of Human Resources Management, is amending a current system of records entitled "Individuals Serving on a Fee Basis or Without Compensation (Consultants, Attendings, and Others) Personnel Records-VA" (14VA135).

The information in this system will be used to evaluate the qualifications of physicians, dentists, nurses, and approximately 30,000 health occupation trainees, research personnel and other scientific and technical personnel appointed under 38 U.S.C. 7406, whose stipends and fringe benefits are not centrally administered under the provisions of 38 U.S.C. 7406(c).

The documents maintained in this system include copies of applications, appointment letters, and other documents and papers kept in connection with these appointments. These records are maintained for a period of one year from the expiration of appointment and then destroyed.

DATES: Comments on the amendment of this system of records must be received no later than December 20, 2010. If no public comment is received, the amended system will become effective December 20, 2010.

ADDRESSES: Written comments concerning the proposed amended system of records may be submitted to the Office of Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or fax comments to (202) 273–9026; or e-mail comments to *http://www.Regulations.gov.* All relevant material received before December 20, 2010 will be considered. Comments will be available for public inspection at the above address in the

Office of Regulations Management, Room 1068, between the hours of 8 a.m. and 4:30 pm, Monday through Friday (except holidays). Please call (202) 461–4902 (This is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed on-line through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov* .

FOR FURTHER INFORMATION CONTACT: Department of Veterans Affairs, Office of Human Resources Management (05), Privacy Officer, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 461–7863.

SUPPLEMENTARY INFORMATION: "Individuals Serving on a Fee Basis or Without Compensation (Consultants, Attendings, and Others) Personnel Records-VA" (14VA135) has been amended to "Individuals Serving on a Fee Basis or Without Compensation (Consultants, Attendings, and Others or Paid Indirectly through a Disbursement Agreement) Personnel Records-VA (14VA05). The change in system name and number is to reflect the ownership and to incorporate records of health occupations trainees paid indirectly through disbursement agreements by the Department. The routine uses for this system of records has been updated and revised to include "health occupations trainees." VA is republishing the system notice in its entirety.

The notice of intent to publish and an advance copy of the system notice have been sent 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) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: October 21, 2010.

John R. Gingrich,

Chief of Staff, Department of Veteran Affairs.

14VA05

SYSTEM NAME:

"Individuals Serving on a Fee Basis or Without Compensation (Consultants, Attendings, and Others or Paid Indirectly Through a Disbursement Agreement) Personnel Records-VA"

SYSTEM LOCATION:

Department of Veterans Affairs, Human Resources Management Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Physicians, dentists and nurses; health occupations trainees including residents appointed under 38 U.S.C. 7406 whose stipends and fringe benefits are centrally administered under the provisions of 38 U.S.C. 7406(c); research personnel; other scientific and technical personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of applications, appointment letters, other documents and papers maintained in connection with these appointments.

All categories of records may include identifying information, such as names(s), date of birth, home address, mailing address, Social Security Number(s), and telephone number(s). Records in this system are:

Reflecting work experience, licensure, credentials, educational-level achieved, and specialized education or training occurring outside of Federal service.

Government-sponsored training or participation in employee development programs designed to broaden an employee's work experiences or for the purposes of advancement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Chapter 73.

PURPOSE(S):

The information in this system is used to evaluate the qualifications of approximately 30,000 medical residents appointed under 38 U.S.C. 7406whose stipends and fringe benefits are not centrally administered under the provisions of 38 U.S.C. 7406(c).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To disclose the information listed in 5 U.S.C. 7114(b)(4) to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

2. To disclose to the Federal Labor Relations Authority (including its General Counsel) information related to the establishment of jurisdiction, the investigation and resolution of allegations of unfair labor practices, or information in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; to disclose information in matters properly before the Federal Services Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

3. Disclosure may be made to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has an agreement or contract to perform the services of the contract or agreement. This routine use includes disclosures by the individual or entity performing the service for VA to any secondary entity or individual to perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

4. To disclose information to officials of the Merit Systems Protection Board, or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

5. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons under the following circumstances: when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or program (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

6. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for

other functions of the Commission as authorized by law or regulation.

7. VA may disclose on its own initiative any information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, Tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

8. VA may disclose information from this system to the National Archives and Records Administration (NARA) and General Services Administration (GSA) in records management inspections conducted under Title 44, Chapter 29, of the U.S. Code.

9. A record from this system of records may be disclosed as a 'routine use' to a Federal, State or local agency maintaining civil, criminal or other relevant information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee or health professions trainee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefits.

10. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee or health professions trainee, the issuance of a security clearance, the reporting of an investigation of an employee or health professions trainee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

11. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

12. Records from this system of records may be disclosed to a Federal agency or 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 individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registration necessary to practice an occupation, profession or specialty in order for the agency to obtain information relevant to an agency decision concerning the hiring, retention or termination of an employee or health professions trainee or to inform a Federal agency or licensing boards or the appropriate non-government entities about the health care practices of a terminated, resigned or retired health care employee or health professions trainee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

13. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee, or health professions trainees.

14. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

15. Allows disclosure of relevant health care information to individuals or organizations (private or public) with whom VA has a contract or sharing agreement for the provision of health care, administrative or financial services. VA must be able to share information with other organizations participating in the care of veterans.

16. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank and/or State Licensing Board in State(s) in which a practitioner is licensed, in which the VA facility is located, and/or in which an act or omission occurred concerning:

(1) Any payment for the benefit of a physician, dentist, or other licensed health care practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice if an appropriate determination is made in accordance with agency policy that payment was related to substandard care, professional incompetence or professional misconduct on the part of the individual;

(2) A final decision which relates to possible incompetence or improper professional conduct that adversely affects the clinical privileges of a physician or dentist for a period longer than 30 days; or,

(3) The acceptance of the surrender of clinical privileges or any restriction of such privileges by a physician or dentist either while under investigation by a healthcare entity relating to possible incompetence or improper professional conduct or in return for not conducting such an investigation or proceeding. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

17. Allows disclosure of information from this system of records to the following:

a. Government training facilities (Federal, State, and local) and to non-government training facilities (private vendors of training courses or programs, private schools, *etc.*) for training purposes.

b. Educational institutions about the appointment of their recent graduates to VA positions. These disclosures are made to enhance recruiting relationships between VA and these institutions.

c. College and university officials with information about students who are working at VA to receive academic credit for the experience.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper documents, magnetic tape and computer printouts at VA facilities and VA Office of Academic Affiliation Data Management Center.

RETRIEVABILITY:

Records are retrieved by the names and personal identifiers assigned to the individuals on whom they are maintained.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized persons. Access to VA working and storage areas is restricted on a "need-to-know" basis; strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. Generally, VA file areas are locked after normal duty hours and the facilities are protected from outside access by the Federal Protective Service or other security personnel.

RETENTION AND DISPOSAL:

Paper records and information stored on electronic storage media are maintained and disposed of in accordance with records disposition authority approved by the National Archives and Records Administration.

SYSTEMS MANAGER(S) AND ADDRESS:

Officials maintaining the policy and procedures: Human Resources Management Offices (135) where this system is utilized. (*See* VA Appendix 1 for local addresses.) Officials responsible for policies and procedures: Deputy Assistant Secretary for Human Resources Management (05), VA Central Office, Washington, DC 20420. Officials maintaining the system: Directors at the facility where the individual(s) were associated and the Chief Academic Affiliations Officer (14), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

NOTIFICATION PROCEDURE:

Individuals who wish to determine whether this system of records contains information about them should contact the VA facility at the location where they made application. For a record pertaining to the individual, they must submit a written request to the Privacy Officer or VA human resources office of the last place of employment.

RECORD ACCESS PROCEDURES:

Individuals who wish to determine whether this system of records contains information about them should contact the Privacy Officer at the VA facility where they made application. Individuals must submit a written request to the Privacy Officer or to the VA Office of Human Resources Management or to the VA facility of the last place of employment for former employees.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORDS SOURCES CATEGORIES:

Records in this system are obtained from: applicants, VA officials and from individuals and organizations regarding the individual's qualifications; credentials and suitability for employment, including prior employers, academic organizations, State licensing boards and/or national certifying bodies, law enforcement entities, and health care providers.

[FR Doc. 2010–29088 Filed 11–17–10; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
November 18, 2010

Part II

Office of Personnel Management

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions; Notice

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This provides the consolidated notice of all agency specific excepted authorities, approved by the Office of Personnel Management (OPM), under Schedule A, B, or C, as of June 30, 2010, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Roland Edwards, Manager, Senior Executive Resource Services, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires the U.S. Office of Personnel Management (OPM) to publish notice of exceptions granted under Schedule A, B, or C. 5 CFR 213.103(a) requires all Schedule A, B, or C appointing authority available for use by all agencies to be published as regulations in the **Federal Register** and the Code of Federal Regulations. Excepted appointing authorities established solely for use by one specific agency do not meet the standard of general applicability prescribed by the Federal Register Act for regulations published in either the **Federal Register** or the Code of Federal Regulations (CFR). Therefore, 5 CFR 213.103(b) requires monthly publication, in the Notices section of the **Federal Register**, any Schedule A, B, or C appointing authority applicable to a single agency. 5 CFR 213.103(c) requires a consolidated listing of all Schedule A, B, and C authorities, current as of June 30 of each year, be published annually in the Notices section of the **Federal Register** at *http://www.gpoaccess.gov/fr/*. That notice follows. Government-wide authorities codified in the CFR are not printed in this notice.

When making appointments under an agency-specific authority, agencies should first list the appropriate Schedule A, B, or C, followed by the applicable number, for example: Schedule A, 213.310(x)(x). Agencies are reminded that all excepted authorities are subject to the provisions of 5 CFR, part 302 unless specifically exempted by OPM at the time of approval.

OPM maintains continuing information on the status of all Schedule A, B, and C appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by writing to the Office of Personnel Management, Senior Executive Resource Services, Executive Resources and Employee Development, 1900 E Street, NW., Room 7412, Washington, DC 20415, or by calling (202) 606–2246.

The following agency specific exceptions are current as of June 30, 2010.

Schedule A

Schedule A

03. Executive Office of the President (Sch. A, 213.3103)

(a) Office of Administration—

(1) Not to exceed 75 positions to provide administrative services and support to the White House Office.

(b) Office of Management and Budget—

(1) Not to exceed 20 positions at grades GS–5/15.

(c) Council on Environmental Quality—

(1) Professional and technical positions in grades GS–9 through 15 on the staff of the Council.

(d)–(f) (Reserved)

(g) National Security Council—

(1) All positions on the staff of the Council.

(h) Office of Science and Technology Policy—

(1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

(i) Office of National Drug Control Policy—

(1) Not to exceed 18 positions, GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or technical knowledge to aid in anti-drug abuse efforts.

04. *Department of State (Sch. A, 213.3104)*

(a) Office of the Secretary—

(1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.

(2) (Reserved)

(b)–(f) (Reserved)

(g) Bureau of Population, Refugees, and Migration—

(1) Not to exceed 10 positions at grades GS–5 through 11 on the staff of the Bureau.

(h) Bureau of Administration—

(1) (Reserved)

(2) One position of the Director, Art in Embassies Program, GM–1001–15.

(3) (Reserved)

05. Department of the Treasury (Sch. A, 213.3105)

(a) Office of the Secretary—

(1) Not to exceed 20 positions at the equivalent of GS–13 through GS–17 to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken.

(2) Not to exceed 20 positions, which will supplement permanent staff involved in the study and analysis of complex problems in the area of domestic economic and financial policy.

(3) Not to exceed 100 positions in the Office of the Under Secretary for Terrorism and Financial Intelligence.

(b–d) (Reserved)

(e) Internal Revenue Service—

(1) Twenty positions of investigator for special assignments.

(f) (Reserved)

(g) (Reserved, moved to DOJ)

(h) Office of Financial Responsibility—

(1) Positions needed to perform investment, risk, financial, compliance, and asset management requiring unique qualifications currently not established by OPM. Positions will be in the Office of Financial Stability at the General Schedule (GS) grade levels 12–15 or Senior Level (SL), for initial employment not to exceed 4 years. No new appointments may be made under this authority after December 31, 2012.

06. Department of Defense (Sch. A, 213.3106)

(a) Office of the Secretary—

(1)–(5) (Reserved)

(6) One Executive Secretary, US–USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force)—

(1) Dependent School Systems overseas—Professional positions in Military Dependent School systems overseas.

(2) Positions in attaché 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas;

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the DOD when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or separation of a dependent's sponsor: Provided that

(i) A school employee may be permitted to complete the school year; and

(ii) An employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds that the additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS–12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(9) (Reserved)

(10) Temporary or time-limited positions in direct support of U.S. Government efforts to rebuild and create an independent, free and secure Iraq and Afghanistan, when no other appropriate appointing authority applies. Positions will generally be located in Iraq or Afghanistan, but may be in other locations, including the United States, when directly supporting operations in Iraq or in Afghanistan. No new appointments may be made under this authority after October 1, 2012.

(11) Not to exceed 3000 positions that require unique cyber security skills and knowledge to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, intelligence analysis, investigation, investigative analysis and cyber-related infrastructure inter-dependency analysis. This authority may be used to make permanent, time-limited and temporary appointments in the following occupational series: Security (GS–0080), Intelligence Analysts (GS–0132), Computer Engineers (GS–0854), Electronic Engineers (GS–0855), Computer Scientists (GS–1550), Operations Research (GS–1515), Criminal Investigators (GS–1811), Telecommunications (GS–0391), and IT Specialists (GS–2210). Within the scope of this authority, the U.S. Cyber Command is also authorized to hire miscellaneous administrative and program (GS–0301) series when those positions require unique qualifications not currently established by OPM. All positions will be at the General Schedule (GS) grade levels 09–15. No new appointments may be made under this authority after December 31, 2012.

(c) (Reserved)

(d) General—

(1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) Uniformed Services University of the Health Sciences—

(1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) National Defense University—

(1) Not to exceed 16 positions of senior policy analyst, GS–15, at the Strategic Concepts Development Center. Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) Defense Communications Agency—

(1) Not to exceed 10 positions at grades GS–10/15 to staff and support the Crisis Management Center at the White House.

(h) Defense Acquisition University—

(1) The Provost and professors.

(i) George C. Marshall European Center for Security Studies, Garmisch, Germany—

(1) The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed 3 years, which may be renewed in increments from 1 to 2 years thereafter.

(j) Asia-Pacific Center for Security Studies, Honolulu, Hawaii—

(1) The Director, Deputy Director, Dean of Academics, Director of College, deputy department chairs, and senior positions of professor, associate professor, and research fellow within the Asia Pacific Center. Appointments may be made not to exceed 3 years and may be extended for periods not to exceed 3 years.

(k) Business Transformation Agency—

(1) Fifty temporary or time-limited (not to exceed four years) positions, at grades GS–11 through GS–15. The authority will be used to appoint persons in the following series:

Management and Program Analysis, GS–343: Logistics Management, GS–346; Financial Management Programs, GS–501; Accounting, GS–510; Computer Engineering, GS–854; Business and Industry, GS–1101; Operations Research, GS–1515; Computer Science, GS–1550; General Supply, GS–2001; Supply Program Management, GS–2003; Inventory Management, GS–2010; and Information Technology, GS–2210.

(l) Special Inspector General for Afghanistan—

(1) Positions needed to establish the Special Inspector General for Afghanistan Reconstruction. These positions provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated and otherwise made available for the reconstruction of Afghanistan. These positions are established at General Schedule (GS) grade levels for initial employment not to exceed 3 years and may, with prior approval of OPM, be extended for an additional period of 2 years. No new appointments may be made under this authority after January 31, 2011.

07. Department of the Army (Sch. A, 213.3107)

(a)–(c) (Reserved)

(d) U.S. Military Academy, West Point, New York—

(1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, Coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and Librarian when filled by an officer of the Regular Army retired from active service, and the Military Secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e)–(f) (Reserved)

(g) Defense Language Institute—

(1) All positions (professors, instructors, lecturers) which require proficiency in a foreign language or knowledge of foreign language teaching methods.

(h) Army War College, Carlisle Barracks, PA—

(1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1, 2, 3, 4 or 5-year increments indefinitely thereafter.

(i) (Reserved)

(j) U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey—

(1) Positions of Academic Director, Department Head, and Instructor.

(k) U.S. Army Command and General Staff College, Fort Leavenworth, Kansas—

(1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1, 2, 3, 4 or 5-year increments indefinitely thereafter.

08. Department of the Navy (Sch. A, 213.3108)

(a) General—

(1)–(14) (Reserved)

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

(b) Naval Academy, Naval Postgraduate School, and Naval War College—

(1) Professors, Instructors, and Teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and Social Counselors at the Naval Academy.

(c) Chief of Naval Operations—

(1) One position at grade GS–12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) Military Sealift Command

(1) All positions on vessels operated by the Military Sealift Command.

(e)–(f) (Reserved)

(g) Office of Naval Research—

(1) Scientific and technical positions, GS–13/15, in the Office of Naval Research International Field Office which covers satellite offices within the Far East, Africa, Europe, Latin America, and the South Pacific. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

09. Department of the Air Force (Sch. A, 213.3109)

(a) Office of the Secretary—

(1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) General—

(1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) One hundred eighty positions, serviced by Hill Air Force Base, Utah, engaged in interdepartmental activities in support of national defense projects involving scientific and technical evaluations.

(c) Norton and McClellan Air Force Bases, California—

(1) Not to exceed 20 professional positions, GS–11 through GS–15, in Detachments 6 and 51, SM–ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) U.S. Air Force Academy, Colorado—

(1) (Reserved)

(2) Positions of Professor, Associate Professor, Assistant Professor, and Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) (Reserved)

(f) Air Force Office of Special Investigations—

(1) Positions of Criminal Investigators/Intelligence Research Specialists, GS–5 through GS–15, in the Air Force Office of Special Investigations.

(g) Wright-Patterson Air Force Base, Ohio—

(1) Not to exceed eight positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) Air University, Maxwell Air Force Base, Alabama—

(1) Positions of Professor, Instructor, or Lecturer.

(i) Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio—

(1) Civilian deans and professors.

(j) Air Force Logistics Command—

(1) One Supervisory Logistics Management Specialist, GM–346–14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) Wright-Patterson AFB, Ohio—

(1) One position of Supervisory Logistics Management Specialist, GS–

346–15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) Air National Guard Readiness Center—

(1) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

10. Department of Justice (Sch. A, 213.3110)

(a) General—

(1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) Positions at GS–15 and below on the staff of an office of a special counsel.

(3)–(5) (Reserved)

(6) Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in foreign countries. Initial appointments under this authority may not exceed 2 years, but may be extended in 1-year increments for the duration of the in-country program.

(b) (Reserved, moved to DHS)

(c) Drug Enforcement Administration—

(1) (Reserved)

(2) Four hundred positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

(d) National Drug Intelligence Center—All positions.

(e) Bureau of Alcohol, Tobacco, and Firearms—

(1) One hundred positions of criminal investigator for special assignments.

(2) One non-permanent Senior Level (SL) Criminal Investigator to serve as a senior advisor to the Assistant Director (Firearms, Explosives, and Arson).

11. Department of Homeland Security (Sch. A, 213.3111)

(a) (Revoked 11/19/2009)

(b) Law Enforcement Policy—

(1) Ten positions for oversight policy and direction of sensitive law enforcement activities.

(c) Homeland Security Labor Relations Board/Homeland Security Mandatory Removal Board—

(1) Up to 15 Senior Level and General Schedule (or equivalent) positions.

(d) General—

(1) Not to exceed 1,000 positions to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, intelligence analysis, investigation, investigative analysis and cyber-related infrastructure interdependency analysis requiring unique qualifications currently not established by OPM. Positions will be at the General Schedule (GS) grade levels 09–15. No new appointments may be made under this authority after December 31, 2012.

(e) Papago Indian Agency—Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood. (Formerly 213.3105(b)(9))

12. Department of the Interior (Sch. A, 213.3112)

(a) General—

(1) Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: Provided, that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term "Indian."

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

(b) (Reserved)

(c) Indian Arts and Crafts Board—

(1) The Executive Director.

(d) (Reserved)

(e) Office of the Assistant Secretary, Territorial and International Affairs—

(1) (Reserved)

(2) Not to exceed four positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) (Reserved)

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

(f) National Park Service—

(1) (Reserved)

(2) Positions established for the administration of Kalaupapa National Historic Park, Molokai, Hawaii, when filled by appointment of qualified patients and Native Hawaiians, as provided by Public Law 95–565.

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95–250.

(4) One Special Representative of the Director.

(5) All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

(g) Bureau of Reclamation—

(1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values or conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: Provided, that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) Office of the Deputy Assistant Secretary for Territorial Affairs—

(1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

13. Department of Agriculture (Sch. A, 213.3113)

(a) General—

(1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) (Reserved)

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for sub professional services; agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: Provided, that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraph (i) of Sec. 213.3102 or positions within the Forest Service.

(6)–(7) (Reserved)

(b)–(c) (Reserved)

(d) Farm Service Agency—

(1) (Reserved)

(2) Members of State Committees: Provided, that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) Rural Development—

(1) (Reserved)

(2) County committeemen to consider, recommend, and advise with respect to the Rural Development program.

(3)–(5) (Reserved)

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) Agricultural Marketing Service—

(1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, peanut, and processed and fresh fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) Milk Market Administrators.

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) (Reserved)

(l) Food Safety and Inspection Service—

(1)–(2) (Reserved)

(3) Positions of Meat and Poultry Inspectors (Veterinarians at GS–11 and below and non-Veterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) Grain Inspection, Packers and Stockyards Administration—

(1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

(n) Alternative Agricultural Research and Commercialization Corporation—

(1) Executive Director.

14. Department of Commerce (Sch. A, 213.3114)

(a) General—

(1)–(2) (Reserved)

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b)–(c) (Reserved)

(d) Bureau of the Census—

(1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for time-limited employment to conduct a census.

(2) Current Program Interviewers employed in the field service.

(e)–(h) (Reserved)

(i) Office of the Under Secretary for International Trade—

(1) Fifteen positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) (Reserved)

(3) Not to exceed 15 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period not to exceed 2 years and may, with prior OPM approval, be extended for an additional 2 years.

(j) National Oceanic and Atmospheric Administration—

(1)–(2) (Reserved)

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(k) (Reserved)

(l) National Telecommunication and Information Administration—

(1) Thirty-eight professional positions in grades GS–13 through GS–15.

15. Department of Labor (Sch. A, 213.3115)

(a) Office of the Secretary—

(1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b)–(c) (Reserved)

(d) Employment and Training Administration—

(1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian Tribes and communities for the development and administration of comprehensive employment and training programs.

16. Department of Health and Human Services (Sch. A, 213.3116)

(a) General—

(1) Intermittent positions, at GS–15 and below and WG–10 and below, on teams under the National Disaster Medical System including Disaster Medical Assistance Teams and specialty teams, to respond to disasters, emergencies, and incidents/events involving medical, mortuary and public health needs.

(b) Public Health Service—

(1) (Reserved)

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) (Reserved)

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5)–(6) (Reserved)

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term "Indian."

(9) (Reserved)

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11)–(14) (Reserved)

(15) Not to exceed 200 staff positions, GS–15 and below, in the Immigration Health Service, for an emergency staff to provide health related services to foreign entrants.

(c)–(e) (Reserved)

(f) The President's Council on Physical Fitness—

(1) Four staff assistants.

17. Department of Education (Sch. A, 213.3117)

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

18. Board of Governors, Federal Reserve System (Sch. A, 213.3118)

(a) All positions.

27. Department of Veterans Affairs (Sch. A, 213.3127)

(a) Construction Division—

(1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Alcoholism Treatment Units and Drug Dependence Treatment Centers—

(1) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) Board of Veterans' Appeals—

(1) Positions, GS–15, when filled by a member of the Board. Except as provided by section 201(d) of Public Law 100–687, appointments under this authority shall be for a term of 9 years, and may be renewed.

(2) Positions, GS–15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

(d) Vietnam Era Veterans Readjustment Counseling Service—

(1) Not to exceed 600 positions at grades GS–3 through GS–11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

33. Federal Deposit Insurance Corporation (Sch. A, 213.3133)

(a)–(b) (Reserved)

(c) Temporary or time-limited positions located at closed banks or savings and loan institutions that are concerned with liquidating the assets of the institutions, liquidating loans to the institutions, or paying the depositors of closed insured institutions. Time-limited appointments under this authority may not exceed 7 years.

36. U.S. Soldiers' and Airmen's Home (Sch. A, 3136)

(a) (Reserved)

(b) Positions when filled by member-residents of the Home.

40. Small Business Administration (Sch. A, 213.3140)

(a) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office of Personnel Management approval. Appointments under this authority may not be used to extend the 2-year service limit contained below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

46. Selective Service System (Sch. A, 213.3146)

(a) State Directors.

48. National Aeronautics and Space Administration (Sch. A, 213.3148)

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

55. Social Security Administration (Sch. A, 213.3155)

(a) Arizona District Offices—

(1) Six positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(b) New Mexico—

(1) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(c) Alaska—

(1) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

62. The President's Crime Prevention Council (Sch. A, 213.3162)

(a) (Reserved)

65. Chemical Safety and Hazard Investigation Board (Sch. A, 213.3165)

(a) (Reserved)

(b) (Reserved)

66. Court Services and Offender Supervision Agency of the District of Columbia

(a) (Reserved, expired 3/31/2004)

70. Millennium Challenge Corporation (MCC) (Sch. A, 213.3170)

(a) (Reserved, expired 9/30/2007)

(b) (1) Positions of Resident Country Directors and Deputy Resident Country Directors. The length of appointments will correspond to the length or term of the compact agreements made between the MCC and the country in which the MCC will work, plus one additional year to cover pre and post -compact agreement related activities.

74. Smithsonian Institution (Sch. A, 213.3174)

(a) (Reserved)

(b) Smithsonian Tropical Research Institute—All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) National Museum of the American Indian—Positions at GS–15 and below requiring knowledge of and experience in, Tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

75. Woodrow Wilson International Center for Scholars (Sch. A, 213.3175)

(a) One Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, one West European Program Administrator, one Environmental Change & Security Studies Program Administrator, one United States Studies Program Administrator, two Social Science Program Administrators, and one Middle East Studies Program Administrator.

78. Community Development Financial Institutions Fund (Sch. A, 213.3178)

(a) (Reserved, expired 9/23/1998)

80. Utah Reclamation and Conservation Commission (Sch. A, 213.3180)

(a) Executive Director.

82. National Foundation on the Arts and the Humanities (Sch. A, 213.3182)

(a) National Endowment for the Arts—

(1) Artistic and related positions at grades GS–13 through GS–15 engaged in the review, evaluation and administration of applications and grants supporting the arts, related research and assessment, policy and program development, arts education, access programs and advocacy or evaluation of critical arts projects and outreach programs. Duties require artistic stature, in-depth knowledge of arts disciplines and/or artistic-related leadership qualities.

90. African Development Foundation (Sch. A, 213.3190)

(a) One Enterprise Development Fund Manager. Appointment is limited to four years unless extended by OPM.

91. Office of Personnel Management (Sch. A, 213.3191)

(a)–(c) (Reserved)

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

94. Department of Transportation (Sch. A, 213.3194)

(a) U.S. Coast Guard—

(1) (Reserved)

(2) Lamplighters.

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Connecticut.

(b)–(d) (Reserved)

(e) Maritime Administration—

(1)–(2) (Reserved)

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) (Reserved)

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

95. Federal Emergency Management Agency (Sch. A, 213.3195)

(a) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort.

(b) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority.

(c) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS).

Schedule B

03. Executive Office of the President (Sch. B, 213.3203)

(a) (Reserved)

(b) Office of the Special Representative for Trade Negotiations—

(1) Seventeen positions of economist at grades GS–12 through GS–15.

04. Department of State (Sch. B, 213.3204)

(a)(1) One non-permanent senior level position to serve as Science and Technology Advisor to the Secretary.

(b)–(c) (Reserved)

(d) Seventeen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) (Reserved)

(f) Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

05. Department of the Treasury (Sch. B, 213.3205)

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b)–(c) (Reserved)

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed:

(1) a total of 4 years; or

(2) 120 days following completion of the service required for conversion under Executive Order 11203.

(e) Positions, grades GS–5 through 12, of Treasury Enforcement Agent in the Bureau of Alcohol, Tobacco, and Firearms; and Treasury Enforcement Agent, Pilot, Marine Enforcement Officer, and Aviation Enforcement Officer in the U.S. Customs Service. Service under this authority may not exceed 3 years and 120 days.

06. Department of Defense (Sch. B, 213.3206)

(a) Office of the Secretary—

(1) (Reserved)

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) (Reserved)

(5) Four Net Assessment Analysts.

(b) Interdepartmental activities—

(1) Seven positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(2) Eight positions, GS–15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) National Defense University—

(1) Sixty-one positions of Professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

(d) General—

(1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

(2) Acquisition positions at grades GS–5 through GS–11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

(e) Office of the Inspector General—

(1) Positions of Criminal Investigator, GS–1811–5/15.

(f) Department of Defense Polygraph Institute, Fort McClellan, Alabama—

(1) One Director, GM–15.

(g) Defense Security Assistance Agency—

All faculty members with instructor and research duties at the Defense Institute of Security Assistance Management, Wright Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

07. Department of the Army (Sch. B, 213.3207)

(a) U.S. Army Command and General Staff College—

(1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

08. Department of the Navy (Sch. B, 213.3208)

(a) Naval Underwater Systems Center, New London, Connecticut—

(1) One position of Oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) Armed Forces Staff College, Norfolk, Virginia—All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) Defense Personnel Security Research and Education Center—One Director and four Research Psychologists at the professor or GS–15 level.

(d) Marine Corps Command and Staff College—All civilian professor positions.

(e) Executive Dining facilities at the Pentagon—One position of Staff Assistant, GS–301, whose incumbent will manage the Navy's Executive Dining facilities at the Pentagon.

(f) (Reserved)

09. Department of the Air Force (Sch. B, 213.3209)

(a) Air Research Institute at the Air University, Maxwell Air Force Base, Alabama—Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1, 2, or 3 years indefinitely thereafter.

(b)–(c) (Reserved)

(d) Air University—Positions of Instructor or professional academic staff at the Air University associated with courses of instruction of varying durations, for employment not to exceed 3 years, which may be renewed for an indefinite period thereafter.

(e) U.S. Air Force Academy, Colorado—One position of Director of Development and Alumni Programs, GS–301–13.

10. Department of Justice (Sch. B, 213.3210)

(a) Drug Enforcement Administration—

Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) (Reserved)

(c) Not to exceed 400 positions at grades GS–5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) (Reserved)

(e) United States Trustees—Positions, other than secretarial, GS–6 through GS–15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

13. Department of Agriculture (Sch. B, 213.3213)

(a) Foreign Agricultural Service—

(1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

(b) General—

(1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service, Economic Research Service, and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Human Resources Officer for the Research, Education, and Economics Mission Area, or the Human Resources Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM–301–14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

14. Department of Commerce (Sch. B, 213.3214)

(a) Bureau of the Census—

(1) (Reserved)

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through 12.

(b)–(c) (Reserved)

(d) National Telecommunications and Information Administration—

(1) Not to exceed 10 Telecommunications Policy Analysts, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

15. Department of Labor (Sch. B, 213.3215)

(a) Administrative Review Board—Chair and a maximum of four additional Members.

(b) (Reserved)

(c) Bureau of International Labor Affairs—

(1) Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

17. Department of Education (Sch. B, 213.3217)

(a) Seventy-five positions, not to exceed GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in mid-career development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

27. Department of Veterans Affairs (Sch. B, 213.3227)

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS–11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS–1811, in grades 5 through 12, conducting undercover investigations in the Veterans Health Administration (VA) supervised by the VA, Office of Inspector General. Initial appointments shall be greater than 1 year, but not to exceed 4 years and may be extended indefinitely in 1-year increments.

28. Broadcasting Board of Governors (Sch. B, 213.3228)

(a) International Broadcasting Bureau—

(1) Not to exceed 200 positions at grades GS–15 and below in the Office of Cuba Broadcasting. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

36. U.S. Soldiers' and Airmen's Home (Sch. B, 213.3236)

(a) (Reserved)

(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

40. National Archives and Records Administration (Sch. B, 213.3240)

(a) Executive Director, National Historical Publications and Records Commission.

48. National Aeronautics and Space Administration (Sch. B, 213.3248)

(a) Not to exceed 40 positions of Astronaut Candidates at grades GS–11 through 15. Employment under this authority may not exceed 3 years.

55. Social Security Administration (Sch. B, 213.3255)

(a) (Reserved)

74. Smithsonian Institution (Sch. B, 213.3274)

(a) (Reserved)

(b) Freer Gallery of Art—

(1) Not to exceed four Oriental Art Restoration Specialists at grades GS–9 through GS–15.

76. Appalachian Regional Commission (Sch. B, 213.3276)

(a) Two Program Coordinators.

78. Armed Forces Retirement Home (Sch. B, 213.3278)

(a) Naval Home, Gulfport, Mississippi—

(1) One Resource Management Officer position and one Public Works Officer position, GS/GM–15 and below.

82. National Foundation on the Arts and the Humanities (Sch. B, 213.3282)

(a) (Reserved)

(b) National Endowment for the Humanities—

(1) Professional positions at grades GS–11 through GS–15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require in-depth knowledge of a discipline of the humanities.

91. Office of Personnel Management (Sch. B, 213.3291)

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Federal Executive Institute—Twelve positions of faculty members at grades GS–13 through 15. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1, 2, or 3-year increments indefinitely thereafter.

Schedule C

The following summaries of Schedule C exceptions, current as of June 30, 2010, are agency-specific and are not codified in the Code of Federal Regulations.

Council of Economic Advisers

CEGS60001 Confidential Assistant for Council of Economic Advisers
CEGS60004 Confidential Assistant for Council of Economic Advisers
CEGS60005 Administrative Operations Assistant to the Member (Council for Economic Advisers)

Office of Government Ethics

GGGS02900 Confidential Assistant to the Director

Office of Management and Budget

BOGS10001 Special Assistant for the Office of Management and Budget
BOGS10002 Advisor for the Office of Management and Budget
BOGS10003 Advisor for the Office of Management and Budget
BOGS10005 Special Assistant for Health
BOGS10007 Advisor for the Office of Management and Budget
BOGS10010 Confidential Assistant for the Office of Management and Budget
BOGS10014 Special Assistant for Legislative Affairs
BOGS10015 Special Assistant for the Office of Management and Budget
BOGS10017 Special Assistant to the Executive Associate Director
BOGS10020 Press Secretary, Management for, Strategic Planning and Communications
BOGS10021 Confidential Assistant to the General Counsel
BOGS60027 Confidential Assistant for the Office of Information and Regulatory Affairs
BOGS90016 Confidential Assistant for Economic Policy
BOGS90017 Confidential Assistant for General Government Programs
BOGS90018 Confidential Assistant for National Security Programs
BOGS90022 Confidential Assistant for Strategic Planning and Communications
BOGS90024 Legislative Assistant for Legislative Affairs
BOGS90027 Confidential Assistant and Counselor to the Administrator
BOGS90029 Confidential Assistant to the General Counsel
BOGS90031 Deputy to the Associate Director for Legislative Affairs (House)
BOGS90033 Deputy to the Associate Director for Legislative Affairs (House)

Office of National Drug Control Policy

QQGS90001 Confidential Assistant to the Director
QQGS90002 Program Support Specialist (Office of Public Affairs) to the Chief of Staff
QQGS90003 Policy Analyst for Intergovernmental Affairs
QQGS90004 Policy Advisor to the Chief of Staff
QQGS90005 Deputy Associate Director, Public Affairs
QQGS90006 Outreach and Events Coordinator for Intergovernmental Affairs

QQGS90007 Associate Director, Public Affairs
QQGS90009 Associate Director for Intergovernmental Affairs
QQGS90010 Senior Policy Advisor to the Director

Office of the United States Trade Representative

TNGS00007 Public Affairs Specialist for Public and Media Affairs
TNGS70002 Special Assistant to the Deputy United States Trade Representative
TNGS90001 Deputy Assistant to the United States Trade Representative for Intergovernment Affairs and Public Liaison
TNGS90002 Congressional Affairs Specialist
TNGS90005 Confidential Assistant to the Chief of Staff

Official Residence of the Vice President

RVGS00005 Deputy Social Secretary and Residence Manager to the Vice President and Deputy Chief of Staff

Presidents Commission on White House Fellowships

WHGS00018 Special Assistant for the President's Commission on White House Fellowships
WHGS00020 Staff Assistant to the Associate Director
WHGS31270 Associate Director for the President's Commission on White House Fellowships
WHGS31271 Staff Assistant for the President's Commission on White House Fellowships
WHGS31288 Education Director for the President's Commission on White House Fellowships

Office of Science and Technology Policy

TSGS09001 Executive Assistant for Science and Technology
TSGS09005 Confidential Assistant to the Associate Director, Technology
TSGS10001 Confidential Assistant for Environment
TSGS10002 Assistant Director for Legislative Affairs for Science and Technology
TSGS10003 Executive Assistant for Science and Technology

Department of State (Sch. C, 213.3304)

DSGS61224 Legislative Management Officer for Legislative and Intergovernmental Affairs
DSGS69808 Staff Assistant to the Deputy Secretary
DSGS69825 IT Specialist for Policy and Planning for Management
DSGS69845 Deputy Chief of Staff for Operations to the Secretary of State
DSGS69848 Executive Assistant to the Deputy Secretary
DSGS69849 Staff Assistant to the Ambassador At Large and HIV/AIDS Coordinator
DSGS69851 Special Assistant to the Secretary of State
DSGS69852 Special Assistant for Public Diplomacy and Public Affairs
DSGS69853 Staff Assistant for the Bureau of Educational and Cultural Affairs
DSGS69854 Policy Advisor/Chief Speechwriter to the Director, Policy Planning Staff
DSGS69857 Staff Assistant for Global Affairs
DSGS69858 Deputy Assistant Secretary for Public Affairs
DSGS69859 Protocol Officer Visits to the Chief of Protocol
DSGS69860 Staff Assistant to the Secretary of State
DSGS69861 Special Assistant—International Communications and Information Policy
DSGS69863 Deputy Chief of Staff for Policy
DSGS69864 Staff Assistant for Operations
DSGS69865 Special Assistant to the Chief of Staff/Counselor
DSGS69872 Legislative Management Officer for Legislative and Intergovernmental Affairs
DSGS69886 Protocol Officer (Visits) to the Chief of Protocol
DSGS69916 Staff Assistant for Public Affairs
DSGS69919 Assistant Manager, President's Guest House
DSGS69920 Staff Assistant for Near Eastern and South Asian Affairs
DSGS69921 Staff Assistant to the Director, Policy Planning Staff
DSGS69922 Staff Assistant to the Director, Policy Planning Staff
DSGS69923 Assistant Chief of Protocol, Ceremonials
DSGS69924 Protocol Officer (Visits) to the Chief of Protocol
DSGS69925 Legislative Management Officer for Legislative and Intergovernmental Affairs
DSGS69926 Public Affairs Specialist to the Assistant Secretary
DSGS69927 Staff Assistant for Consular Affairs
DSGS69931 Special Assistant for Global Women's Initiatives
DSGS69932 Staff Assistant for Public Affairs
DSGS69933 Senior Adviser to the Secretary of State
DSGS69942 Staff Assistant to the Secretary of State
DSGS69944 Staff Assistant for Western Hemispheric Affairs
DSGS69945 Staff Assistant for European and Eurasian Affairs
DSGS69946 Senior Advisor to the Director, Policy Planning Staff
DSGS69947 Assistant Chief of Protocol (Visits)
DSGS69948 Deputy Assistant Secretary for Legislative and Intergovernmental Affairs
DSGS69950 Staff Assistant to the Secretary of State
DSGS69951 Staff Assistant to the Special Envoy With the Rank of Ambassador
DSGS69952 Supervisory Protocol Officer (Visits)
DSGS69953 Special Assistant/Speechwriter to the Director, Policy Planning Staff
DSGS69954 Special Assistant for Public Affairs
DSGS69962 Protocol Officer, Ceremonials
DSGS69963 Staff Assistant to the Director, Policy Planning Staff
DSGS69970 Public Affairs Specialist
DSGS69971 Staff Assistant to the Director, Policy Planning Staff
DSGS69973 Staff Assistant to the Deputy Secretary
DSGS69975 Special Assistant to the Secretary of State
DSGS69976 Special Assistant for Management
DSGS69977 Staff Assistant, Senior Gifts Officer
DSGS69978 Staff Assistant to the Chief of Protocol
DSGS69981 Senior Advisor for Public Diplomacy and Public Affairs
DSGS69983 Special Assistant to the Counselor
DSGS69984 Public Affairs Specialist
DSGS69985 Senior Advisor to the Secretary of State
DSGS69986 Executive Director, United Nations Educational, Scientific and Cultural Organization for International Organizational Affairs
DSGS69987 Staff Assistant for Economic and Business Affairs
DSGS69999 Program Analyst for Population, Refugees, and Migration
DSGS70004 Special Assistant for African Affairs
DSGS70005 Senior Advisor to the Chief of Protocol
DSGS70006 Deputy Chief of Protocol
DSGS70007 Deputy Chief of Protocol
DSGS70008 Public Affairs Specialist
DSGS70011 Staff Assistant for Arms Control and Security Affairs
DSGS70012 Legislative Management Officer for Legislative and Intergovernmental Affairs
DSGS70014 Staff Assistant Bureau of Political-Military Affairs
DSGS70016 Staff Assistant for the Bureau of Educational and Cultural Affairs
DSGS70018 Staff Assistant for Global Women's Initiatives
DSGS70019 Staff Assistant for Public Affairs

DSGS70029 Director, International Affairs for the Bureau of Educational and Cultural Affairs
DSGS70030 Staff Assistant for Public Affairs
DSGS70031 Staff Assistant to the Secretary and White House Liaison
DSGS70032 Special Assistant for Econ Business and Agric Affairs
DSGS70033 Staff Assistant to the Director, Policy Planning Staff
DSGS70038 Senior Advisor for Management
DSGS70044 Staff Assistant for Middle East Peace
DSGS70045 Staff Assistant for Arms Control and Security Affairs
DSGS70046 Special Assistant for Global Women's Initiatives
DSGS70047 Staff Assistant to the Secretary of State
DSGS70051 Staff Assistant for the Bureau of Educational and Cultural Affairs
DSGS70053 Legislative Liaison Specialist for Near Eastern and South Asian Affairs
DSGS70058 Staff Assistant for Public Affairs
DSGS70064 Staff Assistant for Democracy Human Rights and Labor
DSGS70069 Special Assistant to the Ambassador At-Large and HIV/AIDS Coordinator
DSGS70075 Special Assistant to the Ambassador At-Large, Director
DSGS70076 Special Assistant for East Asian and Pacific Affairs
DSGS70077 Senior Advisor for Management and Resources
DSGS70080 Staff Assistant to the Chief of Staff/Counselor
DSGS70083 Staff Assistant to the Ambassador At-Large (War Crimes)
DSGS70084 Special Assistant for European and Eurasian Affairs
DSGS70085 White House Liaison for Management
DSGS70090 Senior Advisor for Western Hemispheric Affairs
DSGS70091 Staff Assistant to the Secretary of State
DSGS70092 Staff Assistant for Management
DSGS70093 Staff Assistant to the Chief of Protocol
DSGS70096 Senior Advisor for Business and Commerce
DSGS70098 Senior Advisor for Intergovernmental Global Affairs
DSGS70101 Special Assistant Bureau of International Narcotics and Law Enforcement Affairs
DSGS70103 Staff Assistant for International Disability Rights
DSGS70104 Special Assistant for Public Affairs
DSGS70105 Special Assistant for Public Affairs
DSGS70106 Senior Policy Advisor to the Secretary on Innovation
DSGS70107 Assistant Chief of Protocol
DSGS70115 Public Affairs Specialist for Western Hemispheric Affairs

Department of the Treasury (Sch. C, 213.3305)

DYGS00372 Special Assistant for Financial Markets
DYGS00375 Director of Legislative and Governmental Affairs for the Mint
DYGS00384 Special Assistant to the Chief of Staff
DYGS00407 Executive Assistant to the Senior Advisor
DYGS00410 Special Assistant to the Deputy Secretary of the Treasury
DYGS00413 White House Liaison to the Chief of Staff
DYGS00419 Special Assistant to the Executive Secretary
DYGS00424 Special Assistant to the Assistant Secretary (Economic Policy)
DYGS00434 Special Assistant to the Deputy Chief of Staff
DYGS00435 Executive Assistant to the Secretary
DYGS00446 Special Assistant (Deputy Under Secretary) for Legislative Affairs
DYGS00448 Confidential Assistant to the Senior Advisor
DYGS00450 Staff Assistant to the Deputy Assistant Secretary (Public Affairs Operations)
DYGS00455 Special Assistant to the Financial Restructuring Specialist
DYGS00457 Deputy Executive Secretary to the Executive Secretary
DYGS00459 Special Assistant to the Director of Legislative and Governmental Affairs
DYGS00460 Senior Advisor and Chief of Staff for Terrorism and Financial Crimes
DYGS00461 Senior Advisor to the Assistant Secretary (Tax Policy)
DYGS00464 Special Assistant for Legislative Affairs
DYGS00468 Public Affairs Specialist to the Deputy Assistant Secretary (Public Affairs Operations)
DYGS00479 Speechwriter
DYGS00482 Deputy Executive Secretary to the Executive Secretary
DYGS00483 Senior Advisor to the Assistant Secretary (Terrorist Financing)
DYGS00485 Special Assistant to the Deputy Executive Secretary
DYGS00487 Deputy Executive Secretary
DYGS00490 Special Assistant for China and the Strategic Economic Dialogue
DYGS00494 Special Assistant to the Director of the Mint
DYGS00495 Associate Director of Operations for Advance
DYGS00497 Senior Advisor to the Assistant Secretary (Financial Institutions)
DYGS00499 Deputy Chief of Staff for External Affairs
DYGS00501 Special Assistant to the Under Secretary for Domestic Finance
DYGS00503 Senior Advisor to the Director of the Mint
DYGS00504 Special Assistant for Financial Markets
DYGS00506 Special Assistant to the Chief of Staff
DYGS00507 Special Assistant to the Secretary
DYGS00508 Special Assistant to the Executive Secretary
DYGS00511 Special Assistant to the Secretary
DYGS00513 Senior Advisor to the Secretary
DYGS00514 Special Assistant for the Treasury
DYGS00516 Special Assistant to the Secretary
DYGS00518 Public Affairs Specialist to the Deputy Assistant Secretary (Public Affairs Operations)
DYGS00519 Financial Restructuring Specialist to the Secretary
DYGS00520 Special Assistant to the Assistant Secretary (Economic Policy)
DYGS00522 Special Assistant of Scheduling and Advance
DYGS00524 Special Assistant to the Secretary
DYGS00525 Deputy Executive Secretary
DYGS00527 Senior Advisor to the Chief of Staff
DYGS00844 Public Affairs Specialist to the Deputy Assistant Secretary (Public Affairs Operations)
DYGS01377 Staff Assistant of Scheduling and Advance
DYGS60139 Director to the Chief of Staff
DYGS60277 Speechwriter to the Assistant Secretary (Public Affairs)
DYGS60317 Public Affairs Specialist to the Assistant Secretary (Public Affairs)
DYGS60351 Senior Advisor to the Assistant Secretary (Public Affairs)
DYGS60381 Special Assistant, Appropriations for Legislative Affairs (Appropriations and Management)
DYGS60391 Deputy Director, Advance of Scheduling
DYGS60412 Advance Specialist for Scheduling and Advance
DYGS60418 Special Assistant to the Executive Secretary
DYGS60421 Special Assistant for Legislative Affairs (Tax and Budget)

Department of Defense (Sch. C, 213.3306)

DDGS16692 Confidential Assistant to the Secretary of Defense

DDGS16908 Civilian Executive Assistant for White House Liaison
DDGS16909 Staff Assistant for White House Liaison
DDGS16914 Personal and Confidential Assistant to the Deputy Secretary of Defense
DDGS17001 Speechwriter to the Assistant Secretary of Defense (Public Affairs)
DDGS17002 Confidential Assistant for Defense Personnel and Readiness
DDGS17029 Administrative Assistant for White House Liaison
DDGS17030 Staff Assistant to the Deputy Assistant Secretary of Defense (North Atlantic Treaty Organization and Europe)
DDGS17039 Confidential Assistant to the Secretary of Defense
DDGS17079 Special Assistant (International Security Affairs)
DDGS17083 Confidential Assistant to the Secretary and Deputy Secretary of Defense
DDGS17131 Special Assistant (Special Operations/Low Intensity Conflict and Interdependent Capabilities)
DDGS17150 Protocol Officer of Defense
DDGS17151 Special Assistant for Protocol
DDGS17166 Special Assistant for White House Liaison
DDGS17185 Staff Assistant for Policy
DDGS17186 Staff Assistant for Policy
DDGS17189 Speechwriter
DDGS17190 Special Assistant to the General Counsel
DDGS17191 Senior Advisor to the General Counsel
DDGS17192 Special Assistant for Strategy, Plans, and Forces
DDGS17193 Principal Director (Western Hemisphere Affairs)
DDGS17195 Special Assistant (Comptroller)
DDGS17196 Principal Director African Affairs
DDGS17197 Senior Advisor to the Under Secretary of Defense for Policy
DDGS17201 Staff Assistant for Public Affairs (Press Secretary)
DDGS17202 Principal Director, Nuclear and Missile Defense Policy (Global Strategic Affairs)
DDGS17203 Advance Officer
DDGS17204 Confidential Assistant
DDGS17205 Special Assistant for Homeland Defense and Americas' Security Affairs
DDGS17206 Special Assistant (Budget and Appropriations Affairs)
DDGS17209 Special Assistant (Acquisition, Technology, and Logistics)
DDGS17210 Special Assistant of Defense (International Security Affairs)
DDGS17211 Special Assistant (Middle East)
DDGS17212 Special Assistant for Policy
DDGS17213 Special Assistant (Reserve Affairs)
DDGS17214 Special Assistant (Nuclear, Chemical, and Biological Defense Programs)
DDGS17215 Special Assistant (Legislative Affairs)
DDGS17216 Special Assistant (Central Asia)
DDGS17217 Special Assistant of Net Assessment
DDGS17218 Special Assistant (Legislative Affairs)
DDGS17219 Special Assistant, Policy Support Division (Legislative Affairs)
DDGS17220 Special Assistant for South and Southeast Asia
DDGS17222 Special Assistant for Communications (Legislative Affairs)
DDGS17223 Special Assistant (International Security Affairs)
DDGS17224 Special Assistant (Middle East)
DDGS17225 Special Assistant (Asian and Pacific Security Affairs)
DDGS17226 Special Assistant (Western Hemisphere Affairs)
DDGS17227 Special Assistant (Global Strategic Affairs)
DDGS17228 Special Assistant (Russia, Ukraine, and Eurasia)
DDGS17229 Special Assistant (Special Operations and Combating Terrorism) (Special Operations/Low Intensity Conflict and Interdependent Capabilities)
DDGS17230 Advance Officer
DDGS17231 Director, Advance Office
DDGS17232 Special Assistant (East Asia)
DDGS17233 Special Assistant to the Principal Deputy Under Secretary (Policy) to the Principal Deputy Under Secretary for Policy
DDGS17234 Special Assistant (Detainee Policy)
DDGS17235 Special Assistant (Global Strategic Affairs)
DDGS17236 Public Affairs Specialist
DGS17237 Special Assistant for Asian and Pacific Security Affairs (Legislative Affairs)
DDGS17238 Special Assistant (Legislative Affairs)
DDGS17239 Special Assistant for Networks and Information Integration (Legislative Affairs)
DDGS17240 Defense Fellow for White House Liaison
DDGS17242 Defense Fellow for White House Liaison
DDGS17243 Defense Fellow for White House Liaison
DDGS17244 Defense Fellow for White House Liaison
DDGS17246 Special Assistant (Asian and Pacific Security Affairs)
DDGS17247 Defense Fellow for White House Liaison
DDGS17248 Defense Fellow for White House Liaison
DDGS17249 Defense Fellow for White House Liaison
DDGS17250 Defense Fellow for White House Liaison
DDGS17251 Staff Assistant for White House Liaison
DDGS17252 Advance Officer to the Director
DDGS17253 Advance Officer to the Director
DDGS17254 Defense Fellow for White House Liaison
DDGS17255 Special Assistant (Special Operations/Low Intensity Conflict and Interdependent Capabilities)
DDGS17256 Associate Director for New Media for Public Affairs
DDGS17257 Public Affairs Specialist for Public Affairs
DDGS17258 Staff Assistant for White House Liaison
DDGS17259 Special Assistant for Legislative Affairs
DDGS17260 Special Assistant for Legislative Affairs
DDGS17261 Speechwriter for Public Affairs
DDGS17264 Special Assistant for Legislative Affairs
DDGS17265 Deputy White House Liaison
DDGS17266 Special Assistant for Cyber and Space Policy
DDGS17267 Director for Joint Communications for Public Affairs
DDGS17268 Special Assistant for Legislative Affairs
DDGS17270 Special Assistant for Research for Speechwriting
DDGS17272 Associate Director for Joint Communication
DDGS17277 Special Assistant for Acquisition Technology and Logistics for Legislative Affairs
DDGS17279 Defense Fellow for White House Liaison
DDGS17280 Defense Fellow for White House Liaison
DDGS17281 Defense Fellow for White House Liaison
DDGS17282 Special Assistant for Public Affairs
DDGS17283 Protocol Officer
DDGS17284 Special Assistant for Research for Public Affairs
DDGS60312 Director, Cooperative Threat Reduction (Global Strategic Affairs)
DDGS60369 Executive Assistant of Force Transformation

Department of the Army (Sch. C, 213.3307)

DWGS00065 Special Assistant of the Army for Privatization and Partnerships
DWGS00077 Confidential Assistant of the Army (Civil Works)
DWGS00090 Special Assistant to the General Counsel
DWGS00092 Special Assistant to the General Counsel
DWGS00095 Personal and Confidential Assistant (Installations and Environment) of the Army (Installations and Environment)
DWGS00096 Personal and Confidential Assistant of the Army
DWGS10097 Special Assistant to the General Counsel
DWGS10098 Special Assistant of the Army (Manpower and Reserve Affairs)
DWGS10099 Special Assistant of the Army (Acquisition, Logistics and Technology)
DWGS10100 Special Assistant of the Army (Installations and Environment)
DWGS60002 Special Assistant of the Army
DWGS60019 Business Transformation Initiatives Analyst
DWGS60024 Personal and Confidential Assistant of the Army
DWGS60028 Personal and Confidential Assistant of the Army (Installations and Environment)
DWGS60032 Special Assistant of the Army (Environment, Safety and Occupational Health)
DWGS60064 Personal and Confidential Assistant of the Army (Manpower and Reserve Affairs)
DWGS60076 Special Assistant of the Army (Civil Works)
DWGS60095 Special Assistant of the Army (Civil Works)
DWGS90096 Special Assistant of the Army

Department of the Navy (Sch. C, 213.3308)

DNGS09030 Residential Manager and Social Secretary of the Vice President
DNGS09147 Special Assistant of the Navy (Manpower and Reserve Affairs)
DNGS09148 Special Assistant of the Navy for Plans, Policy, Oversight and Integration
DNGS09149 Special Assistant of the Navy (Financial Management and Comptroller)
DNGS09150 Special Assistant of the Navy
DNGS09152 Attorney Advisor to the General Counsel
DNGS09154 Special Assistant of the Navy for Business Operations and Transformation
DNGS09157 Special Assistant of the Navy
DNGS10852 Special Assistant of the Navy for Business Operations and Transformation

Department of the Air Force (Sch. C, 213.3309)

DFGS60020 Special Assistant to the General Counsel
DFGS60021 Special Assistant, Financial Administration and Programs
DFGS60024 Special Assistant of the Air Force (Manpower and Reserve Affairs)

Department of Justice (Sch. C, 213.3310)

DJGS00074 Confidential Assistant for Legislative Affairs
DJGS00076 Public Affairs Specialist—Texas, Western District
DJGS00082 Special Assistant—Environment and Natural Resources
DJGS00090 Chief of Staff and Counsel
DJGS00103 Counsel to the Associate Attorney General
DJGS00113 Senior Counsel to the Director, Community Relations Service
DJGS00114 Special Assistant to the Attorney General
DJGS00143 Counsel to the Assistant Attorney General Criminal Division
DJGS00155 Speechwriter to the Director, Office of Public Affairs
DJGS00157 Counsel to the Assistant Attorney General
DJGS00164 Counsel to the Assistant Attorney General
DJGS00176 Public Affairs Specialist to the Director, Office of Public Affairs
DJGS00179 Counsel to the Principal Deputy Assistant Attorney General
DJGS00187 Counsel to the Assistant Attorney General Civil Division
DJGS00193 Senior Counsel to the Assistant Attorney General
DJGS00204 Senior Counsel to the Deputy Attorney General
DJGS00233 Counsel to the Assistant Attorney General Civil Division
DJGS00238 Press Assistant to the Director, Office of Public Affairs
DJGS00246 Counsel—Environment and Natural Resources
DJGS00275 Senior Counsel to the Assistant Attorney General
DJGS00289 Counsel to the Deputy Attorney General
DJGS00297 Counsel to the Assistant Attorney General
DJGS00304 Associate Director to the Deputy Director
DJGS00333 Special Assistant to the Assistant Attorney General
DJGS00406 Public Affairs Specialist to the Director, Office of Public Affairs
DJGS00410 Senior Advisor to the Assistant Attorney General, Office of Justice Programs
DJGS00413 Executive Assistant to the United States Attorney
DJGS00441 Counsel to the Assistant Attorney General Tax Division
DJGS00470 Confidential Assistant to the Attorney General
DJGS00476 Counsel to the Deputy Attorney General
DJGS00478 Counsel to the Attorney General
DJGS00480 Confidential Assistant to the Assistant Attorney General
DJGS00481 Confidential Assistant to the Assistant Attorney General Criminal Division
DJGS00482 Senior Advisor to the Director
DJGS00486 Counsel to the Attorney General
DJGS00488 Public Affairs Specialist to the Director, Office of Public Affairs
DJGS00489 Senior Counsel to the Deputy Attorney General
DJGS00493 Special Assistant to the Director
DJGS00492 Counsel to the Deputy Assistant Attorney General
DJGS00497 Special Assistant to the Director, Bureau of Justice Assistance
DJGS00499 Confidential Assistant to the Director, Office on Violence Against Women
DJGS00502 Special Assistant to the Director, Office on Violence Against Women
DJGS00503 Director of Scheduling to the Attorney General
DJGS00504 Director of Advance to the Attorney General
DJGS00505 Confidential Assistant to the Solicitor General
DJGS00506 New Media Specialist to the Director, Office of Public Affairs
DJGS00511 Special Assistant to the Attorney General
DJGS00512 Counsel to the Assistant Attorney General Civil Division
DJGS00519 Attorney Advisor to the Assistant Attorney General (Legislative Affairs)
DJGS00527 Counsel to the Assistant Attorney General
DJGS00531 Research Assistant to the Director
DJGS00536 Special Assistant to the Director, Office on Violence Against Women
DJGS00537 Counsel to the Director
DJGS00540 Counsel to the Assistant Attorney General
DJGS00542 Staff Assistant to the Director
DJGS00544 Counselor to the Assistant Attorney General
DJGS00545 Senior Counsel to the Assistant Attorney General
DJGS00548 Counsel to the Assistant Attorney General
DJGS00551 Senior Counsel to the Assistant Attorney General

DJGS00553 Counsel and Chief of Staff to the Assistant Attorney General Environment and Natural Resources
DJGS00556 Speechwriter to the Director, Office of Public Affairs
DJGS00557 Senior Counsel to the Assistant Attorney General Civil Division
DJGS00558 Press Secretary to the Director, Office of Public Affairs
DJGS00600 Deputy Director for Policy Development to the Director, Office on Violence Against Women
DJGS00601 Counsel to the Assistant Attorney General
DJGS00602 Senior Advisor to the Assistant Attorney General, Office of Justice Programs
DJGS00603 Policy Advisor to the Assistant Attorney General, Office of Justice Programs
DJGS00604 Senior Counsel for Access to Justice
DJGS00605 Chief of Staff to the Assistant Attorney General, Office of Justice Programs
DJGS00606 Senior Counsel to the Deputy Attorney General
DJGS00607 Press Assistant to the Director, Office of Public Affairs
DJGS00610 Counsel to the Assistant Attorney General
DJGS60173 Secretary (Office Automation) to the United States Attorney, Oklahoma, Northern District
DJGS60437 Secretary (Office Automation) to the United States Attorney, Delaware

Department of Homeland Security (Sch. C, 213.3311)

DMGS00013 Special Assistant to the Deputy Chief of Staff (Policy)
DMGS00051 Senior Business Liaison for Private Sector
DMGS00131 Legislative Assistant for Legislative Affairs
DMGS00349 Senior Counselor for Infrastructure Protection
DMGS00397 Special Assistant to the Chief Human Capital Officer
DMGS00437 Counselor to the Director, United States Citizenship and Immigration Services
DMGS00449 Director of Legislative Affairs for the Federal Emergency Management Agency
DMGS00507 Business Liaison for Policy
DMGS00563 Deputy Press Secretary for Media Relations
DMGS00577 Deputy Director of the Center for Faith Based and Community Initiatives
DMGS00580 Associate Director of Strategic Communications for Public Affairs
DMGS00591 Senior Liaison Officer for Operations and Administration
DMGS00610 Director of Special Projects for Public Affairs
DMGS00613 Speechwriter to the Director of Speechwriting
DMGS00642 Senior Advisor, Office of Congressional Affairs, Customs, and Border Protection
DMGS00646 Assistant Press Secretary
DMGS00649 Deputy White House Liaison
DMGS00651 Press Assistant for Public Affairs
DMGS00656 Director of Speechwriting for Public Affairs
DMGS00664 Advance Representative for Scheduling and Advance
DMGS00669 Director of Legislative Affairs for Intelligence and Analysis for Legislative Affairs
DMGS00671 Coordinator for State and Local Affairs for Intergovernmental Programs
DMGS00674 Special Assistant for International Affairs
DMGS00683 Deputy Director of Scheduling for Trips for Operations and Administration
DMGS00689 Advance Representative for Scheduling and Advance
DMGS00692 Director of Congressional Relations
DMGS00713 Special Assistant for Policy
DMGS00717 Business Liaison/Private Sector for Private Sector
DMGS00720 Policy Analyst for International Affairs
DMGS00724 Executive Director, Homeland Security Advisory Committees for Policy
DMGS00726 Chief of Staff for Policy
DMGS00729 Special Assistant/ Advisor to the Chief Privacy Officer
DMGS00738 Deputy Director of Scheduling and Protocol Coordination
DMGS00745 Assistant Press Secretary for Public Affairs
DMGS00749 Special Assistant to the Deputy Secretary
DMGS00754 Advisor for Intergovernmental Programs
DMGS00760 Director of Intergovernmental Affairs for External Affairs and Communications
DMGS00765 Special Advisor to the Deputy Chief of Staff (Policy)
DMGS00766 Program Analyst for National Protection and Programs Directorate
DMGS00768 New Media Specialist for Public Affairs
DMGS00769 Special Assistant to the White House Liaison
DMGS00770 Confidential Assistant for the Department of Homeland Security
DMGS00772 Assistant Director for Legislative Affairs
DMGS00775 Advisor to the Chief of Staff
DMGS00776 Regional Affairs Specialist for Policy
DMGS00777 Chief of Staff for Legislative Affairs
DMGS00779 Special Assistant for Policy Development
DMGS00781 Special Assistant for Science and Technology
DMGS00782 Regional Affairs Specialist for International (Policy)
DMGS00783 Director/Executive Secretariat, Private Sector Advisory Committee for Homeland Security Advisory Committees
DMGS00784 Secretary Briefing Book Coordinator for Operations and Administration
DMGS00786 Legislative Assistant for Legislative Affairs
DMGS00787 Director for Local Affairs for Intergovernmental Programs
DMGS00793 Press Secretary for External Affairs and Communications
DMGS00794 Advisor to the Chief of Staff
DMGS00795 Advisor for Strategic Communications
DMGS00797 Special Assistant for Immigration and Customs Enforcement
DMGS00802 Director of Special Projects to the Deputy Chief of Staff (Policy)
DMGS00803 Senior Advisor for Media and Communications of Public Affairs, Customs and Border Protection
DMGS00804 Advisor for Intergovernmental Affairs
DMGS00805 Special Assistant to the Director, Office of Counternarcotics Enforcement
DMGS00806 Special Assistant for Immigration and Customs Enforcement
DMGS00807 Special Assistant to the Chief of Staff
DMGS00808 Special Assistant to the Chief of Staff
DMGS00810 Policy Director for Homeland Security Advisory Committees
DMGS00812 Press Assistant for Public Affairs
DMGS00813 Special Assistant to the Deputy Chief of Staff (Policy)
DMGS00815 Confidential Assistant to the Chief of Staff
DMGS00818 Special Assistant to the Chief of Staff
DMGS00821 Traveling Press Secretary for External Affairs and Communications
DMGS00822 Counselor for Federal Emergency Management Agency
DMGS00823 Chief, Office of Citizenship
DMGS00825 Advisor for Federal Emergency Management Agency

DMGS00826 Special Assistant to the Senior Advisor
DMGS00829 Special Assistant for International Affairs
DMGS00830 Executive Assistant to the Commissioner, United States Customs and Border Protection
DMGS00834 Executive Assistant for the Department of Homeland Security
DMGS00835 Senior Advisor to the Chief of Staff
DMGS00837 Chief of Staff for Health Affairs and Chief Medical Officer
DMGS00838 Business Liaison for Private Sector
DMGS00839 Director of Communications for Immigration and Customs Enforcement
DMGS00841 Public Affairs Specialist for National Protection and Programs Directorate
DMGS00842 Program Analyst for National Protection and Programs Directorate
DMGS00843 Director of Strategic Communications for Public Affairs
DMGS00844 Press Secretary for Public Affairs
DMGS00845 Director of Individual and Community Preparedness for National Preparedness
DMGS00846 Counselor for United States Citizenship and Immigration Services
DMGS00847 Senior Advisor for Policy
DMGS00848 Special Assistant for Policy
DMGS00849 Director of Public Engagement for Intergovernmental Affairs
DMGS00850 Counselor to the Principal Deputy General Counsel
DMGS00851 Special Assistant for Policy

Department of the Interior (Sch. C, 213.3312)

DIGS00101 Special Assistant for Bureau of Land Management
DIGS00545 Assistant Director, Communications for National Park Service
DIGS00905 Senior Counselor to the Solicitor
DIGS01133 Special Assistant to the Chief of Staff
DIGS01134 Deputy Director, Office of Communications
DIGS01135 Special Assistant to the Secretary
DIGS01137 Special Assistant to the Deputy Chief of Staff
DIGS01138 Special Assistant to the Secretary
DIGS01139 Special Assistant to the Secretary
DIGS01142 Special Assistant for External and Intergovernmental Affairs
DIGS01144 Senior Advisor for Alaskan Affairs
DIGS01147 Press Secretary for Office of Communications
DIGS01148 Special Assistant of Indian Affairs
DIGS01149 Director of Advance to the Secretary
DIGS01150 Special Assistant for the Interior
DIGS01152 Special Assistant for the Interior
DIGS01156 Special Assistant to the Secretary
DIGS01157 Special Assistant to the Secretary
DIGS01158 Special Assistant to the Secretary
DIGS01159 Deputy Alaska Director for Alaskan Affairs
DIGS01160 Special Assistant for External and Intergovernmental Affairs
DIGS01164 Special Assistant for Land and Minerals Management
DIGS01166 Administrative Aide for External and Intergovernmental Affairs
DIGS01167 Special Assistant for Fish and Wildlife and Parks
DIGS01168 Counselor for Water and Science2
DIGS01172 Special Assistant for Fish and Wildlife and Parks
DIGS01173 Special Assistant for Congressional and Legislative Affairs
DIGS01175 Deputy Director, Congressional and Legislative Affairs
DIGS01176 Senior Advisor for Northwest Region
DIGS01177 Special Assistant for Policy Management and Budget
DIGS01178 Senior Advisor for Southwest and Rocky Mountain Regions
DIGS01180 Science Advisor for Minerals Management Service
DIGS01181 Special Assistant for Land and Minerals Management
DIGS01182 Deputy Director, Congressional and Legislative Affairs
DIGS01183 Director, Office of Youth In Natural Resources for Policy Management and Budget
DIGS01184 Deputy White House Liaison
DIGS01186 Special Assistant for Policy, Management and Budget
DIGS01187 Senior Advisor to the Secretary
DIGS01188 Special Assistant for Advance
DIGS01190 Special Assistant of Ocean Energy Management, Regulation and Enforcement
DIGS10022 Chief of Staff for United States Fish and Wildlife Service
DIGS10118 Special Assistant to the Secretary
DIGS60134 Chief, Congressional and Legislative Affairs Office
DIGS70007 Special Assistant for National Park Service

Department of Agriculture (Sch. C, 213.3313)

DAGS00101 Deputy White House Liaison
DAGS00102 Confidential Assistant for Marketing and Regulatory Programs
DAGS00103 Director of Advance for Communications
DAGS00107 Director, Economic and Community Development
DAGS00108 Director of Speechwriting/Research for Communications
DAGS00109 Special Assistant for Food and Nutrition Service
DAGS00111 Special Assistant for Food and Nutrition Service
DAGS00112 Special Assistant for Natural Resources and Environment
DAGS00114 Confidential Assistant to the Secretary
DAGS00118 Special Assistant for Rural Housing Service
DAGS00120 Press Secretary for Communications
DAGS00122 Confidential Assistant for Farm and Foreign Agricultural Services
DAGS00123 Confidential Assistant for Natural Resources Conservation Service
DAGS00124 Chief of Staff for Foreign Agricultural Service
DAGS00125 Senior Advisor for Risk Management
DAGS00130 Special Assistant for Civil Rights
DAGS00132 Staff Assistant for Natural Resources and Environment
DAGS00133 Staff Assistant for Farm Service Agency
DAGS00137 Confidential Assistant for Rural Housing Service
DAGS00138 Confidential Assistant for Rural Housing Service
DAGS00140 Director of the Office of Faith Based and Neighborhood Outreach
DAGS00141 Confidential Assistant to the Chief Financial Officer
DAGS00142 Senior Advisor for Food Safety
DAGS00143 Special Assistant for Natural Resources Conservation Service
DAGS00144 Special Assistant for Natural Resources Conservation Service
DAGS00147 Special Assistant to the Administrator
DAGS00148 Confidential Assistant to the Secretary
DAGS00149 Staff Assistant for Risk Management

DAGS00150 Senior Advisor for Foreign Agricultural Service
DAGS00151 Confidential Assistant to the Administrator
DAGS00154 Senior Advisor for Research, Education and Economics
DAGS00155 Director, Intergovernmental Affairs for Congressional Relations
DAGS00156 Deputy Director, Intergovernmental Affairs for Congressional Relations
DAGS00158 Confidential Assistant for Risk Management
DAGS00159 Senior Advisor for Research, Education and Economics
DAGS00160 Press Assistant to the Director of Communications
DAGS00161 Press Secretary to the Director of Communications
DAGS00162 Staff Assistant to the Deputy Secretary
DAGS00163 Senior Advisor for Research, Education and Economics
DAGS00164 Confidential Assistant for the Farm Service Agency
DAGS00165 Deputy Director of Communications of Communications
DAGS00167 Confidential Assistant for Congressional Relations
DAGS00168 Senior Advisor, External Affairs for the Farm Service Agency
DAGS00170 Associate Regional Chief—East for Natural Resources Conservation Service
DAGS00171 Regional Associate Chief—West for Natural Resources Conservation Service
DAGS00172 Staff Assistant for Congressional Relations
DAGS00174 Confidential Assistant for Congressional Relations
DAGS00177 Senior Advisor for Animal and Plant Health Inspection Service
DAGS00178 Special Assistant for Farm and Foreign Agricultural Services
DAGS00180 Special Assistant for Farm Service Agency
DAGS00181 Special Assistant for Foreign Agricultural Service
DAGS00182 Special Assistant for Farm Service Agency
DAGS00186 White House Liaison to the Secretary
DAGS00191 Special Assistant for Congressional Relations
DAGS00301 Chief of Staff for Administration
DAGS00320 Special Assistant to the Deputy Chief of Staff
DAGS00795 Confidential Assistant to the Administrator
DAGS01004 Confidential Assistant for Rural Development
DAGS01006 Confidential Assistant for Rural Development
DAGS01021 Confidential Assistant for Rural Development
DAGS01023 Advance Lead to the Director of Communications
DAGS01024 Director of Scheduling and Advance of Communications
DAGS02000 Chief of Staff for Marketing and Regulatory Programs
DAGS50602 Director, Correspondence Management for Administration
DAGS50609 Deputy Director of Scheduling to the Director of Communications
DAGS60593 Special Assistant for Rural Development
DAGS60594 Special Assistant for Rural Housing Service
DAGS60595 Special Assistant for Rural Development
DAGS60596 Chief of Staff for Rural Housing Service
DAGS60597 Press Assistant of Communications
DAGS60598 Confidential Assistant for Rural Development
DAGS60599 Minister Counselor of Agriculture for Farm and Foreign Agricultural Services
DAGS60600 Chief of Staff for Rural Development
DAGS60603 Special Assistant for Marketing and Regulatory Programs
DAGS60604 Special Assistant to the Administrator

Department of Commerce (Sch. C, 213.3314)

DCGS00012 Confidential Assistant for Administration
DCGS00025 Associate Director of Legislative Affairs
DCGS00030 Special Assistant for Minority Business Development Agency
DCGS00072 Chief of Staff for Economic Development
DCGS00074 Director, Office of Strategic Partnerships of United States/Foreign Commercial Service
DCGS00100 Special Assistant to the Chief of Staff
DCGS00154 Advance Specialist to the Director of Advance
DCGS00161 Special Assistant for International Trade Administration
DCGS00162 Senior Advisor for Market Access and Compliance
DCGS00172 Associate Director for the Minority Business Development Agency
DCGS00181 Special Advisor for Communications and Information
DCGS00183 Special Advisor for Communications and Information
DCGS00189 Special Assistant to the Director, Executive Secretariat
DCGS00193 Senior Advisor for Industry and Security
DCGS00200 Legislative/Intergovernmental Specialist for Legislative and Intergovernmental Affairs
DCGS00202 Legislative Specialist for Legislative Affairs
DCGS00237 Executive Assistant to the Deputy Secretary
DCGS00262 Confidential Assistant for International Trade Administration
DCGS00268 Special Assistant to the Chief of Staff
DCGS00275 Special Assistant for Economic Development
DCGS00279 Chief of Staff for National Telecommunications and Information Administration
DCGS00289 Legislative Assistant for Legislative and Intergovernmental Affairs
DCGS00302 Director of External Affairs for National Oceanic and Atmospheric Administration
DCGS00317 Deputy Director of Scheduling for Scheduling and Advance
DCGS00321 Chief of Congressional Affairs for Communications
DCGS00327 Senior Advisor to the Secretary
DCGS00342 Special Assistant for Import Administration
DCGS00351 Confidential Assistant to the Deputy General Counsel
DCGS00359 New Media Specialist for National Telecommunications and Information Administration
DCGS00367 Special Assistant to the Director, Office of Legislative Affairs
DCGS00380 Confidential Assistant for Manufacturing and Services
DCGS00382 Confidential Assistant to the Director, Office of Policy and Strategic Planning
DCGS00386 Special Assistant to the Deputy Secretary
DCGS00387 Special Assistant for National Oceanic and Atmospheric Administration
DCGS00395 Confidential Assistant of Global Trade Programs
DCGS00409 Policy and Congressional Affairs Specialist for National Telecommunications and Information Administration
DCGS00418 Confidential Assistant for Economic Affairs
DCGS00427 Special Advisor for Industry and Security
DCGS00428 Deputy Director, Office of the White House Liaison
DCGS00431 Director of Scheduling for Scheduling and Advance
DCGS00433 Director, National Export Initiative for International Trade
DCGS00446 Director of Legislative Affairs for Industry and Security
DCGS00451 Senior Advisor for Manufacturing and Services
DCGS00460 Director of Intergovernmental Affairs for Legislative and Intergovernmental Affairs

DCGS00467 Senior Advisor and Director of Strategic Initiatives for Economic Development
DCGS00468 Deputy General Counsel for Strategic Initiatives
DCGS00470 Confidential Assistant to the Director, Executive Secretariat
DCGS00473 Special Assistant to the General Counsel
DCGS00476 Deputy Director, Executive Secretariat to the Director
DCGS00484 Director, Office of Faith Based and Neighborhood Partnerships
DCGS00485 Deputy Director for Faith Based and Neighborhood Partnerships
DCGS00492 Advance Specialist to the Director of Advance
DCGS00494 Press Secretary to the Director of Public Affairs
DCGS00495 Special Assistant to the Deputy Secretary
DCGS00500 Senior Advisor and Director of Public Affairs for International Trade
DCGS00502 Director of Advance for Scheduling and Advance
DCGS00520 Special Assistant for Market Access and Compliance
DCGS00553 Director of Outreach for Economic Development
DCGS00561 Special Advisor for Intellectual Property and Director of the United States Patent and Trademark Office
DCGS00564 Confidential Assistant to the Senior Advisor
DCGS00573 Special Assistant for the Advocacy Center
DCGS00574 Confidential Assistant for the Office of Business Liaison
DCGS00582 Confidential Assistant for Industry and Security
DCGS00590 Confidential Assistant to the Executive Secretariat
DCGS00593 Senior Advisor to the Chief of Staff
DCGS00598 Senior Director for Management and Performance for Administration
DCGS00599 Confidential Assistant of Communications
DCGS00620 Director of Legislative Affairs for International Trade
DCGS00629 Deputy Director for Public Affairs
DCGS00637 Special Assistant of United States/Foreign Commercial Service
DCGS00638 Confidential Assistant for National Telecommunications and Information Administration
DCGS00643 Special Advisor for Intellectual Property and Director of the United States Patent and Trademark Office
DCGS00652 Confidential Assistant (Public Affairs)
DCGS00653 Director of Advisory Committees for Manufacturing and Services
DCGS00662 Press Secretary for National Telecommunications and Information Administration
DCGS00667 Senior Policy Advisor for International Trade
DCGS00673 Special Assistant for Services to the Deputy Assistant Secretary for Services
DCGS00684 Director of Speechwriting of Public Affairs
DCGS00686 Director of Scheduling and Advance of Staff
DCGS00689 Chief, Communications of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office
DCGS00692 Director of Public Affairs of Outreach for International Trade Administration
DCGS00693 Policy Advisor for National Oceanic and Atmospheric Administration
DCGS00696 Deputy Director of Legislative Affairs for International Trade Administration
DCGS60001 Deputy Director, Office of Business Liaison
DCGS60006 Director of Scheduling and Advance for International Trade Administration
DCGS60173 Senior Policy Advisor for Economic Development
DCGS60291 Deputy Director of Public Affairs
DCGS60312 Senior Advisor to the Under Secretary for International Trade Administration
DCGS60371 Policy Advisor for National Oceanic and Atmospheric Administration
DCGS60423 Senior Policy Advisor for Intellectual Property and Director of the United States Patent and Trademark Office
DCGS60440 Special Assistant for White House Affairs
DCGS60512 Senior Advisor for Industry and Security
DCGS60527 Executive Assistant to the Secretary
DCGS60596 Confidential Assistant for Public Affairs
DCGS00667 Senior Policy Advisor for International Trade
DCGS00673 Special Assistant to the Deputy Assistant Secretary for Services
DCGS00684 Director of Speechwriting of Public Affairs
DCGS00686 Director of Scheduling and Advance
DCGS00689 Chief Communications Officer for Intellectual Property and Director of the United States Patent and Trademark Office
DCGS00692 Director of Public Affairs of Outreach
DCGS00693 Policy Advisor for National Oceanic and Atmospheric Administration
DCGS00696 Deputy Director of Legislative Affairs for the International Trade Administration
DCGS60001 Deputy Director, Office of Business Liaison
DCGS60006 Director of Scheduling and Advance for International Trade Administration
DCGS60173 Senior Policy Advisor for Economic Development
DCGS60291 Deputy Director of Public Affairs
DCGS60312 Senior Advisor for International Trade Administration
DCGS60371 Policy Advisor for National Oceanic and Atmospheric Administration
DCGS60423 Senior Policy Advisor for Intellectual Property and Director of the United States Patent and Trademark Office
DCGS60440 Special Assistant for White House Initiatives
DCGS60512 Senior Advisor for Industry and Security
DCGS60527 Executive Assistant to the Secretary
DCGS60596 Confidential Assistant of Public Affairs

Department of Labor (Sch. C, 213.3315)

DLGS00024 Special Assistant for Disability Employment Policy
DLGS00108 Special Assistant of Scheduling and Advance
DLGS00166 Staff Assistant to the Chief Economist
DLGS09039 Speech Writer for Public Affairs
DLGS60007 Special Assistant of Public Engagement
DLGS60015 Legislative Assistant for Congressional and Intergovernmental Affairs
DLGS60017 Senior Legislative Officer for Congressional and Intergovernmental Affairs
DLGS60025 Senior Legislative Officer for Congressional and Intergovernmental Affairs
DLGS60041 Staff Assistant to the Deputy Chief of Staff
DLGS60042 Special Assistant for Public Affairs
DLGS60045 Staff Assistant to the Deputy Assistant Secretary
DLGS60066 Special Assistant for Policy
DLGS60074 Special Assistant to the Deputy Assistant Secretary
DLGS60076 Special Assistant for the Office of Federal Contract Compliance Programs
DLGS60089 Special Assistant of Labor
DLGS60093 Special Assistant of Scheduling and Advance
DLGS60107 Regional Representative for Congressional and Intergovernmental Affairs

DLGS60112 Regional Representative for Congressional and Intergovernmental Affairs
DLGS60114 Special Assistant for Communications and Public Affairs
DLGS60120 Senior Legislative Officer for Congressional and Intergovernmental Affairs
DLGS60130 Legislative Assistant for Congressional and Intergovernmental Affairs
DLGS60135 Special Assistant of Planning, Scheduling, and Advance
DLGS60137 Staff Assistant to the Deputy Assistant Secretary
DLGS60144 Special Assistant of Public Engagement
DLGS60145 Legislative Assistant for Congressional and Intergovernmental Affairs
DLGS60160 Senior Speechwriter for Public Affairs
DLGS60163 Chief of Staff for Occupational Safety and Health
DLGS60170 Special Assistant of Labor
DLGS60175 Senior Advisor for Policy
DLGS60180 Chief of Staff for Congressional and Intergovernmental Affairs
DLGS60182 Special Assistant of Labor
DLGS60190 Legislative Officer for Congressional and Intergovernmental Affairs
DLGS60194 Director of Scheduling and Advance of Labor
DLGS60197 Legislative Officer for Congressional and Intergovernmental Affairs
DLGS60199 Special Assistant for Public Affairs
DLGS60203 Special Assistant for Communications and Public Affairs
DLGS60209 Special Assistant for Veterans Employment and Training
DLGS60211 Special Assistant for Auto Communities and Workers
DLGS60212 Special Assistant for Public Engagement
DLGS60220 Director of Public Engagement to the Chief of Staff
DLGS60221 Speechwriter for Communications and Public Affairs
DLGS60222 Staff Assistant for International Affairs
DLGS60225 Special Assistant for Scheduling and Advance
DLGS60226 Legislative Officer for Congressional and Intergovernmental Affairs
DLGS60235 Legislative Assistant for Congressional and Intergovernmental Affairs
DLGS60239 Special Assistant for Auto Communities and Workers
DLGS60242 Policy Advisor for Policy
DLGS60252 Special Assistant for Auto Communities and Workers
DLGS60257 Senior Legislative Officer for Congressional and Intergovernmental Affairs
DLGS60267 Staff Assistant of Planning, Scheduling, and Advance
DLGS60270 Special Assistant for Employment and Training
DLGS60273 Special Assistant for Administration and Management

Department of Health and Human Services (Sch. C, 213.3316)

DHGS00267 Policy Coordinator for the Department
DHGS00493 Confidential Assistant for Political Personnel, Boards and Commissions
DHGS60010 Confidential Assistant (Faith-Based) for the Center for Faith Based and Community Initiatives
DHGS60015 Deputy Director for the Center for Faith Based and Community Initiatives
DHGS60017 Director of Scheduling and Advance
DHGS60027 Deputy Director for Scheduling and Advance
DHGS60028 Special Assistant to the Chief of Staff
DHGS60030 Confidential Assistant to the General Counsel
DHGS60036 Confidential Assistant for Intergovernmental Affairs
DHGS60046 Senior Speech Writer for Public Affairs
DHGS60059 Deputy Director for Regional Outreach for Intergovernmental Affairs
DHGS60063 Confidential Assistant of Public Affairs
DHGS60067 Special Assistant to the Chief of Staff
DHGS60075 Special Assistant for the Center for Faith Based and Community Initiatives
DHGS60081 Special Assistant for the Office of Global Health Affairs
DHGS60111 Confidential Assistant for Public Affairs
DHGS60111 Confidential Assistant for Public Affairs (Policy and Strategy)
DHGS60113 Press Secretary (Health Reform) for Public Affairs
DHGS60115 Surrogate Scheduler (Health Reform) for Public Affairs
DHGS60244 Regional Director, Seattle, Washington, Region X of Intergovernmental Affairs
DHGS60258 Deputy Director, Office of External Affairs
DHGS60294 Confidential Assistant for Children, Youth, and Families
DHGS60336 Confidential Assistant for Legislation (Human Services)
DHGS60337 Confidential Assistant (Health Reform) for Legislation (Planning and Budget)
DHGS60338 Senior Legislative Analyst (Health Reform) for Legislation (Planning and Budget)
DHGS60345 Director of Public Affairs for Children and Families
DHGS60364 Senior Advisor for Legislation
DHGS60399 Special Assistant for Children and Families
DHGS60436 Associate Commissioner for Children and Families
DHGS60464 Confidential Assistant (Office of Health Reform) for Planning and Evaluation
DHGS60465 Special Assistant (Office of Health Reform) for Planning and Evaluation
DHGS60468 Speechwriter for Planning and Evaluation
DHGS60470 Director of Policy Coverage (Office of Health Reform) for Planning and Evaluation
DHGS60471 Director of Public Health Policy (Office of Health Reform) for Planning and Evaluation
DHGS60511 Special Assistant for Early Childhood Development
DHGS60540 Confidential Assistant for Health
DHGS60570 Confidential Assistant for Advance
DHGS60571 Confidential Assistant of Scheduling and Advance
DHGS60580 Special Assistant to the National Health Information Technology Coordinator
DHGS60581 Special Assistant to the National Health Information Technology Coordinator
DHGS60626 Deputy Director, Office of External Affairs (Food and Drug Administration) for External Affairs
DHGS60630 Confidential Assistant for Health Resources and Services Administration
DHGS60661 Special Assistant for Health and Human Services
DHGS60674 Confidential Assistant on Aging to the Assistant Secretary (Commissioner for Aging)
DHGS60678 Special Assistant Centers for Medicare and Medicaid Services
DHGS60680 Special Assistant for Office of Legislation

Department of Education (Sch. C, 213.3317)

DBGS00004 Senior Advisor on Early Learning to the Chief of Staff
DBGS00032 Confidential Assistant for Strategy
DBGS00072 Special Assistant for Scheduling and Advance
DBGS00081 Special Assistant to the Chief of Staff
DBGS00109 Confidential Assistant for Civil Rights
DBGS00143 Special Assistant for College Access for Strategy
DBGS00184 Confidential Assistant to the Deputy Assistant Secretary
DBGS00192 Special Assistant for Civil Rights
DBGS00197 Confidential Assistant to the Special Assistant

DBGS00200 Special Assistant for Elementary and Secondary Education
DBGS00207 Special Assistant for Elementary and Secondary Education
DBGS00208 Special Assistant of Education
DBGS00218 Executive Director of the White House Initiative on Asian Americans and Pacific Islanders
DBGS00219 Special Assistant for the Office of Communications and Outreach
DBGS00222 Confidential Assistant for Race to the Top
DBGS00223 Special Assistant on Early Learning
DBGS00225 Confidential Assistant for Strategic Communications
DBGS00226 Confidential Assistant for Faith-Based and Community Initiatives Center
DBGS00229 Confidential Assistant for Race to the Top
DBGS00230 Confidential Assistant to the Chief of Staff
DBGS00246 Confidential Assistant for Vocational and Adult Education
DBGS00254 Deputy Director of the White House Initiative on Asian Americans and Pacific Islanders
DBGS00262 Confidential Assistant for Strategy
DBGS00265 Special Assistant for Strategy
DBGS00275 Confidential Assistant for Planning, Evaluation, and Policy Development
DBGS00276 Confidential Assistant for Strategy
DBGS00278 Special Assistant to the Deputy Assistant Secretary
DBGS00278 Special Assistant to the Deputy Assistant Secretary
DBGS00282 Confidential Assistant for Safe and Drug-Free Schools
DBGS00284 Confidential Assistant (Protocol) for Operations
DBGS00288 Confidential Assistant for Legislation and Congressional Affairs
DBGS00289 Assistant Deputy Secretary for Safe and Drug-Free Schools
DBGS00290 Special Assistant for Vocational and Adult Education
DBGS00291 Special Assistant for Educational Technology
DBGS00299 Special Assistant for Elementary and Secondary Education
DBGS00303 Director, White House Initiative on Educational Excellence for Hispanic Americans
DBGS00306 Deputy Assistant Secretary for Legislation and Congressional Affairs
DBGS00317 Confidential Assistant to the Chief of Staff
DBGS00318 Director for Special Initiatives for Innovation and Improvement
DBGS00320 Confidential Assistant of the White House Initiative on Asian Americans and Pacific Islanders
DBGS00322 Confidential Assistant for Safe and Drug-Free Schools
DBGS00326 Special Assistant for Elementary and Secondary Education
DBGS00328 Special Assistant to the Under Secretary
DBGS00335 Confidential Assistant to the Chief of Staff
DBGS00343 Confidential Assistant on Early Learning
DBGS00348 Confidential Assistant to the Under Secretary
DBGS00353 Special Assistant for Planning, Evaluation, and Policy Development
DBGS00355 Confidential Assistant to the Chief of Staff
DBGS00376 Director, Scheduling and Advance Staff
DBGS00396 Special Assistant for Strategy
DBGS00404 Special Assistant to the General Counsel
DBGS00406 Confidential Assistant for Vocational and Adult Education
DBGS00409 Deputy Assistant Secretary for Vocational and Adult Education
DBGS00414 Press Secretary for Strategic Communications for the Office of Communications and Outreach
DBGS00415 Confidential Assistant for Planning, Evaluation, and Policy Development
DBGS00428 Confidential Assistant to the Special Assistant
DBGS00433 Deputy Assistant Secretary for External Affairs and Outreach Services for Communication Services
DBGS00434 Press Secretary for Media Relations for the Office of Communications and Outreach
DBGS00435 Special Assistant for the Office of Communications and Outreach
DBGS00460 Deputy Assistant Secretary for the Office of Communications and Outreach
DBGS00462 Special Assistant for the Office of Communications and Outreach
DBGS00467 Director, Faith-Based and Community Initiatives Center
DBGS00468 Special Assistant to the Chief of Staff
DBGS00484 Deputy Assistant Secretary for the Office of Communications and Outreach
DBGS00498 Special Assistant to the Principal Deputy Assistant Secretary
DBGS00499 Director, Intergovernmental Affairs for the Office of Communications and Outreach
DBGS00507 Confidential Assistant to the General Counsel
DBGS00509 Director of the White House Initiative on Historically Black Colleges and Universities to the Chief of Staff
DBGS00511 Executive Assistant for Strategy
DBGS00523 Director, White House Liaison
DBGS00529 Special Assistant for the Faith-Based and Community Initiatives Center
DBGS00533 Special Assistant for the White House Liaison
DBGS00542 Special Assistant for Education
DBGS00543 Confidential Assistant for Legislation and Congressional Affairs
DBGS00549 Special Assistant to the Executive Administrator
DBGS00551 Confidential Assistant for Planning, Evaluation, and Policy Development
DBGS00560 Special Assistant for Planning, Evaluation, and Policy Development
DBGS00562 Confidential Assistant for Scheduling and Advance Staff
DBGS00563 Confidential Assistant for Elementary and Secondary Education
DBGS00568 Chief of Staff for Elementary and Secondary Education
DBGS00569 Special Assistant for Academic Improvement and Teacher Quality Programs
DBGS00570 Confidential Assistant for Intergovernmental Affairs
DBGS00572 Special Assistant for Planning, Evaluation, and Policy Development
DBGS00576 Special Assistant for Strategy
DBGS00580 Deputy Assistant Secretary for Elementary and Secondary Education
DBGS00584 Deputy White House Liaison to the Chief of Staff
DBGS00596 Associate Assistant Deputy Secretary for Innovation and Improvement
DBGS00609 Special Assistant to the Under Secretary
DBGS00611 Chief of Staff for Legislation and Congressional Affairs
DBGS00612 Special Assistant to the General Counsel
DBGS00618 Chief of Staff for Planning, Evaluation, and Policy Development
DBGS00626 Special Assistant to the Chief of Staff
DBGS00630 Special Assistant for Innovation and Improvement
DBGS00635 Special Assistant to the Chief of Staff
DBGS00638 Confidential Assistant for Intergovernmental Affairs
DBGS00641 Chief of Staff to the Deputy Secretary of Education

DBGS00649 Confidential Assistant for Scheduling and Advance Staff
DBGS00655 Special Assistant for Scheduling and Advance Staff
DBGS00657 Confidential Assistant for Education
DBGS00661 Confidential Assistant for the White House Liaison
DBGS00662 Special Assistant for External Affairs and Outreach Services
DBGS00663 Special Assistant for the Office of Communications and Outreach
DBGS00664 Chief of Staff to the Under Secretary
DBGS00666 Director, White House Initiative on Tribal Colleges and Universities
DBGS00670 Deputy Director, White House Initiative on the Educational Excellence for Hispanic Americans
DBGS00671 Chief of Staff for Innovation and Improvement
DBGS00673 Confidential Assistant for Innovation and Improvement
DBGS00675 Confidential Assistant to the General Counsel
DBGS00676 Confidential Assistant to the Executive Administrator
DBGS00679 Special Assistant for the Faith-Based and Community Initiatives Center
DBGS00680 Deputy Assistant Secretary for Planning, Evaluation, and Policy Development
DBGS00682 Deputy General Counsel
DBGS00683 Special Assistant of Education
DBGS00684 Special Assistant of Education
DBGS00685 Deputy Assistant Secretary for Postsecondary Education
DBGS00686 Deputy General Counsel for Accountability
DBGS00687 Senior Counsel for Civil Rights
DBGS60164 Confidential Assistant to the Deputy Under Secretary

Environmental Protection Agency (Sch. C, 213.3318)

EPGS04029 Special Assistant to the Chief of Staff
EPGS05005 Deputy Press Secretary for Public Affairs
EPGS05016 Deputy Press Secretary for Public Affairs
EPGS05017 Deputy Associate Administrator for Public Affairs
EPGS06019 Director, Office of the Executive Secretariat
EPGS06028 Deputy Associate Administrator for Congressional and Intergovernmental Relations
EPGS06032 Deputy to the Administrator
EPGS06036 Supervisory Public Affairs Specialist for Public Affairs
EPGS07020 Confidential Assistant to the Deputy Administrator
EPGS07023 Advance Specialist to the Deputy Chief of Staff (Operations)
EPGS08001 Assistant Press Secretary for Public Affairs
EPGS08007 Director of Operations to the Deputy Chief of Staff (Operations)
EPGS09008 White House Liaison to the Administrator
EPGS09010 Special Assistant for Public Affairs
EPGS09011 Advance Specialist for Air and Radiation
EPGS10002 Senior Speech Writer for Public Affairs
EPGS10003 Special Assistant for Public Affairs
EPGS10004 Deputy Assistant Administrator for Enforcement and Compliance Assurance
EPGS10005 Associate Assistant Administrator for Administration and Resources Management
EPGS10006 Program Advisor for Congressional and Intergovernmental Relations
EPGS60081 Director of Advance to the Chief of Staff
EPGS60799 Special Assistant to the Senior Climate Policy Counsel

Federal Communication Commission (Sch. C, 213.3323)

FCGS90146 Special Assistant for the Office of Strategic Planning and Policy Analysis
FCGS90147 Legislative Analyst for the Office of Legislative Affairs
FCGS90148 Legislative Analyst for the Office of Legislative Affairs

United States Tax Court (Sch. C, 213.3325)

JCGS60040 00301 Chambers Administrator to the Chief Judge
JCGS60041 Chambers Administrator to the Chief Judge
JCGS60042 Chambers Administrator to the Chief Judge
JCGS60043 Chambers Administrator to the Chief Judge
JCGS60044 Chambers Administrator to the Chief Judge
JCGS60045 Chambers Administrator to the Chief Judge
JCGS60047 Chambers Administrator to the Chief Judge
JCGS60048 Chambers Administrator to the Chief Judge
JCGS60049 Chambers Administrator to the Chief Judge
JCGS60050 Chambers Administrator to the Chief Judge
JCGS60051 Chambers Administrator to the Chief Judge
JCGS60052 Chambers Administrator to the Chief Judge
JCGS60053 Chambers Administrator to the Chief Judge
JCGS60054 Chambers Administrator to the Chief Judge
JCGS60055 Chambers Administrator to the Chief Judge
JCGS60057 Chambers Administrator to the Chief Judge
JCGS60058 Chambers Administrator to the Chief Judge
JCGS60059 Chambers Administrator to the Chief Judge
JCGS60060 Chambers Administrator to the Chief Judge
JCGS60061 Chambers Administrator to the Chief Judge
JCGS60062 Chambers Administrator to the Chief Judge
JCGS60063 Chambers Administrator to the Chief Judge
JCGS60064 Chambers Administrator to the Chief Judge
JCGS60065 Chambers Administrator to the Chief Judge
JCGS60066 Trial Clerk to the Chief Judge
JCGS60069 Trial Clerk to the Chief Judge
JCGS60070 Trial Clerk to the Chief Judge
JCGS60071 Trial Clerk to the Chief Judge
JCGS60075 Trial Clerk to the Chief Judge
JCGS60076 Trial Clerk to the Chief Judge
JCGS60078 Trial Clerk to the Chief Judge
JCGS60079 Trial Clerk to the Chief Judge
JCGS60080 Chambers Administrator to the Chief Judge
JCGS60081 Chambers Administrator to the Chief Judge
JCGS60083 Chambers Administrator to the Chief Judge
JCGS60084 Trial Clerk to the Chief Judge
JCGS60085 Trial Clerk to the Chief Judge
JCGS60086 Trial Clerk to the Chief Judge

Department of Veterans Affairs (Sch. C, 213.3327)

DVGS00082 Special Assistant for Public and Intergovernmental Affairs
DVGS60001 Special Assistant for Veterans Affairs
DVGS60002 Special Assistant for Public and Intergovernmental Affairs
DVGS60013 Special Assistant to the Secretary of Veterans Affairs
DVGS60017 Special Assistant for Public and Intergovernmental Affairs
DVGS60032 Director, Center for Faith Based Community Initiatives
DVGS60035 Special Assistant for Veterans Affairs
DVGS60038 Special Assistant for Veterans Affairs

DVGS60041 Special Assistant for Congressional and Legislative Affairs
DVGS60051 Legislative Assistant for Congressional and Legislative Affairs
DVGS60072 Special Assistant for Congressional and Legislative Affairs
DVGS60080 Special Assistant for Veterans Affairs

Securities and Exchange Commission (Sch. C, 213.3330)

SEOT11011 Director of Communications to the Chairman
SEOT11012 Chief of Staff to the Chairman
SEOT60007 Confidential Assistant to a Commissioner
SEOT60008 Secretary (Office Automation) to the Chief Accountant
SEOT60016 Secretary to the Director, Division of Enforcement
SEOT60052 Chief of Staff to the Chairman
SEOT60054 Secretary to the Director, Division of Trading and Markets
SEOT60062 Confidential Assistant to a Commissioner
SEOT60090 Confidential Assistant to the Chairman
SEOT60103 Legislative and Intergovernmental Affairs Specialist for Legislative Affairs
SEOT60999 Confidential Assistant to the General Counsel
SEOT65001 Executive Staff Assistant to the Chief of Staff
SEOT90006 Confidential Assistant to a Commissioner
SEOT90007 Confidential Assistant to the Chairman

Department of Energy (Sch. C, 213.3331)

DEGS00531 Senior Advisor for Energy Efficiency and Renewable Energy
DEGS00548 Staff Assistant to the General Counsel
DEGS00556 Congressional Affairs Officer for Congressional Affairs
DEGS00570 Senior Policy Advisor of Energy (Environmental Management)
DEGS00593 Congressional Affairs Specialist for Congressional Affairs
DEGS00616 Special Assistant for Policy and International Affairs
DEGS00617 Special Assistant for the Office of Scheduling and Advance
DEGS00628 Assistant Press Secretary for Public Affairs
DEGS00662 Deputy Assistant Secretary for Congressional and Intergovernmental Affairs
DEGS00669 Senior Policy Advisor for Science
DEGS00702 Advisor to the Secretary for Department of Energy
DEGS00709 Special Assistant and Scheduler for Office of Public Affairs
DEGS00710 Deputy Press Secretary for Office of Public Affairs
DEGS00711 Deputy Director of Public Affairs for Office of Public Affairs
DEGS00712 Press Secretary for Office of Public Affairs
DEGS00715 White House Liaison for Department of Energy
DEGS00716 Deputy Chief of Staff
DEGS00719 Press Assistant for Office of Public Affairs
DEGS00721 Chief Speechwriter for Office of Public Affairs
DEGS00724 Senior Advisor to the Chief of Staff
DEGS00725 Special Assistant to the Chief of Staff
DEGS00726 New Media Specialist for Office of Public Affairs
DEGS00728 Special Assistant for Office of the American Recovery and Reinvestment Act
DEGS00729 Advisor for Policy and Communications for Office of Public Affairs
DEGS00730 Director, Public Affairs for Nuclear Security/Administrator
DEGS00734 Special Assistant to the Chief of Staff
DEGS00735 Special Assistant for Office of the American Recovery and Reinvestment Act
DEGS00739 Deputy Assistant Secretary for Intergovernmental and External Affairs
DEGS00740 Special Assistant for Policy and International Affairs
DEGS00741 Special Assistant for Office of the American Recovery and Reinvestment Act
DEGS00742 Senior Policy Advisor to the Chief of Staff
DEGS00743 Small Business Loan Guarantee Program Advisor for Office of the American Recovery and Reinvestment Act
DEGS00744 Deputy Director of Public Affairs
DEGS00745 Special Assistant to the Chief of Staff
DEGS00749 Special Assistant to the Chief of Staff
DEGS00750 Special Assistant to the Chief of Staff
DEGS00751 New Media Specialist to the Chief of Staff
DEGS00753 Special Assistant for Science
DEGS00754 Public Affairs Coordinator
DEGS00756 Senior Counsel to the General Counsel
DEGS00757 Senior Advisor to the Under Secretary
DEGS00759 Special Assistant for Policy and International Affairs
DEGS00762 Special Assistant to the Chief of Staff
DEGS00765 Special Assistant (Energy Efficiency and Renewable Energy)
DEGS00766 Special Assistant (Energy Efficiency and Renewable Energy)
DEGS00767 Special Assistant for the Office of Science
DEGS00769 Special Assistant to the Senior Advisor
DEGS00771 Speechwriter for the Office of Public Affairs
DEGS00773 Special Assistant (Fossil Energy)
DEGS00774 Senior Advisor (Fossil Energy)
DEGS00776 Senior Advisor to the Principal Deputy Assistant Secretary
DEGS00777 Special Assistant to the Deputy Chief of Staff
DEGS00780 Director, Office of Congressional Affairs to the Director of Congressional, Intergovernmental, and Public Affairs
DEGS00781 Legislative Affairs Specialist for Congressional and Intergovernmental Affairs
DEGS00782 Deputy White House Liaison
DEGS00783 Special Assistant for Scheduling and Advance
DEGS00785 Staff Assistant to the General Counsel
DEGS00786 Special Assistant for Advanced Research Projects Agency
DEGS00790 Special Assistant to the Chief of Staff
DEGS00791 Scheduler to the Senior Advisor
DEGS00792 Trip Coordinator to the Senior Advisor
DEGS00793 Lead Advance Representative to the Senior Advisor
DEGS00795 Senior Legal Advisor to the General Counsel
DEGS00797 Legal Advisor to the General Counsel
DEGS00799 Economic Recovery Advisor for Office of the American Recovery and Reinvestment Act
DEGS00803 Special Assistant for Energy
DEGS00805 Special Assistant to the Senior Advisor
DEGS00806 Special Assistant to the Senior Advisor
DEGS00808 Senior Advisor and Director of New Media for Office of Public Affairs
DEGS00812 Congressional Affairs Specialist for Office of Congressional Affairs
DEGS00813 Senior Advisor for Loan Guarantee Program Office
DEGS00814 Director, Office of Scheduling and Advance
DEGS00817 Special Assistant to the Chief of Staff

Federal Energy Regulatory Commission (Sch. C, 213.331)

DRGS00028 Director, Congressional and Intergovernmental Affairs Division
DRGS10011 Confidential Assistant Federal Energy Regulatory Commission

DRGS60007 Confidential Assistant Federal Energy Regulatory Commission
DRGS60009 Confidential Assistant Federal Energy Regulatory Commission

Small Business Administration (Sch. C, 213.332)

SBGS00002 Chief Information Officer
SBGS00540 Assistant Administrator for Faith-Based and Community Initiatives
SBGS00557 Deputy Associate Administrator for Communications and Public Liaison
SBGS00594 Press Secretary for Communications and Public Liaison
SBGS00601 Associate Administrator for Field Operations
SBGS00622 Assistant Administrator for Native American Affairs for Entrepreneurial Development
SBGS00634 Regional Administrator (Region I) for Field Operations
SBGS00640 Regional Administrator (Region II) for Field Operations
SBGS00653 Deputy General Counsel
SBGS00662 Deputy Assistant Administrator for Congressional and Legislative Affairs
SBGS00667 Speechwriter for Communications and Public Liaison
SBGS00668 Senior Advisor for Field Operations
SBGS00674 Staff Assistant for the Office of Field Operations
SBGS00675 Special Assistant of Scheduling
SBGS00680 Assistant Administrator for the Office of Communications and Public Liaison
SBGS00683 Special Assistant for Congressional and Legislative Affairs
SBGS00685 Special Assistant to the Chief of Staff
SBGS00689 Press Assistant for the Office of Communications and Public Liaison
SBGS00690 Deputy Assistant Administrator for Congressional and Legislative Affairs
SBGS00691 Director of Hubzone for Government Contracting and Business Development
SBGS00694 Congressional Legislative Affairs Assistant for Congressional and Legislative Affairs
SBGS00696 Senior Advisor for Policy and Government Contracting for Government Contracting and Business Development
SBGS00697 Special Assistant to the Chief Operating Officer
SBGS00698 Senior Advisor for Outreach and Operations
SBGS00699 Deputy White House Liaison to the White House Liaison and Deputy Chief of Staff
SBGS00701 Confidential Assistant to the Administrator
SBGS00702 Policy Associate to the White House Liaison and Deputy Chief of Staff
SBGS00703 White House Liaison to the Chief of Staff
SBGS00705 Policy Associate for Policy and Strategic Planning
SBGS60170 Regional Administrator, Region VIII, Denver Colorado for Field Operations
SBGS60173 Regional Administrator, Region VI, Dallas, Texas for Field Operations
SBGS60174 Regional Administrator for Field Operations
SBGS60189 Regional Administrator, Region X, Seattle Washington for Field Operations

Federal Deposit Insurance Corporation (Sch. C, 213.333)

FDOT00010 Chief of Staff of the Board of Directors
FDOT00012 Director for Public Affairs of the Board of Directors

Federal Trade Commission (Sch. C, 213.3334)

FTGS60001 Director, Office of Public Affairs to the Chairman
FTGS60027 Confidential Assistant to the Chairman

General Services Administration (Sch. C, 213.337)

GSGS00087 Special Assistant to the Regional Administrator
GSGS00090 Special Assistant to the White House Liaison
GSGS00132 Special Assistant to the Regional Administrator
GSGS01387 Special Assistant to the Chief of Staff
GSGS01422 Regional Administrator
GSGS01424 Regional Administrator
GSGS01425 Regional Administrator
GSGS01426 Regional Administrator
GSGS01428 Regional Administrator
GSGS01430 Special Assistant to the Regional Administrator
GSGS01431 Special Assistant to the Regional Administrator
GSGS01433 Public Affairs Specialist for Communications and Marketing
GSGS01434 Federal Interagency Councils Program Manager for Government-wide Policy
GSGS01435 Special Assistant to the Regional Administrator
GSGS01437 Special Assistant for Small Business Utilization
GSGS01438 Special Assistant to the Deputy Administrator
GSGS01440 Sustainability Specialist for Government-wide Policy
GSGS01441 Special Assistant to the Regional Administrator
GSGS01443 Congressional Relations Specialist for Congressional and Intergovernmental Affairs
GSGS60069 Press Secretary for Communications and Marketing
GSGS60103 Special Assistant to the Chief of Staff
GSGS60126 Deputy Associate Administrator for Communications and Marketing for Citizen Services and Communications
GSGS60127 Associate Administrator for Small Business Utilization

United States International Trade Commission (Sch. C, 213.3339)

TCGS00010 Staff Assistant (Legal) to a Commissioner
TCGS00012 Staff Assistant (Legal) to a Commissioner
TCGS00013 Staff Assistant (Legal) to the Chairman
TCGS00025 Confidential Assistant to a Commissioner
TCGS00031 Executive Assistant to a Commissioner
TCGS00033 Staff Assistant to a Commissioner
TCGS00037 Staff Assistant (Legal) to the Chairman
TCGS60005 Staff Assistant (Legal) to a Commissioner
TCGS60006 Staff Assistant (Legal) to a Commissioner
TCGS60007 Staff Assistant (Economics) to a Commissioner
TCGS60015 Executive Assistant to the Vice Chairman
TCGS60018 Staff Assistant (Legal) to a Commissioner
TCGS60022 Staff Assistant (Legal) to a Commissioner
TCGS60025 Staff Assistant (Legal) to a Commissioner
TCGS60030 Confidential Assistant to a Commissioner
TCGS60036 Staff Assistant (Economist) to the Chairman
TCGS60100 Staff Assistant (Legal) to a Commissioner
TCGS60101 Executive Assistant to a Commissioner

Export-Import Bank (Sch. C, 213.3342)

EBGS04544 Executive Assistant to the President and Chairman
EBGS42989 Senior Advisor to the President and Chairman
EBGS45409 Special Assistant to the President and Chairman
EBSL10001 Deputy Chief of Staff to the President and Chairman
EBSL42019 Senior Vice President for Congressional Affairs
EBSL45019 Senior Vice President and General Counsel to the President and Chairman
EBSL47479 Executive Vice President and Chief Operating Officer to the President and Chairman

EBSL94047 Senior Vice President for Communications

Farm Credit Administration (Sch. C, 213.3343)

FLOT00027 Director to the Chairman, Farm Credit Administration Board
FLOT00030 Associate Director of Congressional Affairs for Farm Credit Administration Board

Occupational Safety and Health Review Commission (Sch. C, 213.3344)

SHGS00016 Confidential Assistant to the Commission Member (Chairman)
SHGS00017 Confidential Assistant to the Commission Member
SHGS60008 Counsel to A Commissioner
SHGS60009 Confidential Assistant to the Commission Member
SHGS60012 Counsel to the Commission Member

National Aeronautics and Space Administration (Sch. C, 213.3348)

NNGS01121 Special Assistant to the Chief of Staff
NNGS01122 Special Assistant to the Chief of Staff
NNGS03296 Special Assistant (Scheduling) to the Chief of Staff

Federal Mine Safety and Health Review Commission (Sch. C, 213.3351)

FRGS60024 Confidential Assistant to the Chairman
FRGS90504 Attorney Advisor (General) to a Member

Social Security Administration (Sch. C, 213.3355)

SZGS00019 Senior Advisor for Legislation and Congressional Affairs

Commission on Civil Rights (Sch. C, 213.3356)

CCGS60010 Special Assistant to a Commissioner
CCGS60011 Special Assistant to a Commissioner
CCGS60012 Special Assistant to a Commissioner
CCGS60013 Special Assistant to a Commissioner
CCGS60016 Special Assistant to a Commissioner
CCGS60020 Special Assistant to a Commissioner
CCGS60029 Special Assistant to the Vice Chairman
CCGS60031 General Counsel to the Staff Director

National Credit Union Administration (Sch. C, 213.3357)

CUOT01373 Staff Assistant to the Chairman
CUOT01379 Chief of Staff to the Chairman
CUOT01382 Senior Advisor for Communications to the Chairman
CUOT01389 Senior Policy Advisor to the Vice Chair
CUOT01390 Senior Policy Advisor to a Board Member
CUOT60009 Staff Assistant to the Chairman, United Nations Educational, Scientific and Cultural Organization Board
CUOT91402 Staff Assistant to the Vice Chair

Consumer Product Safety Commission (Sch. C, 213.3360)

PSGS00023 Special Assistant (Legal) for Consumer Product Safety Commission
PSGS00055 Chief of Staff for Consumer Product Safety Commission
PSGS00075 Special Assistant (Legal) to a Commissioner
PSGS07318 Special Assistant to a Commissioner
PSGS60001 Special Assistant (Legal) to a Commissioner
PSGS60003 Special Assistant (Legal) to a Commissioner
PSGS60007 Director, Office of Congressional Relations for Consumer Product Safety Commission
PSGS60008 Staff Assistant for Consumer Product Safety Commission
PSGS60050 Executive Assistant to a Commissioner
PSGS60061 Executive Assistant to a Commissioner
PSGS60062 Special Assistant (Legal) to a Commissioner
PSGS60063 Special Assistant (Legal) to a Commissioner
PSGS60066 Supervisory Public Affairs Specialist to the Executive Director
PSGS72150 Staff Assistant to a Commissioner

Federal Maritime Commission (Sch. C, 213.3367)

MCGS60003 Counsel to a Member
MCGS60042 Counsel to a Member

Appalachian Regional Commission (Sch. C, 213.3376)

APGS00005 Confidential Policy Advisor to the Federal Co-Chairman

Commodity Futures Trading Commission (Sch. C, 213.3379)

CTOT00014 Administrative Assistant to a Commissioner
CTOT00056 Special Assistant to a Commissioner
CTOT00058 Special Assistant to a Commissioner
CTOT00086 Special Assistant to a Commissioner
CTOT00089 Administrative Assistant to a Commissioner
CTOT00098 Director of Legislative Affairs to the Chairperson
CTOT00099 Director of Public Affairs to the Chairperson

National Endowment for the Arts (Sch. C, 213.3382)

NAGS00052 Executive Assistant to the Chief of Staff
NAGS00063 Deputy Congressional Liaison to the Chief of Staff

National Endowment for the Humanities (Sch. C, 213.3382)

NHGS09001 Senior Advisor to the Chairman
NHGS60065 Special Assistant to the Chairman
NHGS60066 Executive Assistant to the Chairman
NHGS60075 Director of Communications to the Deputy Chairman

Department of Housing and Urban Development (Sch. C, 213.3384)

DUGS00037 Director of Scheduling for the Office of Executive Scheduling and Operations
DUGS00047 Special Assistant for Housing and Urban Development
DUGS00053 Staff Assistant to the Chief of Staff
DUGS00249 Director of Advance for the Office of Executive Scheduling and Operations
DUGS06632 General Deputy Assistant Secretary for Public Affairs
DUGS60036 Special Assistant to the Senior Advisor
DUGS60068 Senior Advisor for Fair Housing and Equal Opportunity
DUGS60110 Staff Assistant for Housing, Federal Housing Commissioner
DUGS60114 Special Assistant for Housing, Federal Housing Commissioner
DUGS60121 Media Outreach Specialist for Public Affairs
DUGS60171 Congressional Relations Specialist to the Chief of Staff
DUGS60173 Staff Assistant for Housing and Urban Development
DUGS60174 Congressional Relations Officer for Congressional Relations
DUGS60184 Deputy Assistant Secretary for Congressional and Intergovernmental Relations
DUGS60185 General Deputy Assistant Secretary for Congressional and Intergovernmental Relations
DUGS60186 Staff Assistant to the Chief of Staff
DUGS60193 Media Specialist to the Chief of Staff
DUGS60199 Staff Assistant for Public Affairs
DUGS60211 Advance Coordinator for the Office of Executive Scheduling and Operations

DUGS60240 Speechwriter for Public Affairs
DUGS60249 Congressional Relations Specialist for Congressional and Intergovernmental Relations
DUGS60280 Special Assistant to the White House Liaison
DUGS60319 Regional Director for Operations and Management
DUGS60340 Special Assistant to the Chief of Staff
DUGS60352 Regional Director for Field Policy and Management
DUGS60363 Deputy Assistant Secretary for Policy Development and Research
DUGS60379 Director, Office of Executive Scheduling and Operations to the Chief of Staff
DUGS60410 Special Assistant to the General Counsel
DUGS60415 Senior Speechwriter for Public Affairs
DUGS60417 Special Assistant to the White House Liaison
DUGS60436 Staff Assistant to the Chief of Staff
DUGS60470 Special Assistant to the General Counsel
DUGS60502 Special Policy Advisor for Public and Indian Housing
DUGS60505 Deputy Assistant Secretary for Intergovernmental Relations to the Assistant Secretary for Congressional and Intergovernmental Relations
DUGS60512 Special Assistant to the Chief of Staff
DUGS60517 Regional Director for Operations and Management
DUGS60518 Special Assistant for Housing and Urban Development
DUGS60519 Special Assistant for Public and Indian Housing
DUGS60534 Deputy Director to the Senior Advisor
DUGS60549 Senior Advisor to the Chief of Staff
DUGS60571 Deputy Assistant Secretary for International and Philanthropic Affairs for Policy Development and Research
DUGS60581 Legislative Specialist for Congressional and Intergovernmental Relations
DUGS60597 Deputy Chief of Staff for Policy and Programs
DUGS60603 Staff Assistant for Policy Development Research

National Mediation Board (Sch. C, 213.3389)

NMGS60053 Confidential Assistant to a Board Member
NMGS60054 Confidential Assistant to the Chairman
NMGS60056 Confidential Assistant to a Board Member

Office of Personnel Management (Sch. C, 213.3391)

PMGS30553 Executive Director, CHCO Council
PMGS31230 Deputy Chief of Staff
PMGS31255 Deputy Chief of Staff of External Affairs
PMGS31263 Senior Advisor to the Director
PMGS31265 Counselor to the Director of External Affairs
PMGS31267 Senior Advisor to the Director
PMGS31315 Senior Policy Counsel to the General Counsel
PMGS31316 Special Assistant to the Director
PMGS31318 Speech Writer for the Office of Communications and Public Liaison
PMGS31334 Deputy Director for the Office of Congressional Relations
PMGS31346 Public Affairs Specialist for the Office of Communications and Public Liaison
PMGS31347 Public and Congressional Affairs for the Office of Congressional Relations
PMGS31348 Congressional Relations for the Office of Congressional Relations
PMGS31350 Public Affairs Specialist for the Office of Communications and Public Liaison
PMGS31401 Special Assistant to the Deputy Chief of Staff
PMGS31418 Constituent Services Representative for the Office of Congressional Relations
PMGS31442 Deputy Director for the Office of Communications and Public Liaison
PMGS31486 Attorney-Advisor to the General Counsel

Federal Labor Relations Authority (Sch. C, 213.3392)

FAGS00001 Management Assistant to the Chairman
FAGS60022 Executive Assistant to the Chairman

Department of Transportation (Sch. C, 213.3394)

DTGS60054 Associate Director for Governmental Affairs
DTGS60127 Deputy Assistant Secretary for Budget and Programs and Chief Financial Officer
DTGS60129 Counselor to the General Counsel
DTGS60139 Special Assistant to the Deputy Secretary
DTGS60173 Director of Congressional Affairs
DTGS60199 Special Assistant to the Administrator
DTGS60237 Press Secretary of Public Affairs
DTGS60239 Director, Office of Congressional and Public Affairs
DTGS60257 Deputy Director of Public Affairs
DTGS60277 Associate Administrator for Communications and Legislative Affairs
DTGS60279 Director of Speechwriting for Public Affairs
DTGS60291 Associate Director for Governmental Affairs
DTGS60295 Special Assistant to the Under Secretary of Transportation for Policy
DTGS60301 Associate Director for Governmental Affairs
DTGS60311 Special Assistant for Scheduling and Advance
DTGS60313 Director, Office of Governmental Affairs, Policy and Strategic Planning
DTGS60317 Deputy Assistant Administrator for Government and Industry Affairs
DTGS60324 Director of Scheduling and Advance to the Chief of Staff
DTGS60326 Special Assistant to the Administrator
DTGS60337 Director of Communications to the Administrator
DTGS60341 Associate Director for Governmental Affairs
DTGS60342 Special Assistant for Scheduling and Advance
DTGS60358 Special Assistant for Scheduling and Advance
DTGS60360 Scheduler to the Director of Scheduling and Advance
DTGS60369 Deputy Assistant Secretary for Governmental Affairs
DTGS60371 Deputy Assistant Secretary for Governmental Affairs
DTGS60372 Deputy Assistant Secretary for Governmental Affairs
DTGS60373 Associate Director of Governmental Affairs
DTGS60375 White House Liaison to the Chief of Staff
DTGS60377 Director, Office of Governmental, International and Public Affairs
DTGS60400 Associate Administrator for Policy and Governmental Affairs
DTGS60451 Director of Communications to the Administrator
DTGS60460 Director of Public Affairs
DTGS60476 Deputy Press Secretary of Public Affairs

National Transportation Safety Board (Sch. C, 213.3396)

TBGS11504 Special Assistant to the Chairman
TBGS71538 Special Assistant to a Member
TBGS91567 Special Assistant to the Vice Chairman

Federal Housing Finance Board (Sch. C, 213.3397)

FBOT00004 Counsel to the Chairman

FBOT00005 Staff Assistant to the Chairman

FBOT00010 Special Assistant to the Board Director

FBOT60009 Special Assistant to the Board Director

Authority: 5 U.S.C. 3301 and 3302; E.O.10577, 3 CFR 1954–1958 Comp., p.218.

John Berry,

Director, Office of Personnel Management.

[FR Doc. 2010–29113 Filed 11–17–10; 8:45 am]

BILLING CODE 6325–39–P

Reader Aids

Federal Register

Vol. 75, No. 222

Thursday, November 18, 2010

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal_register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

67011–67200 1
67201–67588 2
67589–67896 3
67897–68168 4
68169–68404 5
68405–68674 8
68675–68940 9
68941–69330 10
69331–69570 12
69571–69850 15
69851–70082 16
70083–70570 17
70571–70810 18

CFR PARTS AFFECTED DURING NOVEMBER

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.

1 CFR

301 68941

3 CFR

Proclamations:
8590 67897
8591 67899
8592 67901
8593 67903
8594 67905
8595 67907
8596 68153
8597 68167
8598 69329
8599 69571

Executive Orders:
13481 (revoked by 13557) 68679
13556 68675
13557 68679
13558 69573

Administrative Orders:
Memorandums:
Memorandum of September 20, 2010 67023
Memorandum of September 23, 2010 67025
Memorandum of May 7, 2008 (revoked by EO 13556) 68675
Notices:
Notice of November 1, 2010 67587
Notice of November 4, 2010 68673
Notice of November 10, 2010 69569
Presidential Determinations:
No. 2010-11 of August 10, 2010 67011
No. 2010-11 of August 10, 2010 (correction) 68405
No. 2010-12 of August 26, 2010 67013
No. 2010-12 of August 26, 2010 (correction) 68407
No. 2010-14 of September 3, 2010 67015
No. 2010-14 of September 3, 2010 (correction) 68409
No. 2010-15 of September 10, 2010 67017
No. 2010-15 of September 10, 2010 (correction) 68411
No. 2010-16 of September 15, 2010 67019
No. 2010-16 of September 15, 2010 (correction) 68413

5 CFR

302 67589
330 67589
335 67589
337 67589
410 67589
1601 68169

Proposed Rules:
532 70616
731 68222
1206 70617
1600 69026
1604 69026
1651 69026
1690 69026

6 CFR

5 67909

Proposed Rules:
5 .....69603, 69604

7 CFR

301 68942
319 68945
352 68945
360 68945
361 68945
701 70083
920 67605
983 68681
987 70571
993 67607
1215 67609
1221 70573
3430 70578

Proposed Rules:
205 68505
924 68510
1214 .....68512, 68529
1245 68728

8 CFR

103 69851

9 CFR

94 69851
310 69575

10 CFR

Proposed Rules:
30 70618
40 70618
70 70618
73 67636

170 70618
171 70618
431 67637

12 CFR

330 69577
1208 68956
1704 68956
Proposed Rules:
226 67458
612 70619
615 68533
620 70619
630 70619
965 68534
966 68534
969 68534
987 68534
1270 68534

14 CFR

25 ....67201, 69746, 70090, 70092
26 69746
39 ....67611, 67613, 68169, 68172, 68174, 68177, 68179, 68181, 68185, 68682, 68684, 68686, 68688, 68690, 69693, 68695, 68698, 69858, 69860, 69861, 69862, 70096, 70098, 70101, 70102, 70104, 70106, 70109
71 ....67910, 67911, 68415, 68416, 68701, 69864
73 68970
95 67210
97 ....69331, 69332
121 ....68189, 69746
129 69746
Proposed Rules:
5 68224
39 ....67253, 67637, 67639, 68245, 68246, 68543, 68548, 68728, 68731, 69030, 69606, 69609, 69611, 69612, 70150, 70623
65 68249
71 ....68551, 68552, 68554, 68555, 68556, 68557, 68558, 69905
119 68224

15 CFR

748 67029
902 68199

16 CFR

1 68416
305 67615
Proposed Rules:
437 68559
1512 67043
1632 67047

17 CFR

240 69792
242 68702
Proposed Rules:
Ch. I 67301
1 ....67254, 67642, 70152
4 67254
15 67258
20 67258
30 67642
39 67277
40 67282
140 67277
180 67657
240 ....68560, 70488
249 70488

19 CFR

4 69583
10 69583

20 CFR

Proposed Rules:
655 67662

21 CFR

510 ....68972, 69585
516 69586
520 ....67031, 69585
878 ....68972, 70112
892 68200
Proposed Rules:
516 69614
1141 69524
1308 67054

23 CFR

511 68418

24 CFR

905 70582
Proposed Rules:
200 69363
207 69363

26 CFR

54 70114
Proposed Rules:
54 70159

27 CFR

9 67616
Proposed Rules:
4 ....67663, 67666, 67669
5 67669
7 67669

28 CFR

0 ....69870, 70122

29 CFR

1635 68912
1926 68429
2590 70114
4003 68203
4022 69588
4903 68203
Proposed Rules:
1910 69369
2520 70625
2590 70160

30 CFR

3020 70124
Proposed Rules:
70 69617
71 69617
72 69617
75 69617
90 69617

31 CFR

510 67912

32 CFR

239 69871
706 68213

33 CFR

100 67214
117 ....68704, 68974, 69878, 69879
165 ....67032, 67216, 67618, 67620, 70126
Proposed Rules:
117 69906
165 ....67673, 69371
167 68568
334 ....69032, 69034

34 CFR

600 67170
668 67170
682 67170
685 67170

37 CFR

Proposed Rules:
1 69828
41 69828

38 CFR

17 69881
62 68975
Proposed Rules:
3 70162

39 CFR

20 69334
111 ....68430, 70128, 70132

40 CFR

1 69348
9 70583
21 69348
52 ....67623, 68447, 68989, 69002, 69589, 69883, 69884, 69889, 70140
59 69348
60 69348
61 69348
62 69348
63 ....67625, 69348
65 69348
81 67220
86 68448
180 ....68214, 69005, 69353, 70143
194 70584
450 68215
707 69348
721 70583
763 69348
1033 68448
1039 68448
1042 68448
1045 68448
1054 68448
1065 68448
Proposed Rules:
49 69373
52 ....68251, 68259, 68265, 68272, 68279, 68285, 68291, 68294, 68570, 69909, 69910, 70654, 70657
58 69036
60 68296
63 67676
80 68044
81 ....67303, 68733, 68736
85 67059
86 ....67059, 68575
136 70664
152 68297
260 70664
261 67919
423 70664
430 70664
435 70664
450 68305
721 ....68306, 70665
1033 68575
1036 67059
1037 67059
1039 68575
1042 68575
1045 68575
1054 68575
1065 ....67059, 68575
1066 67059
1068 67059

41 CFR

300-3 67629
Ch. 301 67629
301-30 67629
301-31 67629
302-3 67629
302-4 67629
302-6 67629
303-70 67629

42 CFR

409 70372
418 70372
424 70372
447 69591
484 70372
489 70372
Proposed Rules:
5 67303
Ch. IV 70165
433 68583
455 69037

43 CFR

4 68704

44 CFR

64 68704
67 ....68710, 68714, 69892
Proposed Rules:
67 ....67304, 67310, 67317, 68738, 68744

45 CFR

147 70114
Proposed Rules:
147 70160

46 CFR

45 70595

47 CFR

20 70604
54 70149
74 67227
78 67227
Proposed Rules:
0 69374
1 ....67060, 69374, 70166
9 67321
17 70166
20 67321
54 69374
64 67333

73 67077
79 70168

48 CFR

216 69360
237 67632
252 ....67632, 69360
919 69009
922 69009
923 69009
924 69009
925 69009
926 69009
952 69009
970 68217

49 CFR

39 68467
225 68862
325 67634
393 67634
571 67233

Proposed Rules:

192 69912
195 69912
242 69166
523 ....67059, 68312
534 ....67059, 68312
535 ....67059, 68312
571 70670

50 CFR

17 ....67512, 68719
218 69296
229 68468
300 68725
600 67247
622 67247
635 67251
648 ....69014, 69903
660 67032
665 ....68199, 69015
679 ....68726, 69016, 69361, 69597, 69598, 69599, 69600, 69601, 70614

Proposed Rules:

17 ....67341, 67552, 67676, 67925, 69222
224 70169
648 ....70187, 70192
660 67810

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 "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 3619/P.L. 111–281

Coast Guard Authorization Act of 2010 (Oct. 15, 2010; 124 Stat. 2905)

S. 1510/P.L. 111–282

United States Secret Service Uniformed Division Modernization Act of 2010 (Oct. 15, 2010; 124 Stat. 3033)

S. 3196/P.L. 111–283

Pre-Election Presidential Transition Act of 2010 (Oct. 15, 2010; 124 Stat. 3045)

S. 3802/P.L. 111–284

Mount Stevens and Ted Stevens Icefield Designation Act (Oct. 18, 2010; 124 Stat. 3050)

Last List October 18, 2010

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.