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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 HOMELAND SECURITY

8 CFR Parts 1 and 292

[DHS Docket No. USCIS–2009–0077]

RIN 1601–AA58

Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances; Reopening the Public Comment Period

AGENCY: Office of the Secretary, DHS.

ACTION: Interim rule; reopening and extending the public comment period.

SUMMARY: The Department of Homeland Security (DHS) announces the reopening and extension of the public comment period for the interim rule entitled "Professional Conduct for Practitioners: Rules, Procedures, Representations, and Appearances." The interim rule was published on February 2, 2010, comments were accepted until March 4, 2010, and the rule was effective on March 4, 2010.

To provide the public with optimum opportunity to comment on the interim rule, DHS will reopen the comment period for an additional 30 days. DHS will consider comments received during the entire public comment period in its development of the final rule.

DATES: Written comments must be submitted on or before March 2, 2011.

ADDRESSES: You may submit comments, identified by DHS Docket No. USCIS–2009–0077, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail:* You may submit comments directly to USCIS by e-mail at *rfs.regs@dhs.gov.* Include DHS Docket No. USCIS–2009–0077 in the subject line of the message.
- *Mail:* Sunday Aigbe, Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529–2020. To ensure proper handling, please reference DHS Docket No. USCIS–2009–0077 on your correspondence. This mailing address may also be used for paper, disk, or CD–ROM submissions.
- *Hand Delivery/Courier:* Sunday Aigbe, Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529–2020. Contact Telephone Number (202) 272–8377.

FOR FURTHER INFORMATION CONTACT: Rachel A. McCarthy, Disciplinary Counsel, Office of the Chief Counsel, U.S. Citizenship and Immigration Services, Department of Homeland Security, 70 Kimball Avenue, Room 103, S. Burlington, VT 05403, telephone (802) 660–5043 (not a toll-free call), or e-mail *Rachel.McCarthy@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this rule. DHS also invites comments that relate to the economic or federalism effects that might result from this rule. Comments that will provide the most assistance to DHS will reference a specific portion of the rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and DHS Docket No. USCIS–2009–0077. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket or to read background documents or comments received go to *http://www.regulations.gov.* Submitted comments may also be inspected at the Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529–2020.

Background

On February 2, 2010, the Department of Homeland Security (DHS) published an interim rule with request for comments in the **Federal Register** at 75 FR 5225. The interim rule amended DHS regulations to:

- Conform the grounds of discipline and procedures regulations with those promulgated by the Department of Justice;
- Clarify who is authorized to represent applicants and petitioners in cases before DHS;
- Remove duplicative rules, procedures, and authority;
- Improve the clarity and uniformity of existing regulations; and to
- Make technical and procedural changes; and conform terminology.

DHS has received several requests to reopen and extend the public comment period on this interim rule. The interim rule was effective on March 4, 2010, and the changes made in the rule are and will remain in force and effect notwithstanding this notice.

Nevertheless, DHS has decided to provide an additional opportunity for the public to comment and will reopen the public comment period for an additional 30 days. DHS also is extending the original comment period until March 2, 2011 and will consider comments received throughout the entire public comment period in development of its final rule. Please visit *http://www.regulations.gov* to view the rule, comments received, and all supporting documents.

Janet Napolitano,
Secretary.

[FR Doc. 2011–2040 Filed 1–28–11; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0995]

RIN 1625–AA00

Safety Zone; Beaufort River/Atlantic Intracoastal Waterway, Beaufort, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Beaufort River portion of the Atlantic Intracoastal Waterway, South Carolina during construction and expansion of the J.E. McTeer Bridge, also referred to as the S.C. 802 Bridge. This regulation is necessary to protect life and property on the navigable waters of the Beaufort River during construction and expansion of the J.E. McTeer Bridge. Persons and vessels will be prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective from 9 a.m. on January 31, 2011 through 5 p.m. on February 4, 2011. This rule will be enforced daily from 9 a.m. until 12 p.m. and from 2 p.m. until 5 p.m. on January 31, 2011 through February 4, 2011.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0995 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0995 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Lieutenant Julie Blanchfield, Sector Charleston Office of Waterways Management, Coast Guard; telephone 843–740–3184, e-mail *Julie.E.Blanchfield@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On Friday, November 12, 2010, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Beaufort River/Atlantic Intracoastal Waterway, Beaufort, South Carolina in the **Federal Register** (75 FR 69371). We received two comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard did not receive information regarding the need for a change in the effective date of the rule with sufficient time to publish the rule at least 30 days prior to the effective date.

Background and Purpose

The construction and expansion of the J.E. McTeer Bridge will create safety hazards within the main channel of the Beaufort River in the vicinity of the J.E. McTeer Bridge due to the presence of construction equipment and the nature of the construction project. Because of the safety hazards associated with the construction of the bridge and related activities, the Coast Guard is establishing a temporary safety zone to protect life and property on the waters of the Atlantic Intracoastal Waterway/Beaufort River in the vicinity of the J.E. McTeer Bridge. The safety zone will be enforced daily from 9 a.m. until 12 p.m. and from 2 p.m. until 5 p.m. on January 31, 2011 through February 4, 2011.

Discussion of Comments and Changes

We received two comments regarding the proposed rule. The first comment was regarding the reference to the Lady's Island Marina in the Small Entities section of the NPRM. The reference in the NPRM was incorrect. The marina located adjacent to the J.E. McTeer Bridge is the Port Royal Landing Marina, not the Lady's Island Marina. The Coast Guard has corrected the reference in the Small Entities section of this rule. The second comment was regarding the possible adverse effect the safety zone would have on vessel traffic on the Intracoastal Waterway and, therefore, the number of vessels visiting the Port Royal Landing Marina. The safety zone will encompass only the main navigational channel and the side of the Beaufort River where the construction equipment is staged. The construction equipment is staged on the opposite side of the Beaufort River from the Port Royal Landing Marina. During the enforcement period, vessels may still transit the waterway under a different span of the J.E. McTeer Bridge. Additionally, the safety zone will only be enforced six hours each day. Therefore, vessels may still use the main navigational channel of the Beaufort River before, during, and after the enforcement periods.

The effective date of the rule has been changed from the NPRM. The NPRM stated that the effective date was anticipated to be from January 24, 2011 through January 28, 2011. The effective date of the rule is now 9 a.m. on January 31, 2011 through 5 p.m. on February 4, 2011.

Regulatory Analyses

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

Regulatory Planning and Review

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

We expect the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. This rule may have some impact on the public, but these potential impacts will be minimal for the following reasons: (1) Persons and vessels will be prohibited from entering, transiting through, anchoring in, or remaining within the safety zone for a total of six hours each day for five consecutive days; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the effective period; (3) vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Charleston or a designated representative; and (4) advance notification will be made to the local maritime community via broadcast notice to mariners and marine safety information bulletins.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: (1) The owners or operators of vessels intending to enter, transit through, anchor in, or remain within

that portion of the Beaufort River encompassed within the safety zone; and (2) the owner and operator of the Port Royal Landing Marina, which is located adjacent to the J.E. McTeer Bridge.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) Persons and vessels will be prohibited from entering, transiting through, anchoring in, or remaining within the safety zone for a total of six hours each day for five consecutive days; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the effective period; (3) vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Charleston or a designated representative; (4) vessels may access the Port Royal Landing Marina during the safety zone enforcement period by transiting around the safety zone under another span of the J.E. McTeer Bridge; and (5) advance notification will be made to the local maritime community via broadcast notice to mariners and marine safety information bulletins.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone to protect life and property on the navigable waters on the Beaufort River during construction and expansion of the J.E. McTeer Bridge. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping

requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 33 CFR 165.T07–0995 to read as follows:

§ 165.T07–0995 Safety Zone; Beaufort River/Atlantic Intracoastal Waterway, Beaufort, SC.

(a) *Regulated Area.* The following regulated area is a safety zone: all waters of the Beaufort River in Beaufort, South Carolina encompassed within an imaginary line connecting the following points: starting at Point 1 in position 32°23′44.92″ N, 80°40′31.43″ W; thence south to Point 2 in position 32°23′30.92″ N, 80°40′30.75″ W; thence east to Point 3 in position 32°23′30.15″ N, 80°40′12.93″ W; thence north to Point 4 in position 32°23′44.22″ N, 80°40′18.68″ W; thence west to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated area.

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16 to seek authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such permission must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area through advanced notice via broadcast notice to mariners, marine safety information bulletins, and by on-scene designated representatives.

(d) *Effective Date and Enforcement Periods.* The rule is effective from 9 a.m. on January 31, 2011 through 5 p.m. on February 4, 2011. The rule will be enforced daily from 9 a.m. until 12 p.m. and from 2 p.m. until 5 p.m. on January 31, 2011 through February 4, 2011.

Dated: January 21, 2011.

Michael F. White, Jr.,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2011–1980 Filed 1–28–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0731; FRL–9250–6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving Wisconsin's revision to its State Implementation Plan (SIP), which updates its ambient air quality standards for fine particulates to conform with current Federal ambient air quality standards for the same criteria air pollutants. EPA received comments on its April 8, 2010, proposed rule and withdrew the accompanying Direct Final Rule. After considering the comments, EPA is approving the revisions to the Wisconsin SIP as requested by the State on September 11, 2009.

DATES: This final rule is effective on March 2, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2009–0731. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886–6524 before visiting the Region 5 office.

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

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

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

I. What is the background for this action?

On September 11, 2009, Wisconsin requested a revision to its SIP to update the particulate matter ambient air quality standards to conform with the 2006 revisions to the Federal standards.

EPA originally established National Ambient Air Quality Standards (NAAQS) for particulate matter in 1971. Particulate matter was measured in total suspended particulate (TSP). TSP is particulate up to 100 micrometers in diameter. Then in 1987, EPA changed the indicator to coarse particulate matter (PM_{10}), which is particulate up to 10 micrometers in diameter. The PM_{10} standards replaced the TSP standards. Particulate matter larger than 10 micrometers generally is not inhaled into the lungs and thus PM_{10} was found to adequately protect human health.

EPA added fine particulate matter ($PM_{2.5}$) as an indicator of particulate matter in 1997, but also retained its PM_{10} NAAQS. The finer particulate matter measured as $PM_{2.5}$ can remain suspended in the air longer and can penetrate deeply into the lungs more easily than PM_{10}, so a lower $PM_{2.5}$ concentration is needed to protect human health. Then in 2006, EPA revised its particulate matter ambient air quality standards again. EPA strengthened the 24-hour $PM_{2.5}$ standard to its current level of 35 micrograms per

meter cubed (μg/m³) and retained the annual $PM_{2.5}$ standard of 15.0 μg/m³. In 2006, EPA also revoked the annual standard for PM_{10} because available evidence did not suggest a link between long term PM_{10} exposure and health problems. The 24-hour PM_{10} NAAQS of 150 μg/m³ remains in place. Retaining the 24-hour PM_{10} standard protects against health problems linked to short-term coarse particle exposure; the annual and 24-hour $PM_{2.5}$ standards protect against long-term and short-term fine particulate exposure respectively. Having both the $PM_{2.5}$ and PM_{10} 24-hour standards protects against the effects of short-term exposure to elevated levels of fine particulate and inhalable coarse PM, particulate between 2.5 and 10 μm. There is no difference between the primary standard, which protects human health, and the secondary standard, which protects public welfare, for each PM NAAQS.

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

Wisconsin revised chapters NR 404 and 484 of the Wisconsin Administration Code to add the definition of $PM_{2.5}$ and the $PM_{2.5}$ ambient air quality standards to its rules, consistent with current Federal $PM_{2.5}$ standards. Wisconsin also removed the annual PM_{10} standard and retained the 24-hour PM_{10} standard. Thus, the Wisconsin PM_{10} standards are also consistent with the current Federal PM_{10} standards.

The revisions made by Wisconsin are in accordance with the current Federal $PM_{2.5}$ and PM_{10} standards. EPA is approving the revisions because the State's standards are at least as stringent as the Federal NAAQS for both $PM_{2.5}$ and PM_{10} and thus will adequately protect human health and public welfare. Updating the Wisconsin standards adds clarity as an outdated state standard could cause confusion. Wisconsin's $PM_{2.5}$ and PM_{10} standards are now the same as the 2006 Federal NAAQS.

III. What are the environmental effects of this action?

This action incorporates into the SIP Wisconsin's revised PM standards, which are consistent with the Federal $PM_{2.5}$ and PM_{10} ambient air quality standards, including the more stringent standard for 24-hour $PM_{2.5}$ standard. The current Federal standards are effective and enforceable nationwide.

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

IV. What comments were received and what is the EPA response?

EPA published a direct final rule accompanied by a proposed rule on April 8, 2010 (75 FR 17865 and 17894). During the comment period EPA received comments from the Wisconsin Paper Council (WPC) adverse to the proposed approval. Therefore, EPA withdrew the direct final rule on June 2, 2010 (75 FR 30710).

In its May 7, 2010 letter, the WPC opposed approval of the rule on five grounds. First, WPC asserts, "EPA's stated basis for approving WDNR's SIP submittal is not completely accurate." WPC makes this claim because EPA stated that the Wisconsin particulate matter standards now match the current Federal standards, whereas Wisconsin has retained the annual secondary TSP, which was revoked at the Federal level in 1987. EPA responds by noting that Wisconsin's submission only requested that revisions to the $PM_{2.5}$ and PM_{10} standards be incorporated into its SIP. Wisconsin never requested a revision to the TSP standard and thus EPA did not consider such a revision. EPA's April 8, 2010 **Federal Register** notice states in Section I (What is the background for this action?) that Wisconsin's request "is to update the particulate matter ambient air quality standards." The particulate matter standards were revised to match the 2006 Federal standards (75 FR 17865). There is no mention of the TSP standard, which, as stated earlier, Wisconsin did not submit to EPA for review. EPA has revised its rule summary to clearly state that the Wisconsin $PM_{2.5}$ and PM_{10} standards now match the current Federal $PM_{2.5}$ and PM_{10} standards. This makes it unmistakable that this approval applies only to the $PM_{2.5}$ and PM_{10} standards and not to the TSP standards. This revision was made only for clarification and thus the basis of the proposed approval remains valid.

Second, WPC asserts, "Wisconsin Statute section 285.21(1)(a) requires that WDNR repeal Wisconsin's particulate matter standard based on total suspended particulate as part of its request to adopt the new $PM_{2.5}$ standard," and, third, that "Wisconsin Statute section 285.21(4) also requires that WDNR repeal the Wisconsin TSP standard as part of its request to adopt the new $PM_{2.5}$ standard." These comments concern a state matter, as the requested SIP revision does not involve TSP. EPA also notes that the Wisconsin Natural Resources Board passed a resolution on May 25, 1989, that found it was necessary for Wisconsin to retain the secondary 24-hour TSP standard to protect public health and welfare in Wisconsin. Therefore, the retention of the 24-hour TSP standard is irrelevant to this approval and appears to be allowed under Wisconsin Statute section 285.21 and the May 1989 Wisconsin Natural Resources Board resolution.

WPC's fourth point is that, "EPA's approval of the September 11, 2009 SIP revision request would violate the Wisconsin SIP." A SIP is a state's collection of rules and orders designed to attain and maintain the NAAQS and Clean Air Act (CAA) requirements which are federally enforceable by EPA. There is no prohibition in the CAA, however, against a state adopting a standard or limitation into its SIP that is more stringent than the Federal standard, and EPA may enforce a state's SIP that goes beyond the Federal standard.

The final comment was, "EPA should disapprove WDNR's SIP revision request because it lacks the necessary regulatory tools to implement the $PM_{2.5}$ standard." WPC seeks test methods, emission factors, significant impact levels, and more for fine particulates. WPC states that it would be difficult for sources to limit $PM_{2.5}$ emission without such regulatory tools. EPA notes that this approval is only for $PM_{2.5}$ and PM_{10} ambient air quality standards. An ambient air quality standard does not place restrictions on emission sources by itself. Wisconsin must adopt emission control requirements to implement the $PM_{2.5}$ NAAQS, and sources will be expected to comply with the state rules once promulgated.

V. What action is EPA taking?

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

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: December 29, 2010.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart YY—Wisconsin

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

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(121) On September 11, 2009, the Wisconsin Department of Natural Resources submitted a State Implementation Plan revision request. The State's ambient air quality standards were revised by adding fine particulate matter, $PM_{2.5}$, standards and revising the coarse particulate matter, PM_{10}, standards. Wisconsin added annual and 24-hour $PM_{2.5}$ standards. It also revoked the annual PM_{10} ambient air quality standard while retaining the 24-hour PM_{10} standard.

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

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

(B) NR 404.04 Ambient Air Quality Standards. NR 404.04 (8) "PM_{10}: PRIMARY AND SECONDARY STANDARDS." and NR 404.04(9) "$PM_{2.5}$: PRIMARY AND SECONDARY STANDARDS" as published in the Wisconsin Administrative Register, on September 30, 2009, No. 645, effective October 1, 2009.

(ii) *Additional material.*

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

(B) NR 484.04 Code of Federal Regulations appendices. NR 484.04 (6), (6g), and (6r) in Table 2, as published in the Wisconsin Administrative Register, on September 30, 2009, No. 645, effective October 1, 2009.

* * * * *

[FR Doc. 2011–2042 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–0697–201102, FRL–9259–8]

Removal of Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Alabama

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending its regulations to remove language which narrowed its previous approval of Alabama's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program regarding thresholds for determining which new stationary sources and modification projects become subject to Alabama's PSD

permitting requirements for their greenhouse gas (GHG) emissions. On December 14, 2010, the State of Alabama, through the Alabama Department of Environmental Management (ADEM), provided a revision to its State Implementation Plan (SIP) to establish appropriate emission thresholds for determining which new stationary sources and modification projects become subject to permitting requirements for GHG emissions in Alabama. EPA has taken final action to approve Alabama's December 14, 2010, SIP revision, and this makes EPA's narrowing of its previous approval of Alabama's PSD program as it relates to GHG permitting thresholds unnecessary. Today's action removes the regulatory language related to the narrowing action that is no longer applicable to Alabama as a result of EPA's approval of Alabama's December 14, 2010, SIP revision. Because this action is ministerial, EPA is applying the "good cause" exemption from public notice and comment requirements under the Administrative Procedure Act (APA).

DATES: This action is effective January 31, 2011.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2010–0697. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. 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 to 4:30 excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at *benjamin.lynorae@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What is today's action?
II. When is today's action effective?
III. Statutory and Executive Order Reviews

I. What is today's action?

On December 30, 2010, EPA published a final rule entitled "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans." *See* 75 FR 82536 (Narrowing Rule). This action narrowed EPA's previous approval of PSD programs as applicable to GHG-emitting sources in SIPs in 24 States, including Alabama. Specifically, in the Narrowing Rule, EPA withdrew its previous approval of those programs to the extent they apply PSD to GHG-emitting sources below the thresholds in EPA's Tailoring Rule (75 FR 31514). Having narrowed its prior approval, EPA asked that each affected State withdraw from EPA consideration the part of its SIP that was no longer approved, and stated that approval of a SIP revision incorporating the Tailoring Rule thresholds into a SIP would count as removing these no-longer-approved provisions.

On December 14, 2010, the State of Alabama, through ADEM, provided a revision to its SIP to incorporate changes to Alabama's air quality regulations, Regulation 335–3–14–.04, *Air Permits Authorizing Construction in Clean Air Areas—Prevention of Significant Deterioration Permitting (PSD),* to establish appropriate emission thresholds, consistent with EPA's Tailoring Rule, for determining which new stationary sources and modification projects become subject to Alabama's PSD permitting requirements for their GHG emissions. On December 29, 2010, EPA approved Alabama's December 14, 2010, SIP revision, effective January 18, 2011. *See* 75 FR 81863. As a result of EPA's approval of Alabama's changes to its air quality regulations to incorporate the appropriate thresholds for GHG permitting applicability into Alabama's SIP, paragraph (b) in Section 52.53 of 40 CFR part 52, as included in EPA's Narrowing Rule—which applies the Narrowing Rule to Alabama's SIP—is no longer necessary. The current action removes the approval narrowing language relating to Alabama's SIP from the CFR to reflect that, to the extent the Narrowing Rule withdrew EPA approval from any provisions in the Alabama SIP, those provisions have been removed from the SIP and thus the narrowing language in 40 CFR 52.1272(b) now serves no purpose. EPA is publishing this rulemaking to amend Section 52.53 of 40 CFR part 52 to remove this unnecessary regulatory language.

II. When is today's action effective?

This action removes content from the CFR that now serves no purpose because EPA has approved Alabama's SIP revision to establish thresholds for GHG permitting applicability consistent with EPA's Tailoring Rule. This is a ministerial but necessary action on the part of EPA. EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the APA. That provision authorizes agencies, upon finding "good cause," to dispense with public notice and participation where they are impracticable, unnecessary, or contrary to the public interest. EPA finds that it is unnecessary to provide public notice prior to finalizing this action, or to provide an opportunity for public comment on this action, because this action does not establish any new regulatory requirements, but instead merely removes language contained in 40 CFR 52.53 that no longer serves any purpose.

EPA also finds that there is good cause under APA section 553(d)(3) for this action to become effective on the date of publication. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's action merely removes language contained in 40 CFR 52.53 that no longer serves any purpose. For this reason, EPA finds good cause under APA section 553(d)(3) for this action to become effective on the date of publication.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211,

"Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action removes unnecessary language contained in 40 CFR 52.53 related to Alabama's SIP, and imposes no new requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule removes unnecessary language contained in 40 CFR 52.53 related to Alabama's SIP, and does not impose any new enforceable duty, it 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).

This rule also does not have Tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule removes unnecessary language contained in 40 CFR 52.53 related to Alabama's SIP, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: January 20, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart B—Alabama

■ 2. Section 52.53 is revised to read as follows:

§ 52.53 Approval Status.

With the exceptions set forth in this subpart, the Administrator approves Alabama's plans for the attainment and maintenance of the national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds the plans satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

[FR Doc. 2011–1931 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–0811–201101, FRL–9259–7]

Removal of Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Mississippi

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending its regulations to remove language which narrowed its previous approval of Mississippi's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program regarding emission thresholds for determining which new stationary sources and modification projects become subject to Mississippi's PSD permitting requirements for their greenhouse gas (GHG) emissions. On December 9, 2010, the State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), provided a revision to its State Implementation Plan (SIP) to establish appropriate thresholds for determining which new stationary sources and modification projects become subject to permitting requirements for GHG emissions in Mississippi. EPA has taken final action to approve Mississippi's December 9, 2010, SIP revision, and this makes EPA's narrowing of its previous approval of Mississippi's PSD program as it relates to GHG permitting thresholds unnecessary. Today's action removes the regulatory language related to the narrowing action that is no longer applicable to Mississippi as a result of EPA's approval of Mississippi's December 9, 2010, SIP revision. Because this action is ministerial, EPA is applying the "good cause" exemption from public notice and comment requirements under the Administrative Procedure Act (APA).

DATES: This action is effective January 31, 2011.

ADDRESSES: EPA has established a docket for this action under Docket

Identification No. EPA–R04–OAR–2010–0811. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. 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 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at *benjamin.lynorae@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What is today's action?
II. When is today's action effective?
III. Statutory and Executive Order Reviews

I. What is today's action?

On December 30, 2010, EPA published a final rule entitled "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans." *See* 75 FR 82536 (Narrowing Rule). This action narrowed EPA's previous approval of PSD programs as applicable to GHG-emitting sources in SIPs in 24 States, including Mississippi. Specifically, in the Narrowing Rule, EPA withdrew its previous approval of those programs to the extent they apply PSD to GHG-emitting sources below the thresholds in EPA's Tailoring Rule (75 FR 31514). Having narrowed its prior approval, EPA asked that each affected State withdraw from EPA consideration the part of its SIP that was no longer approved, and stated that approval of a SIP revision incorporating the Tailoring Rule thresholds into a SIP would count as removing these no-longer-approved provisions.

On December 9, 2010, the State of Mississippi, through MDEQ, provided a revision to its SIP to incorporate changes to Mississippi's air quality regulations, APC–S–5—*Regulations for Prevention of Significant Deterioration of Air Quality,* to establish appropriate emission thresholds, consistent with EPA's Tailoring Rule, for determining which new stationary sources and modification projects become subject to Mississippi's PSD permitting requirements for their GHG emissions. On December 29, 2010, EPA approved Mississippi's December 9, 2010, SIP revision, effective January 2, 2011. *See* 75 FR 81858. As a result of EPA's approval of Mississippi's changes to its air quality regulations to incorporate the appropriate thresholds for GHG permitting applicability into Mississippi's SIP, paragraph (b) in Section 52.1272 of 40 CFR part 52, as included in EPA's Narrowing Rule—which applies the Narrowing Rule to Mississippi's SIP—is no longer necessary. The current action removes the approval narrowing language relating to Mississippi's SIP from the CFR to reflect that, to the extent the Narrowing Rule withdrew EPA approval from any provisions in the Mississippi SIP, those provisions have been removed from the SIP and thus the narrowing language in 40 CFR 52.1272(b) now serves no purpose. EPA is publishing this rulemaking to amend Section 52.1272 of 40 CFR part 52 to remove this unnecessary regulatory language.

II. When is today's action effective?

This action removes content from the CFR that now serves no purpose because EPA has approved Mississippi's SIP revision to establish thresholds for GHG permitting applicability consistent with EPA's Tailoring Rule. This is a ministerial but necessary action on the part of EPA. EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the APA. That provision authorizes agencies, upon finding "good cause," to dispense with public notice and participation where they are impracticable, unnecessary, or contrary to the public interest. EPA finds that it is unnecessary to provide public notice prior to finalizing this action, or to provide an opportunity for public comment on this action, because this action does not establish any new regulatory requirements, but instead merely removes language contained in 40 CFR 52.53 that no longer serves any purpose.

EPA also finds that there is good cause under APA section 553(d)(3) for this action to become effective on the date of publication. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's action merely removes language contained in 40 CFR 52.1272 that no longer serves any purpose. For this reason, EPA finds good cause under APA section 553(d)(3) for this action to become effective on the date of publication.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action removes unnecessary language contained in 40 CFR 52.1272 related to Mississippi's SIP, and imposes no new requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule removes unnecessary language contained in 40 CFR 52.1272 related to Mississippi's SIP, and does not impose any new enforceable duty, it 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).

This rule also does not have Tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism

implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule removes unnecessary language contained in 40 CFR 52.1272 related to Mississippi's SIP, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: January 20, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart Z—Mississippi

■ 2. Section 52.1272 is revised to read as follows:

§ 52.1272 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Mississippi's plan for the attainment and maintenance of national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds the plans satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977.

[FR Doc. 2011–1928 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2010–0596; FRL–9249–2]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on August 2, 2010 and concern oxides of nitrogen (NO_X) from boilers, steam generators and process heaters with a rated heat input from 0.75 to less than 2.0 MMbtu/hr. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: *Effective Date:* This rule is effective on March 2, 2011.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2010–0596 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Idalia Perez, EPA Region IX, (415) 942–3248, *perez.idalia@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Statutory and Executive Order Reviews

I. Proposed Action

On August 2, 2010 (75 FR 45080), EPA proposed to approve the following rule into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	4308	Boilers, Steam Generators and Process Heaters—0.075 MMBtu/hr to less than 2.0 MMbtu/hr.	12/17/09	05/17/10

We proposed to approve this rule because we determined that it complied with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted that change our assessment that the submitted rule complies with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving this rule into the California SIP.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: December 21, 2010.

Keith Takata,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(379)(i)(C) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(379) * * *

(i) * * *

(C) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4308, "Boilers, Steam Generators and Process Heaters —0.075 MMBtu/hr to less than 2.0 MMbtu/hr," adopted on December 17, 2009.

* * * * *

[FR Doc. 2011–1927 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2010–0860; FRL–9249–5]

Revisions to the California State Implementation Plan, Santa Barbara Air Pollution Control District, Antelope Valley Air Quality Management District, Ventura County Air Pollution Control District and Placer County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Santa Barbara Air Pollution Control District (SBAPCD), Antelope Valley Air Quality Management District (AVAQMD), Ventura County Air Pollution Control District (VCAPCD) and Placer County Air Pollution Control District (PCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from gasoline bulk plants, terminals and vehicle dispensing facilities. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on April 1, 2011 without further notice, unless EPA receives adverse comments by March 2, 2011. If we receive such comments, we will publish a timely withdrawal in the

Federal Register to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2010–0860, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.
2. *E-mail: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: David Grounds, EPA Region IX, (415) 972–3019, *grounds.david@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SBAPCD	316	Storage and Transfer of Gasoline	01/15/09	03/17/09
AVAQMD	461	Gasoline Transfer and Dispensing	10/21/08	04/06/09
VCAPCD	70	Storage and Transfer of Gasoline	03/10/09	09/15/09
PCAPCD	215	Transfer of Gasoline Into Tank Trucks, Trailers, and Railroad Tank Cars at Loading Facilities.	06/19/97	07/18/08

On August 22, 2008, EPA determined that the submittal for PCAPCD Rule 215 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On April 20, 2009, EPA determined that the submittal for SBAPCD Rule 316 met the completeness criteria. On May 13, 2009, EPA determined that the submittal for AVAQMD Rule 461 met the completeness criteria. On January 21, 2010, EPA determined that the submittal for VCAPCD Rule 70 met the completeness criteria.

B. Are there other versions of these rules?

We approved an earlier version of SBAPCD Rule 316 into the SIP on 11/26/99 (64 FR 66393). We approved an earlier version of AVAQMD Rule 461 into the SIP on 10/07/96 (61 FR 52297). We approved an earlier version of VCAPCD Rule 70 into the SIP on 05/24/04 (69 FR 29451). We approved an earlier version of PCAPCD Rule 215 into the SIP on 05/06/96 (61 FR 20145).

C. What is the purpose of the submitted rule revisions?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions.

VCAPCD Rule 70 and SBAPCD Rule 316 impose more stringent requirements on VOC emissions from gasoline bulk plants, terminals, and vehicle dispensing facilities, while AVAQMD Rule 461 and PCAPCD Rule 215 impose more stringent requirements on the transfer of gasoline to and from any tank truck, trailer or railroad tank car. EPA's technical support documents (TSD) have more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and (b)(2)), and must not relax existing requirements (see sections 110(l) and 193). The VCAPCD, AVAQMD and PCAPCD regulate ozone nonattainment areas (*see* 40 CFR part 81), so Rules 70, 461 and 215 must fulfill RACT. SBAPCD regulates an ozone attainment area and is not required to fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).

2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

3. "Technical Guidance—Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities," (EPA–450/3–91–022).

4. "Control of Volatile Organic Emissions From Bulk Gasoline Plants," (EPA–450/2–77–035).

5. "Control of Volatile Organic Emissions From Storage of Petroleum Liquids in Fixed-Roof Tanks," (EPA–450/2–77–036).

6. "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," (EPA–450/2–78–047).

7. "Stationary Sources. Liquid Storage, Bulk Terminals and Plants, GDF Storage Tanks, Vehicle Refueling," (EPA–453/R–92–018(ACT)).

8. "Gasoline Dispensing Facilities—Stage II Vapor Recovery," EPA's Draft Model Rule, August 17, 1992.

9. "Gasoline Vapor Recovery Guidelines," EPA Region IX, April 24, 2000.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluations.

C. EPA Recommendations To Further Improve the Rules

The TSDs describe additional rule revisions that we recommend for the next time the local agencies modify the rules.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by March 2, 2011, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on April 1, 2011. This will incorporate these rules into the Federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: December 21, 2010.

Keith Takata,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(359)(i)(C)(*3*), (363)(i)(B)(*2*), (366)(i)(C) and (377)(i)(C) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(359) * * *

(i) * * *

(C) * * *

(*3*) Rule 215, "Transfer of Gasoline Into Trucks, Trailers, and Railroad Tank Cars at Loading Facilities," adopted on June 19, 1997.

* * * * *

(363) * * *

(i) * * *

(B) * * *

(*2*) Rule 316, "Storage and Transfer of Gasoline," adopted on January 15, 2009.

* * * * *

(366) * * *

(i) * * *

(C) Antelope Valley Air Quality Management District.

(*1*) Rule 461, "Gasoline Transfer and Dispensing," adopted on October 21, 2008.

* * * * *

(377) * * *

(i) * * *

(C) Ventura County Air Pollution Control District.

(*1*) Rule 70, "Storage and Transfer of Gasoline," adopted on March 10, 2009.

* * * * *

[FR Doc. 2011–1926 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R08–OAR–2010–0749; FRL–9260–6]

Determination of Attainment for PM_{10}; Columbia Falls and Libby Nonattainment Areas, Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA has determined that the Columbia Falls and Libby nonattainment areas in Montana attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM_{10}) as of December 31, 1994.

DATES: This rule is effective on April 1, 2011 without further notice, unless EPA receives adverse comments by March 2, 2011. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2010–0749, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: freeman.crystal@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2010–0749. 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 instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

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 at *http://www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Crystal Freeman, U.S. Environmental Protection Agency, Region 8, Air Program, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6602, *freeman.crystal@epa.gov.*

SUPPLEMENTARY INFORMATION:

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Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Montana* mean the State of *Montana,* unless the context indicates otherwise.

I. General Information

A. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *http://regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information placed on 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:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. 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.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. PM_{10} Standard

The NAAQS are levels for certain ambient air pollutants set by EPA to protect public health and welfare. PM_{10}, or particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers, is among the ambient air pollutants for which EPA has established health-based standards. On July 1, 1987 (52 FR 24634), EPA promulgated two primary standards for PM_{10}: A 24-hour standard of 150 micrograms per cubic meter (μg/m³) and an annual PM_{10} standard of 50 μg/m³. EPA also promulgated secondary PM_{10} standards that were identical to the primary standards.

Effective December 18, 2006, EPA revoked the annual PM_{10} standard but retained the 24-hour PM_{10} standard.[1] 71 FR 61144 (October 17, 2006). The 24-hour PM_{10} standard is attained when the expected number of days per calendar year with a 24-hour concentration above 154 μg/m³, as determined in accordance with 40 CFR part 50, appendix K, is equal to or less than one.[2] 40 CFR 50.6 and 40 CFR part 50, appendix K.

The EPA also promulgated policies and regulations by which it will implement the PM_{10} NAAQS (52 FR 24672). In accordance with these policies, EPA has categorized areas of the Nation into three groups based on the likelihood that the existing SIP must be revised to protect the PM_{10} NAAQS. Areas with a strong likelihood of violating the PM_{10} NAAQS and requiring substantial SIP revisions were placed in Group I; areas where attainment of the PM_{10} NAAQS is uncertain and the SIP may require only slight adjustment were placed in Group II; and areas with a strong likelihood of attaining the PM_{10} NAAQS, and therefore probably having an adequate control strategy, were placed in Group III.[3] By this notice, EPA is identifying the Group I and Group II areas in Montana that reached attainment.

B. Columbia Falls PM_{10} Nonattainment Area

On August 7, 1987 (52 FR 29383), EPA identified a number of areas across the country as PM_{10} "Group II" areas of concern, that is, areas between 20% and 95% likelihood of violating the PM_{10} NAAQS. The Columbia Falls PM_{10} nonattainment area was identified as a Group II area of concern.

Areas meeting the requirements of section 107(d)(4)(B) were designated nonattainment for PM_{10} by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. 42 U.S.C. 7407(d)(4)(B). These areas included all former Group II PM_{10} planning areas identified on August 7, 1987 (52 FR 29383), and other areas violating the NAAQS for PM_{10} prior to January 1, 1989. On October 31, 1990 (55 FR 45799), EPA further clarified the descriptions of Group I and Group II areas of concern listed in the August 7, 1987 (52 FR 29383) notice. A **Federal Register** notice announcing the areas designated nonattainment for PM_{10} upon enactment of the 1990 Clean Air Act Amendments, known as "initial" PM_{10} nonattainment areas, was published on March 15, 1991 (56 FR 11101). The Columbia Falls PM_{10} nonattainment area was one of these initial moderate PM_{10} nonattainment areas.

i. Attainment Date for the Columbia Falls PM_{10} Nonattainment Area

All initial moderate PM_{10} nonattainment areas had the same applicable attainment date of December 31, 1994. States containing initial moderate PM_{10} nonattainment areas were required to develop and submit to EPA by November 15, 1991, a SIP revision providing for implementation of reasonably available control measures (RACM), including reasonably available control technology (RACT), and a demonstration of whether attainment of

[1] Because the annual PM_{10} standard was revoked effective December 18, 2006, *see* 71 FR 61144 (October 17, 2006), this document discusses only attainment of the 24-hour PM_{10} standard. Columbia Falls and Libby PM_{10} nonattainment areas were in attainment of the revoked annual PM_{10} standard.

[2] An exceedance is defined as a daily value that is above the level of the 24-hour standard (150 μg/m³) after rounding to the nearest 10 μg/m³ (*i.e.* values ending in 5 or greater are to be rounded up). Thus, a recorded value of 154 μg/m³ would not be an exceedance since it would be rounded to 150 μg/m³ whereas a recorded value of 155 μg/m³ would be an exceedance since it would be rounded to 160 μg/m³. See 40 CFR part 50, appendix K, section 1.0.

[3] The EPA used a three-step process to categorize areas into Groups I, II, and III. First, where only ambient TSP data or limited amounts of PM_{10} data were available, EPA in cooperation with State agencies used those data and the probability guideline to classify areas preliminarily as Group I, II, or III. The EPA presumed that, at a minimum, the (1) areas with a probability of not attaining the PM_{10} standard of at least 95 percent fit into Group I; (2) areas with a probability of between 20 and 95 percent fit into Group II; and (3) areas with a probability of less than 20 percent fit into Group III. 52 FR 29383, 29384 (August 7, 1987).

the PM_{10} NAAQS by the December 31, 1994 attainment date was practicable. *See* section 189(a).

ii. PM_{10} Planning in the Columbia Falls PM_{10} Nonattainment Area

After the Columbia Falls PM_{10} nonattainment area was designated nonattainment for PM_{10}, the Montana Board of Health and Environmental Sciences (MBHES) began in the early 1990s to prepare the technical elements needed to bring the area into attainment and meet the planning requirements of Title I of the CAA. Based on these technical elements, MBHES developed and implemented control measures on PM_{10} sources in the Columbia Falls PM_{10} nonattainment area. The Columbia Falls PM_{10} SIP was originally adopted by the MBHES on January 24, 1992, and submitted to EPA on May 6, 1992. Deficiencies were identified by EPA and the final technical corrections were submitted to EPA on June 15, 1993. EPA approved the Columbia Falls PM_{10} SIP on April 14, 1994, with technical corrections dated June 15, 1993 (59 FR 17700). The State failed to submit the contingency measures by the November 15, 1993, due date. On January 19, 1994, EPA made a finding that the State failed to submit the contingency measures. In response to this finding the Governor of Montana submitted revisions to the SIP for Columbia Falls dated August 26, 1994, to address the contingency measures and EPA approved the revisions on March 19, 1996 (61 FR 11153).

C. The Libby PM_{10} Nonattainment Area

On August 7, 1987 (52 FR 29383), EPA identified a number of areas across the country as PM_{10} "Group I" areas of concern, that is, areas with a 95% or greater likelihood of violating the PM_{10} NAAQS and requiring substantial planning efforts. The Libby PM_{10} nonattainment area was identified as a Group I area of concern.

Areas meeting the requirements of section 107(d)(4)(B) were designated nonattainment for PM_{10} by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. See 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM_{10} planning areas identified on August 7, 1987 (52 FR 29383), and other areas violating the NAAQS for PM_{10} prior to January 1, 1989. On October 31, 1990 (55 FR 45799), EPA further clarified the descriptions of Group I and Group II areas of concern listed in the August 7, 1987 (52 FR 29383) notice. A **Federal Register** notice announcing the areas designated nonattainment for PM_{10} upon enactment of the 1990 Clean Air Act Amendments, known as "initial" PM_{10} nonattainment areas, was published on March 15, 1991 (56 FR 11101). The Libby PM_{10} nonattainment area was one of these initial moderate PM_{10} nonattainment areas.

i. Attainment Date for the Libby PM_{10} Nonattainment Area

All initial moderate PM_{10} nonattainment areas had the same applicable attainment date of December 31, 1994. States containing initial moderate PM_{10} nonattainment areas were required to develop and submit to EPA by November 15, 1991, a SIP revision providing implementation of RACM, including RACT, and a demonstration of whether attainment of the PM_{10} NAAQS by the December 31, 1994 attainment date was practicable. See section 189(a).

ii. PM_{10} Planning in the Libby PM_{10} Nonattainment Area

After the Libby PM_{10} nonattainment area was designated nonattainment for PM_{10}, the MBHES began in the early 1990s to prepare the technical elements needed to bring the area into attainment and meet the planning requirements of Title I of the CAA. Based on these technical elements, MBHES developed and implemented control measures on PM_{10} sources in the Libby PM_{10} nonattainment area. The Libby PM_{10} SIP was originally adopted by the MBHES on November 15, 1991, and submitted to EPA on November 25, 1991. Deficiencies were identified by EPA and revisions were adopted by MBHES on March 19, 1993, and submitted to EPA on May 24, 1993. Final technical corrections to the SIP were sent to EPA on June 3, 1994. EPA approved the Libby PM_{10} SIP, with the exception of the contingency measures, on August 30, 1994 (59 FR 44627). The Governor of Montana submitted revisions to the contingency measures on March 15, 1995 and EPA approved the contingency measures on September 30, 1996 (61 FR 51014).

III. Attainment Determination

A. What are the requirements for an attainment determination?

Generally, EPA determines whether an area's air quality is meeting the PM_{10} NAAQS based upon complete, quality-assured data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment areas and entered in the EPA Air Quality System (AQS). Data from air monitors operated by state/local/tribal agencies in compliance with EPA monitoring requirements must be submitted to AQS. EPA relies primarily on data in AQS when determining the attainment status of an area. See 40 CFR 50.6; 40 CFR part 50, appendix J; and 40 CFR part 58, appendix A. EPA will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS, including the quality assurance and quality control criteria in 40 CFR part 58, appendix A. 40 CFR 58.14 (2006) and 58.20 (2007);[4] 71 FR 61236, 61242 (October 17, 2006). All valid data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix K.

Attainment of the 24-hour PM_{10} standard is determined by calculating the expected number of exceedances of the standard in a year. The 24-hour standard is attained when the expected number of days per calendar year with a 24-hour concentration above 154 $\mu g/m^3$ is less than or equal to one. Generally, three consecutive years of air quality data are required to show attainment of the 24-hour PM_{10} standard.

B. What do the air quality data show for the Columbia Falls PM_{10} nonattainment Area?

Because the Columbia Falls PM_{10} nonattainment area had a December 31, 1994, attainment date, our determination of whether or not the area attained the standard is based on 1992, 1993 and 1994 complete quality-assured data for the area. During that period, the State of Montana operated one PM_{10} SLAMS monitoring site at the Columbia Falls Junior High School, which is within the Columbia Falls nonattainment area. The monitoring site met EPA SLAMS network design and siting requirements set forth at 40 CFR part 58, appendices D and E. The Columbia Falls Junior High School monitor began operation on April 21, 1987 and ceased operation on December 28, 2002.

Our review of complete quality-assured air quality data from the Columbia Falls Junior High School site for the period from January 1, 1992 through December 31, 1994, shows no data values exceeded the level of the 24-hour standard. Because there were no recorded exceedances of the 24-hour

[4] EPA promulgated amendments to the ambient air monitoring regulations in 40 CFR parts 53 and 58 on October 17, 2006. *See* 71 FR 61236. The requirements for Special Purpose Monitors were revised and moved from 40 CFR 58.14 to 40 CFR 58.20.

PM_{10} standard during calendar years 1992–1994, the estimated number of PM_{10} exceedances for the 1992–1994 period is 0.0, as seen in Figure 1. Therefore, the Columbia Falls nonattainment area has demonstrated attainment for the 24-hour PM_{10} NAAQS as of the attainment date of December 31, 1994. Additionally, we evaluated complete quality-assured air quality data at all monitors within the Columbia Falls PM_{10} nonattainment area after the attainment date of December 31, 1994 to 2009 and found no recorded exceedances.

FIGURE 1—NUMBER OF ESTIMATED PM_{10} EXCEEDANCES IN COLUMBIA FALLS NONATTAINMENT AREA

	Columbia Falls Junior High School	Corner of C St & 4th Ave	Corner of C St & 4th Ave
	30–029–0003–2	30–029–0007–1	30–029–0007–2
1992	0	*	*
1993	0	*	*
1994	0	*	*
1995	0	*	*
1996	0	*	*
1997	0	*	*
1998	0	*	*
1999	0	*	*
2000	0	*	*
2001	0	0	*
2002	0	0	*
2003	*	0	*
2004	*	0	*
2005	*	0	0
2006	*	0	0
2007	*	0	0
2008	*	0	0
2009	*	0	0

*No Data Collected.

C. What do the air quality data show for the Libby PM_{10} nonattainment area?

Because the Libby PM_{10} nonattainment area had a December 31, 1994, attainment date, our determination of whether or not the area attained the standard is based on 1992, 1993 and 1994 complete quality-assured data for the area. During that period, the State of Montana operated two PM_{10} SLAMS monitoring sites within the Libby nonattainment area: the Lincoln County Courthouse site and the Libby Courthouse Annex site. Both monitoring sites met EPA SLAMS network design and siting requirements set forth at 40 CFR part 58, appendices D and E. The Lincoln County Courthouse monitor began operation on April 21, 1987 and ceased operation on March 31, 1995. The Libby Courthouse Annex monitor began operating on October 8, 1993 and continues to operate.

Our review of complete quality-assured air quality data from the Lincoln County Courthouse site and the Libby Courthouse Annex site for the period from January 1, 1992 through December 31, 1994, shows no data values exceeded the level of the 24-hour standard. Because there were no recorded exceedances of the 24-hour PM_{10} standard during calendar years 1992–1994, the estimated number of PM_{10} exceedances for the 1992–1994 period is 0.0, as seen in Figure 2. Therefore, the Libby nonattainment area has demonstrated attainment for the 24-hour PM_{10} NAAQS as of the attainment date of December 31, 1994. Additionally, we evaluated complete quality-assured air quality data at all monitors within the Libby PM_{10} nonattainment area after the attainment date of December 31, 1994 to 2009 and found no recorded exceedances.

FIGURE 2—NUMBER OF ESTIMATED PM_{10} EXCEEDANCE IN LIBBY PM_{10} NONATTAINMENT AREA

	Lincoln Courthouse	Libby Courthouse Annex	Libby Courthouse Annex
	30–053–0012–2	30–053–0018–1	30–053–0018–2
1992	0	*	*
1993	0	0	*
1994	0	0	*
1995	0	0	*
1996	*	0	*
1997	*	0	*
1998	*	0	*
1999	*	0	*
2000	*	0	*
2001	*	0	*
2002	*	0	0
2003	*	0	0
2004	*	0	0
2005	*	0	0
2006	*	0	0
2007	*	0	0

FIGURE 2—NUMBER OF ESTIMATED PM_{10} EXCEEDANCE IN LIBBY PM_{10} NONATTAINMENT AREA—Continued

	Lincoln Courthouse	Libby Courthouse Annex	Libby Courthouse Annex
	30–053–0012–2	30–053–0018–1	30–053–0018–2
2008	*	0	0
2009	*	0	*

*No Data Collected

IV. EPA's Final Action

EPA is determining that the Columbia Falls and Libby areas have attained the PM_{10} standard based on the three years of complete, quality-assured data as of the attainment date of December 31, 1994. For the period from 1992–1994, the expected exceedance for both areas is 0.0, which is equal to or less than the expected exceedance rate of 1.0 (40 CFR part 50, appendix K). Because complete quality-assured data for this period shows an expected exceedance rate equal to or below the PM_{10} standard, EPA concludes that the areas have met the standard. Pursuant to CAA § 188(c), EPA is required to make a determination of attainment. There were no violations and therefore no health risk. EPA therefore determines that the Columbia Falls and Libby nonattainment areas have attained the 24-hour PM_{10} NAAQS as of the December 31, 1994 attainment date.

V. Statutory and Executive Order Review

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 20, 2011.

James B. Martin,

Regional Administrator, Region 8.

[FR Doc. 2011–2121 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–8167]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.;* unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

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

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

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

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

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region II				
New York:				
Bloomingburg, Village of, Sullivan County.	361473	November 28, 1975, Emerg; April 17, 1985, Reg; February 18, 2011, Susp.	Feb. 18, 2011 ...	Feb. 18, 2011.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Fallsburg, Town of, Sullivan County	360819	October 29, 1974, Emerg; March 9, 1984, Reg; February 18, 2011, Susp.	.....do*	Do.
Fremont, Town of, Sullivan County	360821	April 11, 1975, Emerg; May 25, 1984, Reg; February 18, 2011, Susp.	.....do	Do.
Highland, Town of, Sullivan County	360822	August 30, 1974, Emerg; March 23, 1984, Reg; February 18, 2011, Susp.	.....do	Do.
Jeffersonville, Village of, Sullivan County.	361474	June 19, 1975, Emerg; March 23, 1984, Reg; February 18, 2011, Susp.	.....do	Do.
Lumberland, Town of, Sullivan County	360825	April 21, 1975, Emerg; February 27, 1984, Reg; February 18, 2011, Susp.	.....do	Do.
Mamakating, Town of, Sullivan County	360826	October 6, 1976, Emerg; September 24, 1984, Reg; February 18, 2011, Susp.	.....do	Do.
Monticello, Village of, Sullivan County	361613	May 10, 1984, Emerg; May 10, 1984, Reg; February 18, 2011, Susp.	.....do	Do.
Neversink, Town of, Sullivan County	360828	July 7, 1975, Emerg; May 25, 1984, Reg; February 18, 2011, Susp.	.....do	Do.
Tusten, Town of, Sullivan County	360831	May 13, 1975, Emerg; August 27, 1982, Reg; February 18, 2011, Susp.	.....do	Do.
Wurtsboro, Village of, Sullivan County	361476	December 23, 1975, Emerg; May 25, 1984, Reg; February 18, 2011, Susp.	.....do	Do.
Region III				
Pennsylvania:				
Ayr, Township of, Fulton County	422428	March 9, 1977, Emerg; July 2, 1982, Reg; February 18, 2011, Susp.	.....do	Do.
Belfast, Township of, Fulton County	421659	November 15, 1984, Emerg; August 5, 1985, Reg; February 18, 2011, Susp.	.....do	Do.
Bethel, Township of, Fulton County	422429	June 11, 1976, Emerg; June 11, 1982, Reg; February 18, 2011, Susp.	.....do	Do.
Brush Creek, Township of, Fulton County.	421660	July 11, 1984, Emerg; October 15, 1985, Reg; February 18, 2011, Susp.	.....do	Do.
Dublin, Township of, Fulton County	421661	August 5, 1975, Emerg; September 1, 1986, Reg; February 18, 2011, Susp.	.....do	Do.
Licking Creek, City of, Fulton County	421662	February 3, 1977, Emerg; May 1, 1986, Reg; February 18, 2011, Susp.	.....do	Do.
McConnellsburgh, Borough of, Fulton County.	422701	April 7, 1995, Emerg; February 9, 2001, Reg; February 18, 2011, Susp.	.....do	Do.
Taylor, Township of, Fulton County	421663	October 14, 1975, Emerg; September 1, 1986, Reg; February 18, 2011, Susp.	.....do	Do.
Thompson, Township of, Fulton County	421664	December 23, 1977, Emerg; June 1, 1986, Reg; February 18, 2011, Susp.	.....do	Do.
Todd, Township of, Fulton County	421665	December 11, 1975, Emerg; September 1, 1986, Reg; February 18, 2011, Susp.	.....do	Do.
Union, Township of, Fulton County	422430	December 19, 1977, Emerg; February 25, 1983, Reg; February 18, 2011, Susp.	.....do	Do.
Wells, Township of, Fulton County	421666	December 4, 1975, Emerg; May 1, 1986, Reg; February 18, 2011, Susp.	.....do	Do.
Virginia:				
Appalachia, Town of, Wise County	510319	March 27, 1975, Emerg; September 17, 1980, Reg; February 18, 2011, Susp.	.....do	Do.
Big Stone Gap, Town of, Wise County	515521	June 19, 1970, Emerg; December 11, 1970, Reg; February 18, 2011, Susp.	.....do	Do.
Bluefield, Town of, Tazewell County	510161	July 30, 1973, Emerg; July 17, 1978, Reg; February 18, 2011, Susp.	.....do	Do.
Cedar Bluff, Town of, Tazewell County	510162	November 29, 1974, Emerg; April 4, 1983, Reg; February 18, 2011, Susp.	.....do	Do.
Coeburn, Town of, Wise County	510176	March 6, 1975, Emerg; July 2, 1980, Reg; February 18, 2011, Susp.	.....do	Do.
Jonesville, Town of, Lee County	510086	July 2, 1975, Emerg; October 30, 1981, Reg; February 18, 2011, Susp.	.....do	Do.
Lee County, Unincorporated Areas	510085	January 23, 1975, Emerg; March 4, 1987, Reg; February 18, 2011, Susp.	.....do	Do.
Norton, City of, Independent City	510108	March 17, 1972, Emerg; February 16, 1977, Reg; February 18, 2011, Susp.	.....do	Do.
Pennington Gap, Town of, Lee County	510087	June 17, 1975, Emerg; September 4, 1986, Reg; February 18, 2011, Susp.	.....do	Do.
Pocahontas, Town of, Tazewell County	510337	September 14, 1983, Emerg; September 14, 1983, Reg; February 18, 2011, Susp.	.....do	Do.
Pound, Town of, Wise County	510177	January 24, 1975, Emerg; March 2, 1981, Reg; February 18, 2011, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Richlands, Town of, Tazewell County	510163	December 5, 1974, Emerg; April 4, 1983, Reg; February 18, 2011, Susp.	do	Do.
St. Charles, Town of, Lee County	510088	April 21, 1975, Emerg; September 4, 1986, Reg; February 18, 2011, Susp.	do	Do.
St. Paul, Town of, Russell and Wise Counties.	515530	June 19, 1970, Emerg; December 4, 1970, Reg; February 18, 2011, Susp.	do	Do.
Tazewell, Town of, Tazewell County	510164	October 9, 1974, Emerg; August 15, 1983, Reg; February 18, 2011, Susp.	do	Do.
Tazewell County, Unincorporated Areas	510160	May 13, 1975, Emerg; September 1, 1983, Reg; February 18, 2011, Susp.	do	Do.
Wise, Town of, Wise County	510179	March 3, 1975, Emerg; April 15, 1981, Reg; February 18, 2011, Susp.	do	Do.
Wise County, Unincorporated Areas	510174	October 30, 1974, Emerg; August 17, 1981, Reg; February 18, 2011, Susp.	do	Do.
Region IV				
Alabama:				
Chambers County, Unincorporated Areas.	010026	July 29, 1975, Emerg; July 4, 1988, Reg; February 18, 2011, Susp.	do	Do.
Lafayette, City of, Chambers County	010028	September 30, 1975, Emerg; September 18, 1985, Reg; February 18, 2011, Susp.	do	Do.
Lanett, City of, Chambers County	010029	May 13, 1975, Emerg; July 4, 1988, Reg; February 18, 2011, Susp.	do	Do.
Valley, City of, Chambers County	010424	September 15, 1998, Emerg; February 18, 2011, Reg; February 18, 2011, Susp.	do	Do.
Mississippi:				
Columbus, City of, Lowndes County	280108	March 3, 1972, Emerg; July 13, 1976, Reg; February 18, 2011, Susp.	do	Do.
Lowndes County, Unincorporated Areas	280193	January 14, 1974, Emerg; November 15, 1979, Reg; February 18, 2011, Susp.	do	Do.
Region V				
Illinois:				
Albany, Village of, Whiteside County	170688	April 1, 1974, Emerg; June 15, 1981, Reg; February 18, 2011, Susp.	do	Do.
Belvidere, City of, Boone County	170008	June 26, 1974, Emerg; January 6, 1982, Reg; February 18, 2011, Susp.	do	Do.
Boone County, Unincorporated Areas	170807	May 1, 1974, Emerg; November 17, 1982, Reg; February 18, 2011, Susp.	do	Do.
Cherry Valley, Village of, Boone and Winnebago Counties.	170721	February 18, 1975, Emerg; March 16, 1981, Reg; February 18, 2011, Susp.	do	Do.
Elkhart, Village of, Logan County	171010	February 12, 1982, Emerg; September 4, 1986, Reg; February 18, 2011, Susp.	do	Do.
Erie, Village of, Whiteside County	170689	February 11, 1974, Emerg; February 15, 1985, Reg; February 18, 2011, Susp.	do	Do.
Fulton, City of, Whiteside County	170690	July 2, 1975, Emerg; May 17, 1982, Reg; February 18, 2011, Susp.	do	Do.
Lincoln, City of, Logan County	170428	June 16, 1975, Emerg; October 16, 1979, Reg; February 18, 2011, Susp.	do	Do.
Loves Park, City of, Boone and Winnebago Counties.	170722	February 23, 1973, Emerg; October 17, 1978, Reg; February 18, 2011, Susp.	do	Do.
Lyndon, Village of, Whiteside County	170917	March 15, 1979, Emerg; March 1, 1984, Reg; February 18, 2011, Susp.	do	Do.
Morrison, City of, Whiteside County	170691	June 10, 1975, Emerg; September 30, 1988, Reg; February 18, 2011, Susp.	do	Do.
Prophetstown, City of, Whiteside County.	170692	April 8, 1974, Emerg; August 1, 1986, Reg; February 18, 2011, Susp.	do	Do.
Rock Falls, City of, Whiteside County	170694	May 1, 1974, Emerg; September 1, 1986, Reg; February 18, 2011, Susp.	do	Do.
Sterling, City of, Whiteside County	170693	April 2, 1975, Emerg; October 5, 1984, Reg; February 18, 2011, Susp.	do	Do.
Whiteside County, Unincorporated Areas.	170687	March 16, 1973, Emerg; February 19, 1986, Reg; February 18, 2011, Susp.	do	Do.
Indiana:				
Seelyville, Town of, Vigo County	180310	November 24, 1975, Emerg; May 25, 1978, Reg; February 18, 2011, Susp.	do	Do.
Terre Haute, City of, Vigo County	180264	January 23, 1974, Emerg; December 1, 1981, Reg; February 18, 2011, Susp.	do	Do.
Vigo County, Unincorporated Areas	180263	June 28, 1974, Emerg; November 2, 1983, Reg; February 18, 2011, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region VI				
Louisiana:				
Calcasieu Parish, Unincorporated Areas	220037	December 31, 1971, Emerg; September 29, 1978, Reg; February 18, 2011, Susp.	.....do	Do.
De Quincy, City of, Calcasieu Parish	220038	August 29, 1973, Emerg; April 2, 1979, Reg; February 18, 2011, Susp.	.....do	Do.
Vinton, Town of, Calcasieu Parish	220042	February 6, 1975, Emerg; July 16, 1981, Reg; February 18, 2011, Susp.	.....do	Do.
Texas:				
Bailey, City of, Fannin County	480808	November 29, 1991, Emerg; July 1, 1992, Reg; February 18, 2011, Susp.	.....do	Do.
Bonham, City of, Fannin County	480222	January 3, 1975, Emerg; May 5, 1981, Reg; February 18, 2011, Susp.	.....do	Do.
Fannin County, Unincorporated Areas ..	480807	September 9, 2004, Emerg; January 4, 2005, Reg; February 18, 2011, Susp.	.....do	Do.
Hale County, Unincorporated Areas	481223	July 26, 1985, Emerg; February 1, 1988, Reg; February 18, 2011, Susp.	.....do	Do.
Leonard, City of, Fannin County	480812	August 15, 2005, Emerg; February 11, 2009, Reg; February 18, 2011, Susp.	.....do	Do.
Plainview, City of, Hale County	480275	September 7, 1973, Emerg; March 16, 1989, Reg; February 18, 2011, Susp.	.....do	Do.
Whitewright, Town of, Fannin and Grayson Counties.	480839	December 18, 1981, Emerg; June 19, 1985, Reg; February 18, 2011, Susp.	.....do	Do.
Windom, Town of, Fannin County	481165	January 27, 2010, Emerg; February 18, 2011, Reg; February 18, 2011, Susp.	.....do	Do.
Region VII				
Iowa:				
Bettendorf, City of, Scott County	190240	February 4, 1972, Emerg; June 1, 1978, Reg; February 18, 2011, Susp.	.....do	Do.
Buffalo, City of, Scott County	190241	September 26, 1974, Emerg; September 17, 1980, Reg; February 18, 2011, Susp.	.....do	Do.
Davenport, City of, Scott County	190242	July 25, 1973, Emerg; March 1, 1978, Reg; February 18, 2011, Susp.	.....do	Do.
Donahue, City of, Scott County	190505	February 10, 1988, Emerg; May 1, 1990, Reg; February 18, 2011, Susp.	.....do	Do.
Panorama Park, City of, Scott County ..	190506	N/A, Emerg; December 17, 1990, Reg; February 18, 2011, Susp.	.....do	Do.
Riverdale, City of, Scott County	190245	July 7, 1975, Emerg; January 5, 1978, Reg; February 18, 2011, Susp.	.....do	Do.
Scott County, Unincorporated Areas	190239	December 30, 1971, Emerg; June 1, 1977, Reg; February 18, 2011, Susp.	.....do	Do.
Walcott, City of, Muscatine and Scott Counties.	190675	July 29, 1998, Emerg; November 7, 2001, Reg; February 18, 2011, Susp.	.....do	Do.
Nebraska:				
Bennet, Village of, Lancaster County	310251	August 3, 1976, Emerg; March 2, 1981, Reg; February 18, 2011, Susp.	.....do	Do.
Denton, Village of, Lancaster County ...	310498	July 9, 1998, Emerg; September 21, 2001, Reg; February 18, 2011, Susp.	.....do	Do.
Firth, Village of, Lancaster County	310135	July 22, 1975, Emerg; April 15, 1981, Reg; February 18, 2011, Susp.	.....do	Do.
Hickman, City of, Lancaster County	310136	May 27, 1975, Emerg; February 3, 1982, Reg; February 18, 2011, Susp.	.....do	Do.
Lancaster County, Unincorporated Areas.	310134	February 16, 1979, Emerg; February 3, 1982, Reg; February 18, 2011, Susp.	.....do	Do.
Lincoln, City of, Lancaster County	315273	April 17, 1970, Emerg; April 23, 1971, Reg; February 18, 2011, Susp.	.....do	Do.
Malcolm, Village of, Lancaster County ..	310500	N/A, Emerg; March 30, 2009, Reg; February 18, 2011, Susp.	.....do	Do.
Raymond, Village of, Lancaster County	310138	April 18, 1985, Emerg; April 18, 1985, Reg; February 18, 2011, Susp.	.....do	Do.
Sprague, Village of, Lancaster County	310495	October 18, 1996, Emerg; September 21, 2001, Reg; February 18, 2011, Susp.	.....do	Do.
Talmage, Village of, Otoe County	310167	December 23, 1974, Emerg; June 1, 1982, Reg; February 18, 2011, Susp.	.....do	Do.
Waverly, City of, Lancaster County	310140	June 13, 1975, Emerg; April 15, 1982, Reg; February 18, 2011, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region IX				
California: Wheatland, City of, Yuba County	060460	February 10, 1976, Emerg; September 29, 1986, Reg; February 18, 2011, Susp.	.....do	Do.

.....do* = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: January 21, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation

[FR Doc. 2011–1977 Filed 1–28–11; 8:45 am]

BILLING CODE 9110–12–P

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule; Correction.

SUMMARY: The Legal Services Corporation ("Corporation") is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines as issued by the Department of Health and Human Services.

DATES: *Effective Date:* This rule is effective as of January 31, 2011.

FOR FURTHER INFORMATION CONTACT: Mattie Cohan, Senior Assistant General Counsel, Legal Services Corporation, 3333 K St., NW., Washington, DC 20007; (202) 295–1624; *mcohan@lsc.gov.*

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act ("Act"), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(c) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. Since 1982, the Department of Health and Human Services has been responsible for updating and issuing the Federal Poverty Guidelines.

On January 26, 2011, LSC issued a notice in the Federal Register (76 FR 4550) which instead of setting forth the new 2011 income guidelines amounts, erroneously restated the 2010 notice. The figures for set out below have been corrected for 2011 and are equivalent to 125% of the current Federal Poverty Guidelines as published on January 20, 2011 (76 FR 3637).

In addition, LSC is publishing charts listing income levels that are 200% of the Federal Poverty Guidelines. These charts are for reference purposes only as an aid to grant recipients in assessing the financial eligibility of an applicant whose income is greater than 125% of the applicable Federal Poverty Guidelines amount, but less than 200% of the applicable Federal Poverty Guidelines amount (and who may be found to be financially eligible under duly adopted exceptions to the annual income ceiling in accordance with §§ 1611.3, 1611.4 and 1611.5).

List of Subjects in 45 CFR Part 1611

Grant Programs—Law, Legal Services.

For reasons set forth above, 45 CFR 1611 is amended as follows:

PART 1611—ELIGIBILITY

■ 1. The authority citation for part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

■ 2. Appendix A of part 1611 is revised to read as follows:

Appendix A of Part 1611

LEGAL SERVICES CORPORATION 2011 INCOME GUIDELINES *

Size of household	48 Contiguous States and the District of Columbia	Alaska	Hawaii
1	$13,613	$17,000	$15,675
2	18,388	22,975	21,163
3	23,163	28,950	26,650
4	27,938	34,925	32,178
5	32,713	40,900	37,625
6	37,488	46,875	43,113
7	42,263	52,850	48,600
8	47,038	58,825	54,088
For each additional member of the household in excess of 8, add:	4,775	5,975	5,488

* The figures in this table represent 125% of the poverty guidelines by household size as determined by the Department of Health and Human Services.

REFERENCE CHART—200% OF DHHS FEDERAL POVERTY GUIDELINES

Size of household	48 Contiguous States and the District of Columbia	Alaska	Hawaii
1	$21,780	$27,200	$25,080
2	29,420	36,760	33,860
3	37,060	46,320	42,640
4	44,700	55,880	51,420
5	52,340	65,540	69,200
6	59,980	75,000	68,980
7	67,620	84,540	77,760
8	75,260	94,120	86,540
For each additional member of the household in excess of 8, add:	7,640	9,560	8,780

Mattie Cohan,

Senior Assistant General Counsel.

[FR Doc. 2011–2089 Filed 1–28–11; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 11–27; MB Docket No. 08–194; RM–11488]

Television Broadcasting Services; Huntsville, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission grants a petition for rulemaking filed by Local TV Alabama License, LLC, the licensee of station WHNT–TV, Huntsville, Alabama. Local TV requests the substitution of channel 19 for channel 46 at Huntsville, Alabama.

DATES: This rule is effective March 2, 2011.

FOR FURTHER INFORMATION CONTACT: David Brown, *david.brown@fcc.gov,* Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 08–194, adopted January 5, 2011, and released January 12, 2011. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *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).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Alabama, is amended by adding channel 19 and removing channel 46 at Huntsville.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 2011–1936 Filed 1–28–11; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070817467–8554–02]

RIN 0648–XA171

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Delmarva Scallop Access Area to Limited Access General Category (LAGC) Individual Fishing Quota (IFQ) Scallop Vessels

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the Delmarva Scallop Access Area will close to LAGC IFQ scallop vessels for the remainder of the 2010 fishing year. Therefore, as of the effective date, no scallop vessel fishing under LAGC IFQ regulations may declare its intent to enter, or fish in the Delmarva Scallop Access Area. This action is based on the determination that 714 general category scallop trips into the Delmarva Access Area are projected to be taken as of 0001 hours, January 29, 2011. This action is being taken to prevent the allocation of LAGC IFQ trips in the Delmarva Scallop Access Area from being exceeded during the 2010 fishing year, in accordance with the regulations implementing Framework 21 to the

Atlantic Sea Scallop Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Effective January 29, 2011, through February 28, 2011.

FOR FURTHER INFORMATION CONTACT: Don Frei, Fishery Management Specialist, (978) 281–9221, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing fishing activity in the Sea Scallop Access Areas are found at §§ 648.59 and 648.60. These regulations authorize vessels issued a valid LAGC IFQ scallop permit to fish in the Delmarva Scallop Access Area under specific conditions, including a total of 714 trips that may be taken by LAGC IFQ vessels during the 2010 fishing year. The regulations at § 648.59(a)(3)(ii) require the Delmarva Scallop Access Area to be closed to LAGC IFQ vessels once the Northeast Regional Administrator has determined that the allowed number of trips are projected to be taken.

Based on trip declarations by LAGC IFQ scallop vessels fishing in the Delmarva Scallop Access Area, and analysis of fishing effort, a projection concluded that 714 trips will have been taken on January 29, 2011. Therefore, in accordance with the regulations at § 648.59(a)(3)(ii), the Delmarva Scallop Access Area is closed to all LAGC IFQ scallop vessels as of January 29, 2011. Therefore, as of this effective date, no scallop vessel fishing under LAGC IFQ regulations may declare its intent to enter, or fish in the Delmarva Scallop Access Area. Any vessel that has declared into the LAGC IFQ Delmarva Access Area scallop fishery, complied with all trip notification and observer requirements, and crossed the VMS demarcation line on the way to the area, may complete the trip. This closure is in effect for the remainder of the 2010 scallop fishing year under current regulations.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

This action closes the Delmarva Scallop Access Area to all LAGC IFQ category scallop vessels for the remainder of the 2010 fishing year. The regulations at § 648.59(e)(4)(ii) require such action to ensure that LAGC IFQ scallop vessels do not take more than their allocated number of trips in the Delmarva Scallop Access Area. The Delamarva Scallop Access Area opened for the 2010 fishing year at 0001 hours on March 1, 2010. Data indicating the LAGC IFQ scallop fleet has taken all of the Delmarva Scallop Access Area trips have only recently become available. To allow LAGC IFQ scallop vessels to continue to take trips in the Delmarva Scallop Access Area during the period necessary to publish and receive comments on a proposed rule would result in vessels taking much more than the allowed number of trips in the Delmarva Scallop Access Area. Excessive trips and harvest from the Delmarva Scallop Access Area would result in excessive fishing effort in the Delmarva Scallop Access Area, where effort controls are critical, thereby undermining conservation objectives of the FMP. Should excessive effort occur in the Delmarva Scallop Access Area, future management measures would need to be more restrictive. Based on the above, under 5 U.S.C. 553(d)(3), proposed rulemaking is waived because it would be impracticable and contrary to the public interest to allow a period for public comment.

Furthermore, for the same reasons, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for this action.

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

Dated: January 26, 2011.

Emily H. Menashes,

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

[FR Doc. 2011–2068 Filed 1–26–11; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 76, No. 20

Monday, January 31, 2011

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

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 932, 955, 956, and 966

FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1269 and 1273

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Parts 1720 and 1750

RIN 2590–AA40

Alternatives to Use of Credit Ratings in Regulations Governing the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Federal Home Loan Banks

AGENCIES: Federal Housing Finance Board; Federal Housing Finance Agency; and Office of Federal Housing Enterprise Oversight.

ACTION: Advance notice of proposed rulemaking; request for comment.

SUMMARY: A number of regulations applicable to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises), and the Federal Home Loan Banks (Banks), contain specific references to, or requirements based on, credit ratings issued by credit rating organizations registered with the Securities and Exchange Commission as nationally recognized statistical rating organizations (NRSROs). Section 939A of the recently enacted Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) provides Federal agencies with one-year to review regulations that require the use of an assessment of the credit-worthiness of a security or money market instrument and any references to, or requirements in, such regulations regarding credit ratings, and to remove such references or requirements. In this advance notice of proposed rulemaking (ANPR), the Federal Housing Finance Agency (FHFA) describes the relevant regulations affected by this provision of the Dodd-Frank Act and requests comments on potential alternatives to the use of credit ratings in these regulations.

DATES: Comments on the proposed rule must be received on or before March 17, 2011.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AA40 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comments to the *Federal eRulemaking Portal,* please also send it by e-mail to FHFA at *RegComments@FHFA.gov* to ensure timely receipt by the agency. Please include "RIN 2590–AA40" in the subject line of the message.
- *E-mail:* Comments to Alfred M. Pollard, General Counsel may be sent by e-mail to *RegComments@FHFA.gov.* Please include "RIN 2590–AA40" in the subject line of the message.
- *Hand Delivery/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA40, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The package should be logged at the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA40, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: Scott Smith, Associate Director, Office of Capital Supervision, 202–414–8922, Federal Housing Finance Agency; Thomas E. Joseph, Senior Attorney-Advisor, 202–414–3095; or Jamie Schwing, Associate General Counsel, 202–414–3787, Office of General Counsel, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552; or Amy Bogdon, Associate Director for Regulatory Policy and Programs, Division of Federal Home Loan Bank Regulation, 202–408–2546 (these are not toll-free numbers), Federal Housing Finance Agency, 1625 Eye Street, NW., Washington, DC 20006. The telephone number for the Telecommunications Device for the Deaf is 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the ANPR, and will develop proposed regulations after taking all comments into consideration. Copies of all comments will be posted on the internet Web site at *https://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at 202–414–6924.

II. Background

A. Creation of the Federal Housing Finance Agency and Recent Legislation

Effective July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654, created FHFA as a new independent agency of the Federal Government, and transferred to FHFA the supervisory and oversight responsibilities of the Office of Federal Housing Enterprise Oversight (OFHEO) over the Enterprises, the supervisory and oversight responsibilities of the Federal Housing Finance Board (Finance Board) over the Banks and the Office of Finance (OF) (which acts as the Banks' fiscal agent) and certain functions of the Department of Housing and Urban Development. *See id.* at section 1101, 122 Stat. 2661–62. FHFA is responsible for ensuring that the Enterprises and the Banks operate in a safe and sound manner, including that they maintain adequate capital and internal controls, that their activities foster liquid, efficient, competitive and resilient national housing finance markets, and that they carry out their public policy missions through authorized activities. *See id.* at section 1102, 122 Stat. 2663–64. The Enterprises, the Banks, and the OF continue to operate under regulations

promulgated by OFHEO and the Finance Board until such regulations are superseded by regulations issued by FHFA. *See id.* at sections 1302, 1312, 122 Stat. 2795, 2798.

B. The Enterprises

The Enterprises are chartered by Congress for the purpose of establishing secondary market facilities for residential mortgages. *See* 12 U.S.C. 1716 *et seq.;* 12 U.S.C. 1451 *et seq.* Congress established the Enterprises to provide stability in the secondary mortgage market for residential mortgages, to respond appropriately to the private capital market, to provide ongoing assistance to the secondary market for residential mortgages, and to promote access to mortgage credit throughout the nation. *Id.*

On September 6, 2008, the Director of FHFA appointed FHFA as conservator of the Enterprises in accordance with the Safety and Soundness Act, as amended by HERA. The Enterprises remain under conservatorship at this time. Although the Enterprises' substantial market presence has been important to restoring market stability, neither company would be capable of serving the mortgage market today without the ongoing financial support provided by the United States Department of Treasury. The Administration has announced its intention to develop and present to Congress a proposal for the future of the nation's housing finance system that will include a proposal for the ultimate resolution of the Enterprises in conservatorship. While reliance on the Treasury Department's backing will continue until legislation produces a final resolution to the Enterprises' future, FHFA is monitoring the activities of the Enterprises to: (a) limit their risk and exposure by avoiding new lines of business; (b) ensure profitability in their new books of business without deterring market participation or hindering market recovery; and (c) minimize losses on the mortgages already on their books.

C. The Bank System

The twelve Banks are instrumentalities of the United States organized under the Federal Home Loan Bank Act (Bank Act).[1] *See* 12 U.S.C. 1423, 1432(a). The Banks are cooperatives; only members of a Bank may purchase the capital stock of a Bank, and only members or certain eligible housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank. *See* 12 U.S.C. 1426(a)(4), 1430(a), 1430(b). Each Bank is managed by its own board of directors and serves the public interest by enhancing the availability of residential credit through its member institutions. *See* 12 U.S.C. 1427. Any eligible institution (generally a federally insured depository institution or state-regulated insurance company) may become a member of a Bank if it satisfies certain criteria and purchases a specified amount of the Bank's capital stock. *See* 12 U.S.C. 1424; 12 CFR part 1263.

As government-sponsored enterprises, the Banks are granted certain privileges under federal law. In light of those privileges, the Banks typically can borrow funds at spreads over the rates on U.S. Treasury securities of comparable maturity lower than most other entities. The Banks pass along a portion of their funding advantage to their members—and ultimately to consumers—by providing advances and other financial services at rates that would not otherwise be available to their members. Consolidated obligations (COs), consisting of bonds and discount notes, are the principal funding source for the Banks. The OF issues all COs on behalf of the twelve Banks. Although each Bank is primarily liable for the portion of COs corresponding to the proceeds received by that Bank, each Bank is also jointly and severally liable with the other eleven Banks for the payment of principal and interest on all COs. 12 CFR 966.9.

D. Dodd-Frank Act Provisions

Section 939A of the recently enacted Dodd-Frank Act requires Federal agencies within one-year to: (i) Review regulations that require the use of an assessment of the credit-worthiness of a security or money market instrument; and (ii) to the extent those regulations contain any references to, or requirements regarding credit ratings, remove such references or requirements. *See* section 939A, Public Law 111–203, 124 Stat. 1887 (July 21, 2010). In place of such credit-rating based requirements, agencies are instructed to substitute appropriate standards for determining credit-worthiness. The new law further provides that, to the extent feasible, an agency should adopt a uniform standard of credit-worthiness for use in its regulations, taking into account the entities regulated by it and the purposes for which such regulated entities would rely on the credit-worthiness standard. At the conclusion of the review, each agency is required to transmit a report to Congress describing the modifications to its regulations that were made.

A number of regulations applicable to the Enterprises or the Bank System (which were previously adopted by OFHEO or the Finance Board, but remain in effect, or more recently adopted by FHFA) contain specific references to credit ratings issued by NRSROs for purposes of assigning capital requirements or setting investment or counterparty exposure limits. FHFA is issuing this ANPR to help it assess how it can change these regulations and to identify standards that may be appropriate as replacements for credit ratings issued by NRSROs. Federal banking agencies have also issued ANPRs as part of their process to address similar issues with regard to references to credit ratings in their capital regulations and prudential standards. *See* 75 FR 49423 (Aug. 13, 2010), and 75 FR 52283 (Aug. 25, 2010). The specific FHFA regulations at issue are discussed more fully below.

E. Considerations of Differences Between the Banks and the Enterprises

Section 1201 of HERA requires the Director, when promulgating regulations relating to the Banks, to consider the following differences between the Banks and the Enterprises: cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability. *See* section 1201 Public Law 110–289, 122 Stat. 2782–83 (*amending* 12 U.S.C. 4513). The Director also may consider any other differences that are deemed appropriate. While the Dodd-Frank Act mandates that each agency try, to the extent feasible, to develop uniform standards of credit-worthiness for use in its regulations in preparing any proposed rules, FHFA also will consider the differences between the Banks and the Enterprises as they relate to the above factors and how such factors may lead to differences between any standards ultimately adopted. To aid it in developing proposed regulations, FHFA requests comments from the public about whether or how differences related to these factors should be reflected in any possible regulations.

[1] Each Bank is generally referred to by the name of the city in which it is located. The twelve Banks are located in: Boston, New York, Pittsburgh, Atlanta, Cincinnati, Indianapolis, Chicago, Des Moines, Dallas, Topeka, San Francisco, and Seattle. The twelve Banks and the OF are collectively referred to as, and considered to make up, the Bank System.

III. Request for Comments

A. Description of Applicable Regulations

The regulations in question can be divided into two broad categories. The first category contains regulations that relate to capital requirements and apply specific capital charges based on NRSRO ratings of financial instruments or counterparties. The second category involves prudential standards and limits that may be applied to a regulated entity or on a regulated entity's investment or other business activities that reference or are otherwise based on credit ratings issued by NRSROs.

1. Risk-Based Capital Requirements

a. Enterprises

The risk-based capital requirements applicable to the Enterprises apply capital charges in part based on reference to credit ratings issued by NRSROs. Soon after placing the Enterprises in conservatorship, FHFA announced that, although it would closely monitor Enterprise capital levels, existing statutory and FHFA-directed regulatory capital requirements would not be binding on the Enterprises during the conservatorship. Even though not currently binding, the regulations for the Enterprises described below are still in effect, and FHFA might need to adopt new risk-based requirements for the Enterprises or their successors in a post-conservatorship environment. Thus, the question of credit-worthiness in applying a risk-based credit charge is relevant in considering risk-based capital requirements.

The current Enterprise risk-based capital regulations set forth detailed criteria for a stress test that is used to estimate losses for an Enterprise over a specific period. Under the requirements, an Enterprise's total capital must be sufficient so that it would remain positive during the entire stress period. *See* 12 CFR 1750.13. One component of the test, the Counterparty Default component, accounts for the risk of default by credit enhancement and derivative contract counterparties, and by corporate, municipal and mortgage-related securities. 12 CFR part 1750, subpart B, Appendix A, section 3.5. In calculating the Counterparty Default component, the regulations establish five rating categories, and slot counterparties and securities into these categories by reference to ratings issued by an NRSRO for the counterparty or security. The regulations, in turn, specify the maximum reduction in cash flows during the stress period to reflect the risk of default by a counterparty or for a specific security based in part on the assigned ratings category. *Id.* The reduced cash flows decrease earnings, or increase losses, which then translate to lower equity during the stress test. The difference between equity during the binding month of the stress test and starting equity forms the basis of an Enterprise's risk-based capital requirement.

b. Banks

Similarly, the risk-based capital requirements applicable to the Banks require the Banks to hold risk-based capital sufficient to meet the credit risk capital requirement for all assets, off-balance sheet items, and derivative contracts. *See* 12 CFR 932.4. The credit risk capital requirement is calculated in large part based on the credit ratings assigned by the NRSROs to a particular counterparty or to a specific financial instrument, and on maturity. *Id.*

2. Prudential Requirements

The other area of FHFA regulations that may reference or otherwise be based on credit ratings issued by NRSROs involves prudential standards or limits that may be applied to a regulated entity or to its investment activity. This is especially true for the Banks, for which a number of regulations reference such ratings.

a. Enterprises

With regard to the Enterprises, the references to credit ratings are found in guidance on non-mortgage liquidity investments set forth in Appendix B to part 1720. 12 CFR part 1720, Appendix B. Specifically, the guidance states that, as a safety and soundness matter, the Enterprises should establish minimum credit standards for any security eligible for purchase, and if such standards involve or cite credit ratings, NRSRO ratings should be used. *Id.* at section C(3)(c)(i). The policy also provides that sound risk management practices include disclosure about the risk of non-mortgage liquidity investments, including disclosure concerning credit quality or ratings of investments. *Id.* at section D(1). These provisions, however, unlike many of the requirements that apply to the Banks, do not necessarily require the Enterprises to take or refrain from specific actions based on NRSRO ratings or to use NRSRO ratings for specific purposes and therefore may be outside the scope of section 939A of the Dodd-Frank Act.

b. Banks

There are currently six regulations that apply to the Banks which contain various provisions that reference credit ratings or impose limitations or other requirements on the Banks based on ratings issued by NRSROs. A brief description of these regulations follows.

Bank Capital, 12 CFR part 932. In addition to the specific credit risk capital charge provisions discussed above, other prudential provisions in the part 932 capital regulations reference NRSRO ratings and establish limits on Bank activity based on such ratings. First, a Bank, with the permission of FHFA, is allowed to reduce the operations risk component of its risk-based capital charge if the Bank obtains insurance to cover operations risk from an insurer with a credit rating no lower than the second highest investment grade rating from an NRSRO. 12 CFR 932.6(b)(2). To date, however, no Bank has ever relied on this provision or sought the regulator's approval to reduce its operations risk capital charge by obtaining insurance. The capital provisions also impose limits on a Bank's unsecured credit exposure to a single counterparty and group of affiliated counterparties, and set those limits based on credit ratings issued by an NRSRO. 12 CFR 932.9. The limits become more restrictive as the credit rating declines.[2]

Acquired Member Assets, 12 CFR part 955. The acquired member asset regulations authorize Banks to purchase certain mortgage loans from their members, subject to a number of conditions. Among these conditions, is one that requires pools of loans to be credit enhanced by the member to the equivalent of an instrument having at least the fourth highest credit rating from an NRSRO, or such higher rating as the Bank may require. 12 CFR 955.3(a) and (b). The Bank rating must be determined using a methodology that is comparable to one used by an NRSRO, and the Bank must obtain written confirmation from the NRSRO that its methodology is equivalent. *Id.;* 12 CFR 955.3(b)(4) and (c). In addition, the regulation requires that, to the extent a Bank allows supplemental loan-level mortgage insurance as part of its AMA credit enhancement, such

[2] In addition, regulations require that, before first implementing the capital structure plan required by the Gramm-Leach-Bliley Act (GLB Act), Public Law 106–102, 113 Stat. 1338 (1999), each Bank was to obtain a review from an NRSRO to determine whether implementation of the plan would affect the credit rating of the Bank. 12 CFR 933.3. Because eleven of the twelve Banks have implemented their capital structure plans, only one Bank remains subject to this provision. More importantly, this regulation implements a Bank Act provision that specifically requires this review, and therefore cannot be altered without a change to the statute, which the Dodd-Frank Act did not amend. 12 U.S.C. 1426(c)(6)(B).

insurance must be from an insurer rated no lower than the second highest credit rating category by an NRSRO. 12 CFR 955.3(b)(1)(ii)(A). These provisions are all meant to assure that the Banks only buy pools of high quality mortgages and to limit the Banks' exposure to credit losses from these pools.[3]

Investments, 12 CFR part 956.[4] A number of provisions in the investment regulation limit Bank investments by reference to the rating issued by an NRSRO for a particular instrument. First, the Banks are prohibited from investing in any debt instrument that is rated below investment grade by an NRSRO at the time the investment is made. 12 CFR 956.3(a)(3). Another provision, which sets forth exceptions to a general prohibition on a Bank's investment in mortgages or other whole loans, specifically allows for investment in marketable direct obligations of state, local, or tribal government units or agencies, having at least the second highest credit rating from an NRSRO where the purchase would generate customized terms, necessary liquidity, or favorable pricing for the issuer's funding of housing or community lending. 12 CFR 956.3(a)(4)(iii). As with other prudential requirements, these regulatory provisions are intended to limit a Bank's exposure to credit and other risks, arising from its investment activities.[5]

Consolidated Obligations, 12 CFR part 966. The regulations in part 966 governing COs contain a number of references to and requirements based on NRSRO ratings. FHFA already has identified these provisions and sought comment both on potential credit-worthiness standards that could be applied to replace these provisions and on other action FHFA could take with regard to them, when it proposed amending and transferring the regulations in part 966 in conjunction with the recent proposed rule on Bank liabilities. *See* Proposed Rule: Federal Home Loan Bank Liabilities, 75 FR 68534, 68536–37 (Nov. 8, 2010). FHFA will consider the relevant comments received on the proposed Bank liability rule, along with the comments on this ANPR.

Letters of Credit, 12 CFR part 1269.[6] The regulation provides that a standby letter of credit issued or confirmed by a Bank on behalf of a member to assist the member in facilitating residential housing finance or community lending may be collateralized by obligations of a state or local government unit or agency, if the obligation is rated investment grade by an NRSRO. 12 CFR 1269.2(c)(2).

Office of Finance, 12 CFR part 1273.[7] The regulation assigns to OF the responsibility to manage the Bank System's relationship with NRSROs with regard to NRSRO ratings for COs. Because this provision does not impose a substantive requirement based on credit ratings issued by an NRSRO, but instead only assigns to OF the responsibility to manage the Bank System's relationship with NRSROs in connection with the rating of COs, the provision may be outside the scope of the Dodd-Frank Act.

B. Questions on Potential Changes to Credit-Worthiness Standards

1. Principles for a New Approach

Using NRSRO ratings in the regulations provided a supposedly objective, and neutral, third-party assessment of the credit risk of particular instruments and counterparties. The ratings also were transparent in that they were readily available to regulators, the regulated entities and the public at large, and information about changes in ratings was quickly made available. The use of NRSRO ratings also helped assure consistency in credit risk capital charges across regulated entities that were subject to the same rules with regard to a particular counterparty or financial instrument. The NRSRO ratings approach was also fairly straightforward to apply and did not create an undue burden on the regulated entities. Ideally, these general principles would carry over to any new approach, but now such principles must be achieved without reference to a third-party ratings system such as those developed by the NRSROs.

Specifically, FHFA believes that any new standard of credit-worthiness should: (i) Distinguish between different levels of credit risk, in an accurate and meaningful manner; (ii) be a transparent approach; (iii) be able to be applied consistently across regulated entities to the extent that they are subject to the same regulatory requirements; (iv) be straightforward and not unduly burdensome to apply; and (v) not be readily subject to manipulation. FHFA recognizes that there may be trade-offs among these principles. For example, an approach that is fairly standard and easy to apply may not sufficiently capture differences between high and low risk exposure and thereby may create perverse investment incentives. On the other hand, an approach that attempts to differentiate levels of credit risk may be complex or burdensome to apply and may not be readily transparent. In consideration of the alternative standards for determining credit-worthiness, we request comments on the following questions.

Question 1: What core principles would be most important in FHFA's development of new standards of credit-worthiness? Which principles are least important to developing robust new standards? Are there principles in addition to those above that should be incorporated into new standards? Do differences in the business models, structures and core mission and activities of the Banks and the Enterprises justify or compel developing approaches that may emphasize different core principles depending on whether the rule applies to the Banks or the Enterprises?

2. Alternative Approaches for Risk-Based Capital Requirements

In order for FHFA to eliminate the use of NRSRO ratings in calculating risk-based capital charges for regulated entities, it would need to develop an alternative basis on which it could assess credit risk capital charges. One approach would be to identify objective criteria that could be applied by each regulated entity in order to categorize credit exposures into different "buckets" and assess credit charges accordingly. The criteria could be broadly designated. For example, credit exposures could be divided into government and non-government, secured and un-secured, or other such categories, including maturity. Such a broad approach, however, may not be able to sufficiently and consistently

[3] In addition to these provisions, the AMA regulation also contains a capital provision which is applicable only to Banks that have not converted to the GLB Act capital structure. This provision sets capital charges on AMA pools whose credit risk is estimated by the Bank to be greater than that of an instrument receiving the second highest investment grade rating from an NRSRO. 12 CFR 955.6. Because eleven of the twelve Banks have converted to the GLB Act capital structure, only one Bank remains subject to this provision.

[4] In May 2010, FHFA proposed re-organizing the investment regulations in part 956 and transferring the regulations to 12 CFR part 1267. 75 FR 23631 (May 4, 2010).

[5] In addition to these provisions, the investment regulation also contains a capital provision which is applicable only to Banks that have not converted to the GLB Act capital structure. This provision sets capital charges on investments that have a putative rating below the second highest investment grade or are not rated by an NRSRO. 12 CFR 956.4. Because eleven of the twelve Banks have converted to the GLB Act capital structure, only one Bank remains subject to this provision.

[6] The Letters of credit regulations were transferred from 12 CFR part 960 to 12 CFR part 1269, effective March 26, 2010. 75 FR 8239 (Feb. 24, 2010).

[7] The regulations governing the OF were transferred from 12 CFR part 985 to 12 CFR part 1273, effective June 2, 2010. 75 FR 23152 (May 3, 2010).

account for difference in riskiness among exposures that fall into the same category.

FHFA could also consider adopting criteria that reference certain financial or other metrics related to the obligor or counterparty. To be meaningful, the criteria would need to account for or bear a reasonable correlation to the potential riskiness of default among different obligors or counterparties. Any criteria would also need to be readily obtainable by both FHFA and the regulated entities if this approach is to be workable.

Question 2: What types of objective criteria could be used to differentiate credit exposures and apply meaningful credit risk capital charges? Should different criteria be used for different broad classes of investments or exposures? Could there be perverse incentives or other "downsides" to this approach? What might be the problems with this approach?

Another approach could be to build on each regulated entity's internal credit review process and allow an entity to assign exposure to various categories and assess risk charges based on qualitative and quantitative standards set by FHFA. For example, FHFA could assign limits or capital requirements based on regulated entities' internal ratings or some modification of such, as reviewed or approved by FHFA. This approach would be more subjective than the alternative discussed above but could allow FHFA to leverage the data collection and analysis already performed by the regulated entities.

Question 3: What qualitative and quantitative standards would FHFA need to set to implement an approach that relied on the regulated entities to generate internal estimates of credit risk exposures? What are the strengths and weaknesses of such an approach? What would be the strengths and weaknesses of having FHFA itself set credit risk capital charges based on its own estimates of risk?

Question 4: In order to apply a meaningful risk-based capital charge, FHFA needs to set forth requirements for the regulated entities to estimate the credit risk of their various exposures. Could an approach be developed that estimates a meaningful risk-based capital charge that avoids requiring a specific credit risk charge or specifying criteria to estimate credit risk? What might such an approach be?

3. Alternative Approaches to Prudential Regulations

FHFA could follow various approaches in replacing the NRSRO-referenced requirements in the regulations described above. One approach could be to require a regulated entity to analyze and document compliance with certain specific credit-worthiness standards or metrics set forth by FHFA. These standards would need to assure that the investment or activity is not speculative in nature, and instead carries credit risk appropriate for the regulated entity's risk profile and risk management practices. FHFA could also require the regulated entity to consider specific, broader investment criteria that go beyond credit-worthiness considerations in its analysis.

FHFA could also rely on the regulated entity's internal credit assessment process and let the regulated entities decide on what specific investments or exposures may be appropriate. Under this approach, FHFA would likely need to provide regulatory and policy guidance on how any internal credit assessment process is to be structured and to rely heavily on the supervisory process to make sure that the regulated entities are strictly following their own guidelines and are not assuming high levels of credit risk.

Finally, some of the regulations described in this ANPR could be deleted without necessarily exposing the regulated entities to significant risks. At the same time, FHFA could consider other approaches, such as a prohibition on investment in broad categories of instruments or on assumption of particular types of exposures to replace the ratings based requirements.

Question 5: What are the strengths and weaknesses of these various approaches? Are there any existing, objective tools or approaches that could readily replace references to ratings issued by NRSROs in the regulations discussed in this ANPR? Are there other approaches not discussed above that may be appropriate?

Question 6: What specific credit-worthiness or investment criteria should FHFA incorporate into a new regulation, if it decided to adopt such a regulation? For example, should FHFA limit investments by regulated entities to securities that would be eligible investments for money market funds, or to securities with original maturities of one-year or less, or based on other objective criteria? What principles would FHFA need to incorporate into any regulation or policy that was meant to govern a regulated entity's internal credit assessment process?

Question 7: Can any of the current prudential requirements that reference NRSROs or credit ratings be eliminated without compromising FHFA's ability to monitor and promote the safe or sound operations of the regulated entities?

Question 8: Is it important that FHFA's approach to replacing requirements in its regulations that reference credit ratings issued by NRSROs be consistent with that of other financial regulators, especially federal banking agencies?

Question 9: What are some other safeguards or requirements (not necessarily based on credit-worthiness standards) that might provide protections similar to those afforded under FHFA's current regulations that reference ratings issued by NRSROs?

Dated: January 25, 2011.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2011–2041 Filed 1–28–11; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 5 and 119

[Docket No. FAA–2009–0671; Notice No. 10–15]

RIN 2120–AJ86

Safety Management System for Part 121 Certificate Holders; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); Extension of comment period.

SUMMARY: This action extends the comment period for an NPRM that was published on November 5, 2010. In that document, the FAA proposed to require each certificate holder operating under 14 CFR part 121 to develop and implement a safety management system (SMS) to improve its aviation related activities. Several trade and membership organizations representing various aviation industry segments have requested that the FAA extend the comment period closing date to allow time to adequately analyze the NPRM and prepare comments.

DATES: The comment period for the NPRM published on November 5, 2010, closing on February 3, 2011, is extended until March 7, 2011.

ADDRESSES: You may send comments identified by docket number FAA–2010–0997 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

• *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov,* including any personal information the commenter provides. Using the search function of the docket web site, anyone can find and read the electronic form of all comments received into any FAA dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Denniston, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3380; facsimile (202) 267–5075, e-mail *sean.denniston@faa.gov.*

SUPPLEMENTARY INFORMATION: *See* the "Additional Information" section for information on how to comment on this proposal and how the FAA will handle comments received. The "Additional Information" section also contains related information about the docket, privacy, and the handling of proprietary or confidential business information. In addition, there is information on obtaining copies of related rulemaking documents.

Background

On November 5, 2010, the FAA published Notice No. 10–15, entitled "Safety Management Systems for Part 121 Certificate Holders" (75 FR 68224). Comments to that document were to be received on or before February 3, 2011.

In a letter dated January 14, 2011 the Aeronautical Repair Station Association, Aircraft Electronics Association, Aircraft Owners and Pilots Association, Aviation Suppliers Association, Experimental Aircraft Association, Modification and Replacement Parts Association, National Air Transportation Association, and the National Business Aircraft Association requested that the FAA extend the comment period for Notice No. 10–15 for 90 days. The petitioners requested the extension to allow time to adequately assess the impact of the NPRM and prepare comments.

While the FAA concurs with the petitioners' requests for an extension of the comment period on Notice No. 10–15, it does not support a 90-day extension. The FAA finds that providing an additional 30 days is sufficient for commenters to analyze the NPRM and provide meaningful comment to Notice No. 10–15. The *Airline Safety and Federal Aviation Extension Act of 2010* (Pub. L. 111–216) directs the FAA to issue an SMS for part 121 final rule by July 30, 2012. In order to fulfill the final rule requirement of Public Law 111–216, the FAA is working on an accelerated schedule to complete the SMS for part 121 final rule.

Absent unusual circumstances, the FAA does not anticipate any further extension of the comment period for this rulemaking.

Extension of Comment Period

In accordance with § 11.47(c) of title 14, Code of Federal Regulations, the FAA has reviewed the petitions made by the Aeronautical Repair Station Association, Aircraft Electronics Association, Aircraft Owners and Pilots Association, Aviation Suppliers Association, Experimental Aircraft Association, Modification and Replacement Parts Association, National Air Transportation Association, and the National Business Aircraft Association for extension of the comment period to Notice No. 10–15. These petitioners have shown a substantive interest in the proposed rule and good cause for the extension. The FAA has determined that extension of the comment period is consistent with the public interest, and that good cause exists for taking this action.

Accordingly, the comment period for Notice No. 10–15 is extended until March 7, 2011.

Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

Proprietary or Confidential Business Information: Do not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD–ROM, mark the outside of the disk or CD–ROM, and identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or

3. Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

Issued in Washington, DC, on January 26, 2011.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

[FR Doc. 2011–2049 Filed 1–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0088; Directorate Identifier 2010–CE–072–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–500 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. 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:

It has been found that moisture may accumulate and freeze, under certain conditions, in the gap between the AOA vane base assembly and the stationary ring of the sensor's body. If freezing occurs both AOA sensors may get stuck and the Stall Warning Protection System (SWPS) will be no longer effective without alerting. This may result in inadvertent aerodynamic stall and loss of controllability of the airplane.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by March 17, 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 EMBRAER Empresa Brasileira de Aeronáutica S.A., Phenom Maintenance Support, Av. Brig. Farina Lima, 2170, Sao Jose dos Campos—SP, CEP: 12227–901—PO Box: 36/2, BRASIL; telephone: ++55 12 3927–5383; fax: ++55 12 3927–2619; E-mail: *phenom.reliability@embraer.com.br;* Internet: *http://www.embraer.com.br.* 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: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; 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–2011–0088; Directorate Identifier 2010–CE–072–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The AGÊNCIA NACIONAL DE AVIAÇÃO CIVIL—BRAZIL (ANAC), which is the aviation authority for Brazil, has issued AD No.: 2010–11–01, dated December 20, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

It has been found that moisture may accumulate and freeze, under certain conditions, in the gap between the AOA vane base assembly and the stationary ring of the sensor's body. If freezing occurs both AOA sensors may get stuck and the Stall Warning Protection System (SWPS) will be no longer effective without alerting. This may result in inadvertent aerodynamic stall and loss of controllability of the airplane.

Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus, sufficient reason exists to request compliance with this AD in the indicated time limit.

The MCAI requires replacement of both Angle of Attack (AOA) sensors and cover plates. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

EMBRAER has issued PHENOM Service Bulletin SB No.: 500–27–0006, dated September 2, 2010, and PHENOM Service Bulletin SB No.: 500–27–0006, Revision No.: 01, dated November 29, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another

country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 89 products of U.S. registry. We also estimate that it would take about 7.5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $1,550 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $194,687.50, or $2,187.50 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2011–0088; Directorate Identifier 2010–CE–072–AD.

Comments Due Date

(a) We must receive comments by March 17, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Empresa Brasileira de Aeronautica S.A. (EMBRAER) EMB–500 airplanes, serial numbers 50000005 through 50000119, 50000121 through 50000130, 50000132 through 50000134, 50000136, 50000137, 50000139, 50000141 through 50000158, 50000160 through 50000162, 50000164, 50000165, 50000167 through 50000175, 50000177, and 50000178, that are:

(1) Certificated in any category; and

(2) Equipped with Angle of Attack (AOA) sensors, part number (P/N) C–100117–2 and cover plates P/N 500–01702–401 and/or P/N 500–01702–402.

Subject

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

Reason

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

It has been found that moisture may accumulate and freeze, under certain conditions, in the gap between the AOA vane base assembly and the stationary ring of the sensor's body. If freezing occurs both AOA sensors may get stuck and the Stall Warning Protection System (SWPS) will be no longer effective without alerting. This may result in inadvertent aerodynamic stall and loss of controllability of the airplane.

Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus, sufficient reason exists to request compliance with this AD in the indicated time limit.

The MCAI requires replacement of both AOA sensors and cover plates.

Actions and Compliance

(f) Unless already done, within 300 hours time-in-service (TIS) after the effective date of this AD or within 12 months after the effective date of this AD, whichever comes first, do the following actions following PHENOM Service Bulletin SB No.: 500–27–0006, Revision No.: 01, dated November 29, 2010:

(1) Replace the left hand (LH) and the right hand (RH) AOA sensors P/N C–100117–2 with LH and RH AOA sensors P/N C–100117–3.

(2) Replace the LH cover plate P/N 500–01702–401 and the RH cover plate P/N 500–01702–402 with LH cover plate P/N 500–01702–403 and RH cover plate P/N 500–01702–404.

(3) We will allow "unless already done" credit for corrective actions already done, before the effective date of this AD, following PHENOM Service Bulletin SB No.: 500–27–0006, dated September 2, 2010, for compliance with the requirements of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106;

telephone: (816) 329–4165; 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

(h) Refer to MCAI AGÊNCIA NACIONAL DE AVIAÇÃO CIVIL—BRAZIL (ANAC), AD No.: 2010–11–01, dated December 20, 2010; and PHENOM Service Bulletin SB No.: 500–27–0006, dated September 2, 2010, and PHENOM Service Bulletin SB No.: 500–27–0006, Revision No.: 01, dated November 29, 2010, for related information. For service information related to this AD, contact EMBRAER Empresa Brasileira de Aeronáutica S.A., Phenom Maintenance Support, Av. Brig. Farina Lima, 2170, Sao Jose dos Campos–SP, CEP: 12227–901—PO Box: 36/2, BRASIL; telephone: ++55 12 3927–5383; fax: ++55 12 3927–2619; E-mail: *phenom.reliability@embraer.com.br;* Internet: *http://www.embraer.com.br.* 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 January 24, 2011.

John Colomy,

Acting Manager, Small Airplane Directorate,

Aircraft Certification Service.

[FR Doc. 2011–2007 Filed 1–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–1169; Airspace Docket No. 10–AGL–24]

Proposed Amendment of Class E Airspace; Cable Union, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Cable Union, WI. Decommissioning of the Seely non-directional beacon (NDB) at Cable Union Airport, Cable Union, WI, has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before March 17, 2011.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–1169/Airspace Docket No. 10–AGL–24, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–1169/Airspace Docket No. 10–AGL–24." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

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

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), part 71 by modifying Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures at Cable Union Airport, Cable Union, WI. Airspace reconfiguration is necessary due to the decommissioning of the Mosby NDB and the cancellation of the NDB approach. Geographic coordinates would also be adjusted in accordance with the FAA's Aeronautical Products. Controlled airspace is necessary for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation

listed in this document would be published subsequently in the Order.

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

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

* * * * *

AGL WI E5 Cable Union, WI [Amended]

Cable Union Airport, WI
(Lat. 46°11′42″ N., long. 91°14′54″ W.)
Hayward VOR/DME
(Lat. 46°01′08″ N., long. 91°26′47″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Cable Union Airport, and within 3 miles each side of the Hayward VOR/DME 038° radial extending from the 6.4-mile radius to 10 miles southwest of the airport.

Issued in Fort Worth, TX, on January 14, 2011.

Richard J. Kervin, Jr.,

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

[FR Doc. 2011–2067 Filed 1–28–11; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–1026; Airspace Docket No. 10–AGL–14]

Proposed Amendment of Class E Airspace; Bedford, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Bedford, IN. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Bedford Medical Center Heliport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before March 17, 2011.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–1026/Airspace Docket No. 10–AGL–14, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–1026/Airspace Docket No. 10–AGL–14." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking

202–267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by adding additional Class E airspace extending upward from 700 feet above the surface for a new COPTER RNAV (POINT–IN–SPACE) standard instrument approach procedure at Bedford Medical Center Heliport, Bedford, IN. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would add additional controlled airspace at Bedford Medical Center Heliport, Bedford, IN.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

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

* * * * *

AGL IN E5 Bedford, IN [Amended]

Bedford, Virgil I. Grissom Municipal Airport, IN

(Lat. 38°50′24″ N., long. 86°26′43″ W.)

Bedford, Bedford Medical Center Heliport, IN Point In Space

(Lat. 38°51′51″ N., long. 86°31′27″ W.)

Hoosier VORTAC

(Lat. 39°08′38″ N., long. 86°36′47″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Virgil I. Grissom Municipal Airport, and within 4.4 miles each side of the Hoosier VORTAC 157° radial extending from the 7-mile radius to 10 miles southeast of the airport, and within a 6-mile radius of the Bedford Medical Center Heliport point in space coordinates at lat. 38°51′51″ N., long. 86°31′27″ W.

Issued in Fort Worth, TX, on January 14, 2011.

Richard J. Kervin, Jr.,

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

[FR Doc. 2011–2071 Filed 1–28–11; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–1034; Airspace Docket No. 10–AGL–22]

Proposed Amendment of Class E Airspace; Terre Haute, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Terre Haute, IN. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Union Hospital Heliport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the heliport. This action also would change the name of Hulman Regional Airport and amend the geographic coordinates.

DATES: 0901 UTC. Comments must be received on or before March 17, 2011.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–1034/Airspace Docket No. 10–AGL–22, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory

decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–1034/Airspace Docket No. 10–AGL–22." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

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

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by adding Class E airspace extending upward from 700 feet above the surface for a new COPTER RNAV (POINT–IN–SPACE) SIAP at Union Hospital Heliport, Terre Haute, IN. Controlled airspace is needed for the safety and management of IFR operations. This action also would change Hulman Regional Airport to Terre Haute International Airport-Hulman Field, Terre Haute, IN, and adjust the geographic coordinates to coincide with the FAA's Aeronautical Products.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

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

* * * * *

AGL IN E5 Terre Haute, IN [Amended]

Terre Haute, Terre Haute International Airport/Hulman Field
(Lat. 39°27′05″ N., long. 87°18′27″ W.)
Terre Haute, Sky King Airport, IN
(Lat. 39°32′52″ N., long. 87°22′38″ W.)
Brazil, Brazil Clay County Airport, IN
(Lat. 39°28′36″ N., long. 87°05′59″ W.)
Terre Haute, Union Hospital Heliport, IN Point In Space
(Lat. 39°29′43″ N., long. 87°24′00″ W.)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of Terre Haute International Airport/Hulman Field, and within a 6.3-mile radius of Sky King Airport, and within a 6.8-mile radius of Brazil Clay County Airport, and within a 6-mile radius of the Union Hospital Heliport point in space coordinates at lat. 39°29′43″ N., long. 87°24′00″ W.

Issued in Fort Worth, TX, on January 14, 2011.

Richard J. Kervin, Jr.,

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

[FR Doc. 2011–2110 Filed 1–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0877; Airspace Docket No. 10–ASW–13]

Proposed Amendment of Class E Airspace; Carrizo Springs, Glass Ranch Airport, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace for the Carrizo Springs, Glass Ranch Airport, TX, airspace area. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Faith Ranch Airport, Carrizo Springs, TX. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before March 17, 2011.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–0877/Airspace Docket No. 10–ASW–13, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–0877/Airspace Docket No. 10–ASW–13." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

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

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), part 71 by adding Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures at Faith Ranch Airport, Carrizo Springs, TX. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9T, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

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

* * * * *

ASW TX E5 Carrizo Springs, Glass Ranch Airport, TX [Amended]

Carrizo Springs, Glass Ranch Airport, TX
(Lat. 28°27′01″ N., long. 100°09′01″ W.)
Carrizo Springs, Indio-Faith Airport, TX
(Lat. 28°15′46″ N., long. 100°09′44″ W.)
Carrizo Springs, Faith Ranch Airport, TX
(Lat. 28°12′31″ N., long. 100°01′08″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Glass Ranch Airport, excluding that airspace within Restricted Area R–6316, and within a 6.5-mile radius of Indio-Faith Airport, and within a 6.4-mile radius of Faith Ranch Airport, excluding that airspace within Mexico.

Issued in Fort Worth, TX, on January 14, 2011.

Richard J. Kervin, Jr.,

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

[FR Doc. 2011–2111 Filed 1–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–1239; Airspace Docket No. 10–ASW–17]

Proposed Amendment of Class E Airspace; Raton, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Raton, NM. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Raton Municipal Airport/Crews Field. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: 0901 UTC. Comments must be received on or before March 17, 2011.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–1239/Airspace Docket No. 10–ASW–17, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–1239/Airspace Docket No. 10–ASW–17." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

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

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), part 71 by amending Class E airspace extending upward from 700 feet above the surface to accommodate new standard instrument approach procedures at Raton Municipal Airport/Crews Field, Raton, NM. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9U, dated August 18, 2010 and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Raton Municipal Airport/Crews Field, Raton, NM.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

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

* * * * *

ASW NM E5 Raton, NM [Amended]

Raton, Raton Municipal Airport/Crews Field, NM
(Lat. 36°44′30″ N., long. 104°30′08″ W.)
Cimarron VORTAC
(Lat. 36°29′29″ N., long. 104°52′19″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Raton Municipal Airport/Crews Field excluding that portion northwest of a line 4.4 miles northwest and parallel to the 050° radial of the Cimarron VORTAC, and within 1.6 miles each side of the 034° bearing from the airport extending from the 6.7-mile radius to 7.8 miles northeast of the airport, and within 3.7 miles each side of the 050° radial of the Cimarron VORTAC extending from the 6.7-mile radius to 11.4 miles southwest of the airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 37°04′21″ N., long. 103°45′12″ W., to lat. 36°48′31″ N., long. 103°41′50″ W., to lat. 36°15′44″ N., long. 104°38′43″ W., to lat. 36°10′11″ N., long. 104°55′44″ W., to lat. 36°18′21″ N., long. 105°02′23″ W., to lat. 36°21′13″ N., long. 105°04′16″ W., to lat. 36°26′41″ N., long. 105°04′22″ W., to lat. 36°39′05″ N., long. 105°00′42″ W., to lat. 36°42′52″ N., long. 104°48′55″ W., to lat. 37°01′04″ N., long. 104°19′16″ W., to lat. 37°01′50″ N., long. 104°11′29″ W., to lat. 37°00′34″ N., long. 104°08′01″ W., to the point of beginning.

Issued in Fort Worth, TX, on January 14, 2011.

Richard J. Kervin, Jr.,

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

[FR Doc. 2011–2113 Filed 1–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–1027; Airspace Docket No. 10–AGL–15]

Proposed Amendment of Class E Airspace; Indianapolis Executive Airport, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace for the Indianapolis Executive Airport, Indianapolis, IN airspace area. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) for the Clarian North Medical Center Heliport, Carmel, IN, and the Methodist Hospital of Indiana Heliport, Indianapolis, IN. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before March 17, 2011.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–1027/Airspace Docket No. 10–AGL–15, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–1027/Airspace Docket No. 10–AGL–15." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

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

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by adding Class E airspace extending upward from 700 feet above the surface for new COPTER RNAV (POINT–IN–SPACE) standard instrument approach procedures at Clarian North Medical Center Heliport, Carmel, IN, and Methodist Hospital of Indiana Heliport, Indianapolis, IN. Controlled airspace is needed for the safety and management of IFR operations at the heliports.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "significant regulatory action" under Executive

Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would add controlled airspace at Clarian North Medical Center Heliport, Carmel, IN, and Methodist Hospital of Indiana Heliport, Indianapolis, IN.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

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

* * * * *

AGL IN E5 Indianapolis Executive Airport, IN [Amended]

Indianapolis, Indianapolis Executive Airport, IN
(Lat. 40°01′50″ N., long. 86°15′05″ W.)
Carmel, Clarian North Medical Center Heliport, IN Point In Space
(Lat. 38°56′53″ N., long. 86°09′20″ W.)
Indianapolis, Methodist Hospital of Indiana Heliport, IN Point In Space
(Lat. 39°47′00″ N., long. 86°10′27″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Indianapolis Executive Airport, and within a 6-mile radius of the Clarian North Medical Center Heliport point in space coordinates at lat. 38°56′53″ N., long. 86°09′20″ W., and within a 6-mile radius of the Methodist Hospital of Indiana Heliport point in space coordinates at lat. 39°47′00″ N., long. 86°10′27″ W., excluding that airspace within the Indianapolis, IN Class C airspace area.

Issued in Fort Worth, TX, on January 14, 2011.

Richard J. Kervin, Jr.,

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

[FR Doc. 2011–2069 Filed 1–28–11; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270, and 275

[Release Nos. 33–9177; IA–3144; IC–29572; File No. S7–04–11]

RIN 3235–AK90

Net Worth Standard for Accredited Investors

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: We are proposing amendments to the accredited investor standards in our rules under the Securities Act of 1933 to reflect the requirements of Section 413(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 413(a) requires the definitions of "accredited investor" in our Securities Act rules to exclude the value of a person's primary residence for purposes of determining whether the person qualifies as an "accredited investor" on the basis of having a net worth in excess of $1 million. This change to the net worth standard was effective upon enactment by operation of the Dodd-Frank statute, but Section 413(a) also requires us to revise our current Securities Act rules to reflect the new standard. We also are proposing technical amendments to Form D and a number of our rules to conform them to the language of Section 413(a) and to correct cross-references to former Section 4(6) of the Securities Act, which was renumbered Section 4(5) by Section 944 of the Dodd-Frank Act.

DATES: Comments should be received on or before March 11, 2011.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–04–11 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–04–11. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/proposed.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Anthony G. Barone, Special Counsel, or Gerald J. Laporte, Chief, Office of Small Business Policy, at (202) 551–3460, Division of Corporation Finance, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: We are requesting public comment on proposed amendments to Rule 144(a)(3)(viii),[1] Rule 155(a),[2] Rule 215,[3] and Rule 501(a)(5)[4] of Regulation D[5] of our general rules under the Securities Act of

[1] 17 CFR 230.144(a)(3)(viii).
[2] 17 CFR 230.155(a).
[3] 17 CFR 230.215.
[4] 17 CFR 230.501(a)(5).
[5] 17 CFR 230.501 through 230.508.

1933 ("Securities Act");[6] Rule 500(a)(1)[7] of our Securities Act form rules; Form D[8] under the Securities Act; Rule 17j–1(a)(8)[9] under the Investment Company Act of 1940;[10] and Rule 204A–1(e)(7)[11] under the Investment Advisers Act of 1940.[12]

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I. Background and Summary

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") became law on July 21, 2010.[13] Among other things, the Dodd-Frank Act changed certain legal requirements governing private and other limited offers and sales of securities without registration under the Securities Act.

Section 413(a) of the Dodd-Frank Act requires us to adjust the net worth standards for accredited investors in our rules under the Securities Act.[14] These standards delineate investors to whom issuers may sell securities in specified private and other limited offerings without registration of the offering under the Securities Act. The Dodd-Frank Act requires us to adjust the net worth standards in these rules that apply to a natural person individually, or jointly with the spouse of that person, to "more than $1,000,000 * * * excluding the value of the primary residence of such natural person."[15] Previously, these standards required a minimum net worth of more than $1,000,000, but permitted the primary residence to be included in calculating net worth.[16] Under Section 413(a), the change to remove the value of the primary residence from the net worth calculation became effective upon enactment of the Dodd-Frank Act.

In addition, Section 413(b) specifically authorizes us to undertake a review of the definition of the term "accredited investor" as it applies to natural persons, and requires us to undertake a review of the definition "in its entirety" every four years, beginning four years after enactment of the Dodd-Frank Act. We are also authorized to engage in rulemaking to make adjustments to the definition after each such review. We are not proposing to make revisions to the definitions of "accredited investor" that are not required by the Dodd-Frank Act at this time, but may consider doing so in future rulemaking. Section 415 of the Dodd-Frank Act requires the Comptroller General of the United States to conduct a "Study and Report on Accredited Investors" examining "the appropriate criteria for determining the financial thresholds or other criteria needed to qualify for accredited investor status and eligibility to invest in private funds."[17] The study is due three years after enactment of the legislation. We expect that the results of this study will inform any future rulemaking in this area that takes place after the study is completed.[18]

Section 944 of the Dodd-Frank Act deleted former Section 4(5) of the Securities Act and renumbered former Section 4(6) as Section 4(5).[19] Former Section 4(6) provides an exemption from the registration requirements of the Securities Act for certain limited offerings to accredited investors if there is no advertising or public solicitation by the issuer. Our proposals include technical corrections to cross-references necessitated by this change.[20]

II. Discussion

(A) Net Worth Standard for Accredited Investors

(1) Proposed Language

As discussed above, Section 413(a) of the Dodd-Frank Act requires us to adjust the net worth standards for an accredited investor in our Securities Act rules that apply to any natural person individually, or jointly with the spouse of that person, to "more than $1,000,000 * * * excluding the value of the primary residence of such natural person." Previously, these standards required a minimum net worth of more than $1,000,000, but permitted the primary residence to be included in calculating net worth. The relevant rules are Securities Act Rules 501 and 215.[21]

Rule 501 sets the standards for accredited investor status under certain exemptive provisions for private and other limited offerings under Regulation D. Rule 215 defines the term "accredited investor" under Section 2(a)(15) of the Securities Act.[22] Section 2(a)(15) and Rule 215 set the standards for accredited investor status under Section 4(5) of the Securities Act, formerly Section 4(6).[23] While Regulation D is frequently relied

[6] 15 U.S.C. 77a *et seq.*

[7] 17 CFR 239.500(a)(1).

[8] 17 CFR 239.500.

[9] 17 CFR 270.17j–1(a)(8).

[10] 15 U.S.C. 80a–1 *et seq.*

[11] 17 CFR 275.204A–1(e)(7).

[12] 15 U.S.C. 80b–1 *et seq.*

[13] Public Law 111–203, 124 Stat. 1376.

[14] *Id.* § 413(a), 124 Stat. 1577 (to be codified at 15 U.S.C. 77b note).

[15] The text of Section 413(a) states that: "The Commission shall adjust any net worth standard for an accredited investor, as set forth in the rules of the Commission under the Securities Act of 1933, so that the individual net worth of any natural person, or joint net worth with the spouse of that person, at the time of purchase, is more than $1,000,000 (as such amount is adjusted periodically by rule of the Commission), excluding the value of the primary residence of such natural person, except that during the 4-year period that begins on the date of enactment of this Act, any net worth standard shall be $1,000,000, excluding the value of the primary residence of such natural person." *Id.*

[16] *See* 17 CFR 230.215(e), 230.501(a)(5) (2010).

[17] Public Law 111–203, § 415, 124 Stat. 1376, 1578 (to be codified at 15 U.S.C. 80b–18c).

[18] To facilitate public input on its Dodd-Frank Act rulemaking before issuance of rule proposals, the Commission has provided a series of e-mail links, organized by topic, on its Web site at *http://www.sec.gov/spotlight/regreformcomments.shtml.* In this release, we refer to comment letters we received in response to this invitation as "advance comment letters." The advance comment letters we received in anticipation of this rule proposal, concerning revisions to the accredited investor net worth standards under Section 413(a) of the Dodd-Frank Act, are available at *http://www.sec.gov/comments/df-title-iv/accredited-investor/accredited-investor.shtml.* One of those comment letters, from the North American Securities Administrators Association, Inc. ("NASAA"), urged us to modify the accredited investor definition to incorporate an "investments owned" standard. See *Advance Comment Letter from NASAA (Nov. 4, 2010)* (available at *http://www.sec.gov/comments/df-title-iv/accredited-investor/accredited-investor-11.pdf*). This topic may be considered in connection with our future review of the definition of "accredited investor" and any resultant rulemaking.

[19] Public Law 111–203, § 944, 124 Stat. 1376, 1897 (renumbering Securities Act Section 4(6), 15 USC 77d(6) (2006), as Section 4(5), 15 USC 77d(5)). Former Section 4(5) exempted transactions involving mortgages with a minimum aggregate sales price per purchaser of $250,000, as well as the resales of those securities. 15 USC 77d(6) (2006).

[20] Section 926 of the Dodd-Frank Act requires the Commission to revise the standards for offerings under Rule 506 of Regulation D, 17 CFR 230.506, to impose certain "bad actor" disqualifications. We will propose those changes in a subsequent rulemaking.

[21] 17 CFR 230.501(a)(5) and 230.215(e) (2010).

[22] 15 U.S.C. 77b(a)(15).

[23] 15 U.S.C. 77d(5). As discussed above, former Section 4(6) of the Securities Act was renumbered Section 4(5) by Section 944 of the Dodd-Frank Act.

upon,[24] exclusive reliance on Section 4(5) is rare.[25]

Neither the Securities Act nor our rules promulgated under the Securities Act define the term "net worth." The conventional or commonly understood meaning of the term is the difference between the value of a person's assets and the value of the person's liabilities.[26]

The proposed amendments would set the same standard under both Rule 501 and Rule 215 for individuals to qualify as accredited investors on the basis of net worth, either individually or with their spouses.[27] The amendments would implement Section 413(a) by adding to the relevant rules the language from Section 413(a)—"excluding the value of the primary residence of such natural person"—after the requirement that the investor's net worth "exceeds $1,000,000" currently in the rules.

In addition, our proposed amendments would add, after the Dodd-Frank statutory language, the phrase "calculated by subtracting from the estimated fair market value of the property the amount of debt secured by the property, up to the estimated fair market value of the property."As so amended, the accredited investor net worth standards in the relevant rules would define as an accredited investor:

Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of purchase, exceeds $1,000,000, excluding the value of the primary residence of such natural person, calculated by subtracting from the estimated fair market value of the property the amount of debt secured by the property, up to the estimated fair market value of the property.

The purpose of adding the phrase introduced by the words "calculated by" is to clarify that net worth is calculated by excluding only the investor's net equity in the primary residence.[28]

We believe this approach is appropriate because it is consistent with, and advances the regulatory purposes of, Section 413(a). It reduces the net worth measure by the amount or "value" that the primary residence contributed to the investor's net worth before enactment of Section 413(a). Consequently, it removes the value of the primary residence from net worth without reducing net worth by more than the amount contributed by the residence before the amendment.[29]

We note that some of our existing rules follow an approach similar to our proposal in calculating net worth. For example, Rule 701 under Regulation R, which provides for the exclusion of the value of a person's primary residence in applying a net worth standard, provides for the exclusion of "associated liabilities," such as mortgages on the property.[30]

Under our proposed amendments, if an investor with a net worth of $2 million (calculated in the conventional manner by subtracting from the investor's total assets, including primary residence, the investor's total liabilities, including indebtedness secured by the residence) has a primary residence with an estimated fair market value of $1.2 million and a mortgage loan of $800,000, the investor's net worth for purposes of the new accredited investor standard would be $1.6 million. Before enactment of Section 413(a), the primary residence would have contributed a net amount of $400,000 to the investor's net worth for purposes of the accredited investor net worth standard—the value of the primary residence ($1.2 million) less the mortgage loan ($800,000). Under the proposed rule, exclusion of the value of the primary residence would reduce the investor's net worth by the same amount of $400,000.

We believe our approach is preferable to possible alternative interpretations. One alternative interpretation, excluding the fair market value of the residence without netting out the secured indebtedness, would reduce the net worth of any investor who has a mortgage by more than the amount that the primary residence contributed to the investor's net worth before enactment of Section 413(a). In the example above, if the new standard did not allow exclusion of the associated indebtedness, removal of the primary residence would reduce the investor's net worth by $1.2 million, for a revised net worth of $800,000, since the entire fair market value of the house ($1.2 million) would be subtracted from the investor's net worth of $2 million and the $800,000 mortgage loan would still be included as a liability in the calculation.

We believe that following this alternative approach and reducing the net worth by the value of the primary residence without excluding associated indebtedness would not accord with the manner in which net worth was determined before enactment of Section

[24] In fiscal year 2010, we received 16,856 initial filings on Form D notifying us of a claim of exemption under Rules 504(b)(1)(iii), 505 and 506, 17 CFR 230.504(b)(1)(iii), 230.505 and 230.506, the three exemptive provisions in Regulation D where accredited investor status affects the availability of an exemption. This represented 96% of the 17,593 initial Form D filings we received for that year.

[25] In fiscal year 2010, we received 900 initial filings on Form D notifying us of a claim of exemption under Section 4(5), formerly Section 4(6), representing 5% of the 17,593 initial Form D filings we received for that year. Only 66 of those filings, or less than 0.4%, claimed the Section 4(5) exemption exclusively. The other 844 of these Form D filings indicated that both Section 4(5) and a Regulation D exemption were being relied upon.

[26] *See, e.g., Interpretive Release on Regulation D,* Release No. 33–6455 (Mar. 3, 1983) [48 FR 10045] (Questions 21 and 45). *See also Barron's Financial Guides,* Dictionary of Finance and Investment Terms, at 457 (7th ed. 2006).

[27] Historically, we have maintained identical accredited investor standards under both rules.

[28] Soon after enactment of Section 413(a), the staff of the Division of Corporation Finance issued the following interpretation:

Question: Under Section 413(a) of the Dodd-Frank Act, the net worth standard for an accredited investor, as set forth in Securities Act Rules 215 and 501(a)(5), is adjusted to delete from the calculation of net worth the "value of the primary residence" of the investor. How should the "value of the primary residence" be determined for purposes of calculating an investor's net worth?

Answer: Section 413(a) of the Dodd-Frank Act does not define the term "value," nor does it address the treatment of mortgage and other indebtedness secured by the residence for purposes of the net worth calculation. As required by Section 413(a) of the Dodd-Frank Act, the Commission will issue amendments to its rules to conform them to the adjustment to the accredited investor net worth standard made by the Act. However, Section 413(a) provides that the adjustment is effective upon enactment of the Act. When determining net worth for purposes of Securities Act Rules 215 and 501(a)(5), the value of the person's primary residence must be excluded. Pending implementation of the changes to the Commission's rules required by the Act, the related amount of indebtedness secured by the primary residence up to its fair market value may also be excluded. Indebtedness secured by the residence in excess of the value of the home should be considered a liability and deducted from the investor's net worth.

Securities Act Rules Compliance & Disclosure Interpretation, Question No. 255.47 (July 23, 2010) (available at *http://www.sec.gov/divisions/corpfin/guidance/securitiesactrules-interps.htm#255.47*).

[29] Moreover, this approach to calculating net worth is generally consistent with the manner in which net worth has conventionally been determined since the adoption of Regulation D in 1982, which served as the background for Congress when it enacted Section 413(a).

[30] 17 CFR 247.701(d)(1)(A) (defining "high net worth customer" as a natural person who, individually or jointly with his or her spouse, has at least $5 million in net worth "excluding the primary residence and associated liabilities of the person and, if applicable, his or her spouse"). Rule 701 was jointly adopted by the Securities and Exchange Commission and the Federal Reserve Board after consultation with and the concurrence of the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision. *See Definitions of Terms and Exemptions Relating to the "Broker" Exception for Banks,* Release No. 34–56501 (Sept. 24, 2007) [72 FR 56514 (Oct. 3, 2007)]. In addition, Rule 17a–3(a)(17)(i)(A) under the Exchange Act requires exchange members, brokers, and dealers to make and keep records of accounts of natural persons, including a record of the person's net worth "excluding the value of primary residence." 17 CFR 240.17a–3(a)(17)(i)(A). Our Division of Trading and Markets, which administers this rule, interprets this provision to exclude the associated liabilities of the primary residence for purposes of the net worth test.

413(a).[31] Absent legislative history suggesting Section 413(a) was clearly intended to be implemented in that fashion, we believe our proposed approach is appropriate and consistent with the purpose of Section 413(a)—to remove the "value of the primary residence" from the calculation of net worth for accredited investor determinations.[32]

Under our proposed amendments, indebtedness secured by the primary residence would be netted against the value of the primary residence only up to the fair market value of the property. For example, if an investor with a net worth of $2 million has a primary residence with an estimated fair market value of $600,000 and secured indebtedness of $800,000, a $600,000 portion of the secured indebtedness would be netted against the entire $600,000 value of the house, so the investor's net worth for purposes of the new accredited investor standard would remain at $2 million. The $200,000 in secured indebtedness in excess of the value of the property would already have been accounted for (i.e., subtracted from the value of other assets) in determining the investor's net worth.

In comparison, another possible interpretation of Section 413(a) would be to exclude from net worth both the fair market value of the primary residence and all indebtedness secured by the primary residence, regardless of whether the indebtedness exceeds the fair market value of the property. This alternative interpretation is the same as our proposal when the value of the property exceeds the secured indebtedness, but provides a different result if the amount of secured debt exceeds the value of the property (*i.e.,* the case of an underwater mortgage). For example, under this interpretation, if an investor with a net worth of $2 million has a primary residence with an estimated fair market value of $600,000 and a mortgage loan of $800,000 and no other secured indebtedness, the investor's net worth for purposes of the new accredited investor standard would be $2,200,000. Net worth is effectively increased over the conventional net worth calculation by $200,000 (the amount the underwater mortgage exceeds the value of the property). We do not believe, however, that it would be appropriate for us to implement Section 413(a) in a way that results in increased net worth (compared to a conventional calculation) for investors with underwater mortgages.

As noted above, the requirement to exclude the value of the primary residence became operative when the statute was enacted. Therefore, we are not making any special provision for the transition to the new requirement. We are nevertheless specifically requesting comment below on whether some transition provisions would be appropriate.

(2) Other Issues Considered

We considered a number of issues described below, as to which the proposed amendments reflect our preliminary determinations. These issues are the subject of specific requests for comment at the end of this section.

Defining "*Primary Residence.*" We considered proposing amendments that would have defined the term "primary residence" for purposes of the rules we are amending. While we are soliciting comment on whether a definition should be added to the rule, the proposal does not contain a definition, consistent with our past policies in this area,[33] and in an attempt to avoid unnecessary complexity.[34]

Issuers and investors should be able to use the commonly understood meaning of "primary residence"—the home where a person lives most of the time.[35] If additional analysis is needed under complex or unusual circumstances, helpful guidance may be found in rules that apply in other contexts, such as income tax rules and rules that apply when acquiring a mortgage loan for a primary residence, which often bears a lower interest rate than other mortgage loans.[36]

Proceeds of Debt Secured by Primary Residence Incurred to Invest in Securities. The North American Securities Administrators Association ("NASAA") has recommended that we not permit the exclusion of debt secured by a primary residence from the calculation of net worth if proceeds of the debt are used to invest in securities.[37] NASAA is concerned that, in the absence of such a rule, an "unscrupulous salesperson might encourage a person with a significant amount of equity in the person's home, which is not uncommon for older

[31] In addition, this alternative approach would also result in a substantially greater reduction in the pool of accredited investors. Using data from the 2007 Federal Reserve Board Survey of Consumer Finances, the latest data available, our Division of Risk, Strategy and Financial Innovation estimates that 10,496,312 of the 116,122,128 U.S. households (9.04%) qualified for accredited investor status on the basis of the net worth standard before it was modified by Section 413(a) of the Dodd-Frank Act; 7,604,374 (6.55%) would have qualified on the basis of the net worth standard after modification based on Section 413(a), as interpreted by our proposed approach to exclude from the net worth calculation both the estimated fair market value of the primary residence and all indebtedness secured by the residence up to the fair market value of the property; and 6,858,335 (5.91%) would have qualified if we adopted a standard based on the alternative interpretation of Section 413(a) to exclude from the net worth calculation the fair market value of the primary residence but not any indebtedness secured by the residence. More information regarding the survey may be obtained at *http://www.federalreserve.gov/pubs/oss/oss2/scfindex.html. See also* note 49 below and accompanying text.

[32] Section 413(a) was one element of an amendment introduced on the floor of the Senate and adopted by voice vote. *See* 156 Cong. Rec. S3817 (daily ed. May 17, 2010). The amendment, as explained by Senator Dodd, id. at S3813, would (1) "disqualify felons and other 'bad actors' who have violated Federal and State securities laws from continuing to take advantage of the rule 506 private placement process," (2) "amend the 'accredited investor' wealth threshold by excluding the value of an investor's primary residence," and (3) direct the SEC "to review the [accredited investor] financial standards at least [every] 4 years," and replaced a provision that would have required the Commission to adjust both the net worth and the income standards for accredited investors to reflect inflation from the date of their determination in 1982 to the date of enactment of the Dodd-Frank Act in 2010. *See* Amendment as Substitute No. 3789 to S. 3217, 111th Cong., 2d Sess. § 412 (available at *http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s3217as.txt.pdf*). The legislative history does not suggest that the amount of associated mortgage debt should not also be deleted in calculating net worth.

[33] None of our three other rules that use the term "primary residence" have a definition of the term. *See* 17 CFR 240.17a–3(a)(17)(i)(A), 17 CFR 247.701(d)(1)(A) & 17 CFR 210.2–01(c)(1)(ii)(A)(4). Regulation D also does not define the similar term "principal residence," as used in Rule 501(e)(1)(i) of Regulation D. 17 CFR 230.501(e)(1)(i). There, Regulation D uses the term "principal residence" to exclude any purchasers who are relatives or spouses of the purchaser and who share the same principal residence as the purchaser for purposes of calculating the number of purchasers in a Regulation D offering. As explained below, we propose to change this reference from "principal residence" to "primary residence" so that it conforms to the terminology of the Dodd-Frank Act. See note 44 below and accompanying text.

[34] We followed this approach when we adopted Regulation D originally and decided not to define the term "income," an element of another of our accredited investor standards. At the time, we explained that, "[r]ather than adopting a definition [of the term "income," we] determined to utilize a flexible approach" to avoid problems with a defined term. *Revision of Certain Exemptions From Registration for Transactions Involving Limited Offers and Sales,* Release No. 33–6389 (Mar. 8, 1982) [47 FR 11251, 11255 (Mar. 18, 1982)].

[35] *See* IRS Publication 523, *Selling Your Home* 2 (Mar. 8, 2010) ("Usually, the home you live in most of the time is your main home * * *").

[36] For example, the IRS Publication *Selling Your Home* lists the following factors to be used, in addition to the amount of time a person lives in each of several homes, to determine a person's "principal residence" under Section 121 of the Internal Revenue Code, 26 U.S.C. 121: place of employment; location of family members' main home; mailing address for bills and correspondence; address listed on federal and state tax returns, driver's license, car registration, and voter registration card; location of banks used and recreational clubs and religious organizations. *Id.* at 4.

[37] Advance Comment Letter from NASAA, note 18 above.

investors, to take out a mortgage on the residence in order to manipulate their status under the accredited investor test and to use the proceeds to invest in what would otherwise be unsuitable private placement securities." [38] We agree that such actions would raise serious concerns under the federal securities laws. If broker-dealer sales personnel engage in this type of activity, their conduct can be addressed under the standards governing broker-dealer sales practices.[39] However, we preliminarily do not believe that the potential for inappropriate sales practices, whether by issuers or by broker-dealers, necessitates adding significant complexity to the calculation of net worth. As noted above, Regulation D is designed to be relatively straightforward to apply, and we are concerned that a rule that attempts to trace the use of mortgage or home equity loan proceeds and to distinguish between permissible and impermissible uses of proceeds would introduce undue complexity into Regulation D. We request public comment on this preliminary judgment below.

We also are soliciting comment on whether the proposed amendments should contain a timing provision in order to prevent investors from inflating their net worth by purchasing assets with the proceeds of indebtedness secured by their homes with the intent to qualify as accredited investors and purchase Regulation D securities. For example, the proposed amendments could provide that the net worth calculation must be as of a date 30 or 60 days before the sale of the securities, as well as at the time of sale. Because we have some concern that this could complicate issuers' and investors' calculations, particularly as the date of the sale may not be known sufficiently in advance, we are not proposing such a timing provision, but request comment on this preliminary judgment.

Transition and Other Rules on Subsequent Investments. We are not proposing any special rules for transition to the new accredited investor net worth standards, since these new standards were effective upon enactment of the Dodd-Frank Act. Under the current rules, a company or fund is not permitted to treat an investor as accredited if the investor subsequently loses that status, even if the investor has previously invested in the company or fund at a time when it satisfied the accredited investor standard. Investors must satisfy the applicable accredited investor income or net worth standard in effect at the time of every exempt sale of securities to the investor that is made in reliance upon the investor's status as such. The proposed amendments would not change this situation.

We nevertheless are seeking comment below on whether some transition and other rules might be appropriate to facilitate subsequent investments by an investor who previously qualified as accredited but was disqualified by the change effected by the Dodd-Frank Act. For example, an investor that qualified as an accredited investor in a previous sale under Regulation D before enactment of the Dodd-Frank Act may wish to invest in the same company or fund in order to retain its proportionate interest in the company or fund or to exercise rights that have arisen because of that interest.[40] Or a company may wish to make a rights offering to current investors who invested as accredited investors. In this case, the company may not wish to be subject to the additional information requirements it may incur under Regulation D if it offers and sells securities to non-accredited investors,[41] and the company may be precluded from making the offering if the number of non-accredited investors exceeds the limit of 35 non-accredited investors imposed in Rule 505 and Rule 506 offerings. In some of these cases, the investor may have spent a substantial amount of time and money performing due diligence on the company or fund before his or her previous investments and may be familiar with the issuer as an existing investor. Under these circumstances, some have argued that the investor should be able to invest again as an accredited investor even if the investor does not satisfy the standards applicable at the time of the subsequent investment.[42]

Specific Requests for Comment

1. Should the value of the residence be calculated by netting out the debt secured by the residence, as proposed? Or would it be more appropriate to exclude the entire fair market value of the residence from net worth, without netting out any associated debt?

2. Would it be more appropriate to substitute the word "equity" for the word "value" when referring to the primary residence in our accredited investor net worth standards?

3. Should we interpret Section 413(a) to exclude from the net worth calculation both the fair market value of the primary residence and all indebtedness secured by the primary residence, regardless of whether such indebtedness exceeds the fair market value of the property?

4. Is another interpretation of Section 413(a) superior to those we discussed?

5. Should we define the term "primary residence" for purposes of our accredited investor net worth rules? If we define the term, should we use a definition under the federal income tax code? If so, should we also incorporate into our definition a reference to guidelines issued under the federal income tax code? Alternatively, should we define "primary residence" as the commonly understood meaning of the term—the home where a person lives most of the time? What alternative definitions would you recommend? For example, should we define the term by listing several factors to consider? Would the factors from the IRS publication listed in note 35 be the appropriate factors, or are there different factors that should be included?

6. Should we require inclusion of debt secured by a primary residence in our proposed accredited investor net worth standard if proceeds of the debt are used to invest in securities? How would these proceeds be traced? Would companies and their prospective investors find this standard workable? Should distinctions be made among different kinds of securities? Are there other assets besides securities that should be taken into account?

7. Should the rule provide that the calculation of net worth must be made as of a specified date before the sale of securities under Regulation D, for example, 30, 60 or 90 days, as well as

[38] *Id.* at 2.

[39] NASD (now known as FINRA) Rule 2310 requires registered representatives of broker-dealers to make only suitable recommendations to their customers. See Financial Industry Regulatory Authority, NASD Rule 2310: Recommendations to Customers (Suitability) (2010) (available at *http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=3638*). Depending on the facts and circumstances, such behavior may also rise to the level of fraud under Section 17(a) of the Securities Act, 15 U.S.C. 77q(a), or Section 10(b) of the Securities Exchange Act, 15 U.S.C. 78j(b), or the Commission's antifraud rules issued under those statutory provisions.

[40] Such contractual rights may include preemptive rights, rights of first refusal, rights of co-sale, buy-sell agreements and so-called pay to play provisions that provide for dilution or other adverse consequences to affected investors who do not fund capital calls or otherwise reinvest in future rounds of financing.

[41] *See* CFR 230.502(b)(1).

[42] A speaker at the SEC Forum on Small Business Capital Formation conducted on November 18, 2010 suggested that an investor that qualified as an accredited investor when initially investing in a company or fund should be able to continue to invest in future offerings of that issuer, even if the investor no longer meets any new elevated accredited investor standards. *See* Record of Proceedings of 29th Annual SEC Government-Business Forum on Small Business Capital Formation, at 18 (Nov. 18, 2010) (remarks of Alan J. Berkeley) (available at *http://www.sec.gov/info/smallbus/sbforumtrans-111810.pdf*).

at the time of sale? If not, would investors be likely to inflate their net worth by borrowing against their homes to attain accredited investor status? If we required that the net worth calculation be made a significant period of time in advance of the sale, would such a requirement make the calculation unduly complex or otherwise make exempt offerings to accredited investors less useful for issuers?

8. Issuers and investors have calculated net worth under the Regulation D accredited investor standards for many years without specific instructions in the rules on how the calculation should be performed. Would guidance in the rules on how to calculate net worth, in addition to the new standards governing valuing the primary residence and treating related mortgage debt, be helpful? For example, should we adopt rules specifying what should be included as assets and debt, and how various kinds of assets should be valued? If so, what additional rules would be appropriate?

9. Should we adopt any transition or other rules providing that an investor who previously qualified as an accredited investor before enactment of Section 413(a), or adoption of the proposed amendments, may continue to qualify as such for purposes of subsequent or "follow-on" investments, such as investments to protect its proportionate interest in a company or fund or to exercise rights that arise because of that interest, or would that be inconsistent with the purposes of Section 413(a)? If we should adopt such an approach, are there other types of investments that should qualify for such treatment? Would investors' ability to protect their then-existing investments be inappropriately adversely affected if we did not provide such treatment? Would issuers' ability to raise capital be inappropriately impeded if we did not provide such treatment? If we did this, should we limit the amount of permissible follow-on investments, such as limiting them to the amount necessary to protect the investor from dilution? What conditions should we place on qualifying for such treatment? Is this unnecessary because the Section 4(2) private placement exemption may be available for sales to such an existing investor? Instead, should we provide that an investor who previously qualified as an accredited investor, but no longer qualifies as a result of Section 413(a), would not count towards the 35 non-accredited investor limitation of Rules 505(b) and 506(b)[43] for offerings by issuers in which the investor held investments at the time the Dodd-Frank Act was enacted?

(B) Technical and Conforming Amendments

In order to avoid confusion, we are proposing to change the reference currently in Rule 501(e)(1)(i) of Regulation D to "principal residence" so that it reads "primary residence" and conforms to the language we are adding to Rule 501 to implement Section 413(a) of the Dodd-Frank Act. We believe the terms are synonymous and should read the same.[44]

Also to avoid confusion, we propose to revise the references to former Securities Act Section 4(6) in Form D and several of our rules to refer to Section 4(5), as former Section 4(6) was renumbered by Section 944(a)(2) of the Dodd-Frank Act. Specifically, we propose to amend Rule 144(a)(3)(viii) (definition of "restricted securities") and Rule 155(a) (integration of abandoned offerings) of the general Securities Act rules; Rule 500(a)(1) of the Securities Act form rules; Form D under the Securities Act; Rule 17j–1(a)(8) (personal investment activities of investment company personnel) under the Investment Company Act, and Rule 204A–1(e)(7) (investment adviser codes of ethics) under the Investment Advisers Act.

We are also removing the authority citation preceding the Preliminary Notes to Regulation D.

III. General Request for Comment

We request comment, both specific and general, on each component of the proposals. We request and encourage any interested person to submit comments regarding:

- The proposals that are the subject of this release; and
- Other matters that may have an effect on the proposals contained in this release.

Comment is solicited from the point of view of both investors and issuers, as well as of capital formation facilitators, such as broker-dealers, and other regulatory bodies, such as state securities regulators. Any interested person wishing to submit written comments on any aspect of the proposal is requested to do so.

IV. Paperwork Reduction Act

The proposed amendments do not contain a "collection of information" requirement within the meaning of the Paperwork Reduction Act of 1995.[45] Accordingly, the Paperwork Reduction Act is not applicable.

V. Cost-Benefit Analysis

A. Background and Summary of Proposals

As discussed above, we are proposing amendments to the accredited investor standards in our rules under the Securities Act to reflect the requirements of Section 413(a) of the Dodd-Frank Act.

Section 413(a) of the Dodd-Frank Act requires the definitions of "accredited investor" in the Securities Act rules to exclude the value of a person's primary residence for purposes of determining whether the person qualifies as an "accredited investor" on the basis of having a net worth in excess of $1 million. Under the previous standard, individuals qualified as accredited investors if they had a net worth of more than $1 million, including the value of the primary residence. The substantive change to the net worth standards was effective by operation of the Dodd-Frank Act upon enactment; however, Section 413 also requires us to adjust the accredited investor definitions in our Securities Act rules to reflect the new standard. We therefore propose to revise Securities Act Rule 501(a)(5) of Regulation D and Securities Act Rule 215(e) to reflect the new standard.

Our proposed revisions go beyond the minimum language necessary to reflect the new standard by providing guidance on how to exclude the value of the primary residence from the net worth calculation. This language would explain that the value of the primary residence would be "calculated by subtracting from the estimated fair market value of the property the amount of debt secured by the property, up to the estimated fair market value of the property."

Our analysis here focuses on the costs and benefits to the economy of including our proposed explanatory language, as compared to the alternatives discussed, rather than the costs and benefits of the new heightened accredited investor net worth standard, which was mandated by Congress in Section 413(a) of the Dodd-Frank Act.

The language we propose reflects our exercise of discretion in choosing one interpretation of the statutory language set forth in Section 413(a) over two other possible interpretations. These two other interpretations of the Section 413(a) language are: (1) Excluding from

[43] 17 CFR 230.505(b) and 230.506(c).

[44] For purposes of calculating the number of purchasers in a Regulation D offering, Rule 501(e)(1)(i) uses the term "principal residence" to exclude any purchasers who are relatives or spouses of a purchaser of a Regulation D security and who share the same "principal residence" as the purchaser of the security. 17 CFR 230.501(e)(1)(i).

[45] 44 U.S.C. 3501–3521.

net worth the fair market value of the primary residence, without netting out indebtedness secured by the primary residence; and (2) excluding from net worth the fair market value of the primary residence and all indebtedness secured by the primary residence, regardless of whether it exceeds the fair market value of the residence.

We are also proposing technical changes to Form D and a number of rules to conform them to the Dodd-Frank Act, in all but one instance to revise cross-references to former Section 4(6) of the Securities Act, which was renumbered Section 4(5) in Section 944 of the Dodd-Frank Act.

We have identified certain benefits and costs that may result from the proposed explanatory language. We encourage the public to identify, discuss, analyze and supply relevant data regarding these or any additional benefits and costs in comment letters on these proposed amendments.

B. Benefits

We preliminarily believe the proposed explanatory language provides the most appropriate interpretation of the words of Section 413(a). The proposed explanatory language would result in the following benefits:

- We believe the proposed amendments most accurately reflect the manner in which net worth has conventionally been determined and understood. We believe investors and issuers would benefit from implementing rules that are easy to understand and consistent with conventional net worth calculation concepts.[46]
- The interpretation reflected in the proposed amendments would result in a smaller reduction in the pool of accredited investors than the first alternative interpretation.[47] To the extent that exempt offerings to accredited investors are less costly for issuers to complete than registered offerings, a larger pool of accredited investors that may participate in these offerings could result in cost savings for issuers conducting these offerings.
- Limiting the amount of debt secured by the primary residence that may be excluded from net worth to the estimated fair market value of the property, as proposed, would limit investors' incentives to incur indebtedness secured by their primary residence in an amount greater than the value of their property. This result is preferable to an alternative possible interpretation of Section 413(a) that would allow investors to exclude both the fair market value of the property and all indebtedness secured by the property, regardless of whether such indebtedness exceeded the fair market value of their property. Under this alternative interpretation, investors with underwater mortgages would have a higher net worth than they would under a conventional calculation, since all such indebtedness would be excluded in determining whether they qualify as accredited investors on the basis of their net worth. In contrast, under our proposal, the investor's net worth would continue to be reduced to reflect any liability in the amount of any shortfall between the mortgage indebtedness and the estimated fair market value of the property.

C. Costs

Like our analysis of the benefits, our analysis of the costs focuses on the costs attributable to our proposed language on how to calculate the "value of the primary residence" to be excluded from the net worth calculation. Many of the costs of our proposal are dependent on a number of factors, but may include the following:

- The proposed amendments could encourage investors to obtain indebtedness secured by their primary residence up to the estimated fair market value of the property with the primary motive to inflate their net worth in order to satisfy the new heightened accredited investor net worth standard in Section 413(a) by purchasing assets unrelated to their home, such as stocks, bonds, cars, etc. The net effect would be to increase net worth under the rule, since these assets, unrelated to the home, would be included in their net worth calculation, but the indebtedness secured by the primary residence to acquire these assets would be excluded from the net worth calculation under our proposed amendments.[48]
- The proposed approach would require that an investor's net worth reflect the amount that the investor's secured indebtedness exceeds the estimated fair market value of the property. While the 2007 Federal Reserve Board Survey of Consumer Finances does not indicate that there was any difference in the number of households that would qualify under the two standards,[49] given recent downward trends in real estate values, our proposed approach could result in a smaller pool of eligible accredited investors than if we implemented an alternative approach that would exclude all indebtedness secured by the primary residence. This could result in increased costs for companies and funds that are seeking accredited investors to participate in their exempt offerings.
- The proposed approach involves more complex calculations than the two alternative possible approaches we have identified. The proposed approach involves estimating the fair market value of the investor's primary residence, subtracting the indebtedness secured by the residence, and subtracting the difference or net amount from the investor's net worth calculation. Both of the alternative net worth calculations, however, could be performed merely by ignoring the primary residence as an asset in determining the net worth amount, and in the case of the second alternative interpretation also ignoring the indebtedness secured by the primary residence.

D. Request for Comment

We solicit comments on the costs and benefits of the proposed amendments. We request your views on the costs and benefits described above, as well as on any other costs and benefits that could result from the adoption of our proposals. We encourage the public to identify, discuss, analyze, and supply relevant data regarding these or any additional costs and benefits in comment letters.

In general, we request comment on all aspects of this cost-benefit analysis, including identification of any additional costs or benefits of the proposals not already identified, that may result from the adoption of these proposed amendments. We request that comment letters responding to these requests provide empirical data and other factual support for their views to the extent possible.

[46] *See* note 26 above and accompanying text.

[47] *See* note 31 above.

[48] NASAA has recommended that we not permit the exclusion of debt secured by a primary residence from the calculation of net worth if the proceeds of the debt are used to invest in securities. *See* Advance Comment Letter from NASAA, note 18 above, and note 37 above and accompanying text. We have solicited comment above on this issue.

[49] Based on its analysis of the data from the 2007 Federal Reserve Board Survey of Consumer Finances, discussed in note 31 above, our staff estimates that approximately 7.6 million households would have qualified for accredited investor status under both our proposed approach and the second alternative interpretation of Section 413(a), which would exclude from the net worth calculation both the fair market value of the primary residence and all indebtedness secured by the residence, regardless of whether the indebtedness exceeds the fair market value of the property.

VI. Consideration of Burden on Competition and Promotion of Efficiency, Competition and Capital Formation

Section 2(b) of the Securities Act [50] requires us, when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. We believe our proposed amendments may facilitate capital formation and promote efficiency. We do not anticipate that the proposed amendments would have any effects on competition.

We believe the proposed amendments impose no burden on efficiency, competition and capital formation beyond what is required by implementation of the Dodd-Frank Act. As discussed in the cost-benefit analysis in Part V above, however, the language of Section 413(a) could be subject to alternative interpretations if our rules do not provide guidance on how to calculate the value of the primary residence. In this regard, we propose to add explanatory language to our rules on how to calculate and exclude the value of the primary residence in determining whether a person qualifies under the accredited investor net worth standard. We believe these proposed amendments further the purposes underlying the requirements of Section 413(a) of the Dodd-Frank Act.

The proposed explanatory language states that the value of the primary residence would be "calculated by subtracting from the estimated fair market value of the property the amount of debt secured by the property, up to the estimated fair market value of the property." As described above, we believe this approach is consistent with Section 413(a) of the Dodd-Frank Act, as well as with the conventional and commonly understood method of determining net worth, and, as a result, is preferable to an alternative approach that would exclude from net worth the fair market value of the primary residence, without netting out indebtedness secured by the primary residence. To the extent that exempt offerings to accredited investors are less costly for issuers to complete compared to registered offerings, since the explanatory language would reduce the size of the accredited investor pool to a lesser extent than the alternative approach,[51] issuers conducting these exempt offerings potentially could experience greater cost savings than under the alternative interpretation.

The least restrictive approach to excluding the value of the primary residence under Section 413(a) would be to exclude from net worth the fair market value of the primary residence and all indebtedness secured by the primary residence, regardless of whether the debt exceeds the fair market value of the property. Based on the survey data, this approach would not result in a larger pool of eligible accredited investors than under our proposal, and therefore would not appear to result in additional cost savings for capital raising transactions by issuers relying on exempt sales to accredited investors compared to our proposal.[52]

We do not believe the proposed amendments place any significant burden on or otherwise affect competition beyond what is required by the Congressionally-mandated requirements of Section 413(a). The proposed amendments would apply equally to all investors and issuers participating in exempt offerings under Regulation D and Section 4(5). Nevertheless, we request comment on our proposal in the event members of the public perceive it as advantaging one group or category of issuers or investors over another.

We believe the proposed amendments may positively affect efficiency and capital formation. Providing clear guidance on how to calculate and exclude the value of the primary residence, we believe, should generally benefit investors and issuers by making the requirements of Section 413(a) easier to apply. Clear rules will also serve to promote efficiency by reducing the risk of issuers' inability to raise capital because of uncertainty in interpreting our rules, as well as the risk of sales by issuers to investors who do not meet the new heightened accredited investor net worth standards. Avoiding this latter problem would also serve to lower the risk that an issuer may need to make a rescission offer. Greater clarity and certainty in our accredited investor net worth standards also should foster greater confidence in our private placement markets and ultimately reduce the cost of capital, promoting increased capital formation.

We request comment on whether the proposed amendments, if adopted, would promote or burden efficiency, competition and capital formation. Finally, we request those who submit comment letters to provide empirical data and other factual support for their views if possible.

VII. Initial Regulatory Flexibility Act Analysis

This initial regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 603. It relates to proposed amendments to our accredited investor rules under the Securities Act to reflect the requirements of Section 413(a) of the Dodd-Frank Act.

A. Reasons for the Proposed Action

The reason for the proposed amendments is to implement the requirements of the Dodd-Frank Act, primarily the requirements of Section 413(a) of that statute. Section 413(a) requires the definitions of "accredited investor" in the Securities Act rules to exclude the value of a person's primary residence for purposes of determining whether the person qualifies as an "accredited investor" on the basis of having a net worth in excess of $1 million. Under the previous standard, individuals qualified as accredited investors if they had a net worth of more than $1 million, including the value of the primary residence. The change to the net worth standard was effective upon enactment by operation of the Dodd-Frank Act. But Section 413(a) also requires us to revise the Securities Act accredited investor definitions to reflect the new standard, which we propose to do by revising Securities Act Rule 501(a)(5) of Regulation D and Rule 215(e).

B. Objectives

Our primary objective is to implement the requirements for a new accredited investor net worth standard in Section 413(a) of the Dodd-Frank Act. We also propose to add language explaining how to "exclude the value of the primary residence" properly so that implementation proceeds in the most efficient way possible, with a minimum amount of uncertainty. We believe this proposal will reduce the cost of exempt offerings under Regulation D and Section 4(5) by reducing uncertainty among issuers and investors in interpreting the new heightened accredited investor net worth standard mandated by Section 413(a) of the Dodd-Frank Act. By providing greater specificity, we are attempting to remove a possible impediment to issuers using this form of offering, thereby potentially lowering the cost of capital generally, and facilitating capital formation for smaller issuers, while protecting investors.

[50] 15 U.S.C. 77b(b).

[51] *See* note 31 above and accompanying text.

[52] *See* note 49 above and accompanying text.

We note that Section 413(a) of the Dodd-Frank Act does not prescribe the method for calculating the value of the primary residence, nor does it address specifically the treatment of mortgage and other indebtedness secured by the residence for purposes of the net worth determination. Accordingly, we have proposed to exercise our discretion by adding explanatory language to the accredited investor net worth standard stating that the value of the primary residence should be calculated by subtracting from the estimated fair market value of the property the amount of debt secured by the property, up to the estimated fair market value of the property. We believe this interpretation is consistent with conventional and commonly understood methods of determining net worth, and is preferable to other possible interpretations of the statutory language set forth in Section 413(a), such as: (1) Excluding from net worth the fair market value of the primary residence without netting out indebtedness secured by the primary residence; and (2) excluding from net worth the fair market value of the primary residence and all indebtedness secured by the primary residence, regardless of whether it exceeds the fair market value of the property.

C. Legal Basis

The amendments to the accredited investor net worth standards are being proposed under the authority set forth in Sections 2(a)(15), 3(b), 4(2), 19, and 28 of the Securities Act and in Section 413(a) of the Dodd-Frank Act, which is to be codified in a note to Section 2 of the Securities Act, 15 U.S.C. 77b.

D. Small Entities Subject to the Proposed Rules

The proposals would affect issuers that are small entities, because issuers that are small entities must believe or have a reasonable basis to believe that prospective investors are accredited investors at the time of the sale of securities if they are relying on the definition of "accredited investor" for an exemption under Regulation D or Section 4(5). For purposes of the Regulatory Flexibility Act under our rules, an issuer is a "small business" or "small organization" if it has total assets of $5 million or less as of the end of its most recent fiscal year.[53] For purposes of the Regulatory Flexibility Act, an investment company is a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year. The proposed amendments would apply to all issuers that rely on the accredited investor net worth standards in the exemptions to Securities Act registration in Regulation D and Section 4(5).

All issuers that sell securities in reliance on Regulation D and Section 4(5) must file a notice on Form D with the Commission. However, the vast majority of companies and funds filing notices on Form D are not required to provide financial reports to the Commission. For the fiscal year ended Sept. 30, 2010, 22,941 issuers filed a notice on Form D. We believe that many of these issuers are small entities, but we currently do not collect reliable information on total assets to determine if they are small entities for purposes of this analysis.

E. Reporting, Recordkeeping and Other Compliance Requirements

None of our proposed amendments would increase the information or time required to complete the Form D that must be filed with the Commission in connection with sales under Regulation D and Section 4(5). Our proposed amendments merely adjust our rules so they reflect the requirements of Section 413(a) of the Dodd-Frank Act. They would not require any further disclosure than is currently required in offerings made in reliance on Regulation D and Section 4(5).

F. Duplicative, Overlapping or Conflicting Federal Rules

We believe that there are no rules that conflict with or duplicate the proposed amendments.

G. Significant Alternatives

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish the stated objective of our proposals, while minimizing any significant adverse impact on small entities. In connection with the proposed amendments, we considered the following alternatives:

- The establishment of different compliance or reporting requirements or timetables that take into account the resources available to small entities;
- The clarification, consolidation, or simplification of the rule's compliance and reporting requirements for small entities;
- The use of performance rather than design standards; and
- An exemption from coverage of the proposed amendments, or any part thereof, for small entities.

With respect to the establishment of special compliance requirements or timetables under our proposed amendments for small entities, we do not think this is feasible or appropriate. As described earlier, we believe our proposed amendments are preferable to other possible interpretations of the statutory language set forth in Section 413(a) and are consistent with Congressional intent. Our proposals do not establish any compliance requirements or timetables for compliance that we could adjust to take into account the resources available to small entities. Moreover, the proposals are designed to eliminate uncertainty among issuers and investors that may otherwise result from inserting only the bare operative language from Section 413(a) of the Dodd-Frank Act in our rules. Providing greater specificity in our rules should provide issuers, including small entities, and investors with greater certainty concerning the availability of the Regulation D and Section 4(5) exemptions to Securities Act registration and thereby further facilitate efficient access to capital for both large and small entities consistent with investor protection.

Likewise, with respect to potentially clarifying, consolidating, or simplifying compliance and reporting requirements, the proposed rules do not impose any new compliance or reporting requirements or change any existing requirements.

With respect to using performance rather than design standards, we do not believe doing so in this context would be consistent with our objective or with the statutory requirement. Our proposal seeks to specify how issuers should calculate the value of a person's primary residence for purposes of excluding its value in determining whether the person qualifies as an accredited investor on the basis of net worth. Specifying that issuers should calculate the value and leaving the method of attaining that end to the discretion of the issuer, as a performance standard would do, would frustrate our purpose and deny small entities and others of the benefits of certainty that the proposal is designed to provide.

With respect to exempting small entities from coverage of these proposed amendments, we believe such a proposal would increase rather than decrease regulatory burdens on small entities. Our proposals are designed to provide sufficient protection of investors without unduly burdening both issuers and investors, including small entities and their investors. They also are designed to minimize confusion among issuers and investors. Exempting small entities would increase their regulatory burdens and increase confusion. We have endeavored to

[53] 17 CFR 230.157.

minimize the regulatory burden on all issuers, including small entities, while meeting our regulatory objectives. Nevertheless, we request comment on ways in which we could exempt small entities from coverage of any aspects of the proposed amendments that members of the public consider unduly onerous.

H. Request for Comment

We encourage comments with respect to any aspect of this initial regulatory flexibility analysis. In particular, we request comments regarding:

- The number of small entities that may be affected by the proposals;
- The existence or nature of the potential impact of the proposals on small entities discussed in this analysis; and
- How to quantify the impact of the proposed amendments.

We request members of the public to submit comment letters on our proposals and ask them to describe the nature of any impact on small entities they identify and provide empirical data supporting the extent of the impact. Such comments will be considered in the preparation of the final regulatory flexibility analysis, if the proposals are adopted, and will be placed in the same public file as comments on the proposed amendments themselves.

VIII. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996,[54] a rule is "major" if it has resulted, or is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

We request comment on whether our proposals would be a "major rule" for purposes of SBREFA. We solicit comment and empirical data on:

- The potential effect on the U.S. economy on an annual basis;
- Any potential increase in costs or prices for consumers or individual industries; and
- Any potential effect on competition, investment or innovation.

IX. Statutory Authority and Text of Proposed Amendments

We are proposing the amendments contained in this document under the authority set forth in Sections 2(a)(15), 3(b), 4(2), 19 and 28 of the Securities Act, as amended,[55] Section 38(a) of the Investment Company Act,[56] Section 211(a) of the Investment Advisers Act[57] and Sections 413(a) and 944(a) of the Dodd-Frank Act.

List of Subjects in 17 CFR Parts 230, 239, 270 and 275

Reporting and recordkeeping requirements, Securities.

For the reasons set out above, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The general authority citation for Part 230 is revised to read as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l*, 78m, 78n, 78o, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37 and Pub. L. 111–203, § 413(a), 124 Stat. 1577 (2010) (15 U.S.C. 77b note), unless otherwise noted.

* * * * *

2. Amend § 230.144, paragraph (a)(3)(viii) by removing the reference to "4(6) (15 U.S.C. 77d(6))" and adding in its place "4(5) (15 U.S.C. 77d(5))".

3. Amend § 230.155, paragraph (a), by removing the references to "4(6)" and "77(d)(6)" and adding in their places "4(5)" and "77(d)(5)", respectively.

4. Amend § 230.215 by revising paragraph (e) to read as follows:

§ 230.215 Accredited investor.

* * * * *

(e) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of purchase, exceeds $1,000,000, excluding the value of the primary residence of such natural person, calculated by subtracting from the estimated fair market value of the property the amount of debt secured by the property, up to the estimated fair market value of the property;

* * * * *

5. Amend Part 230 by removing the authority citation after the undesignated center heading "Regulation D—Rules Governing the Limited Offer and Sale of Securities Without Registration Under the Securities Act of 1933" and preliminary notes preceding §§ 230.501 to 230.508.

6. Amend § 230.501 by:

a. Revising paragraph (a)(5); and

b. Removing the word "principal" and adding in its place the word "primary" in paragraph (e)(1)(i);

The revision read as follows:

§ 230.501 Definitions and terms used in Regulation D.

* * * * *

(a) * * *

(5) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of purchase, exceeds $1,000,000, excluding the value of the primary residence of such natural person, calculated by subtracting from the estimated fair market value of the property the amount of debt secured by the property, up to the estimated fair market value of the property;

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

7. The general authority citation for Part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*(e), 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

8. Amend § 239.500 by removing the reference to "4(6)" and adding in its place "4(5)" in the heading and in the first sentence of paragraph (a)(1).

9. Amend Item 6 in Form D (referenced in § 239.500) by:

a. removing the phrase "Securities Act Section 4(6)" and adding in its place "Securities Act Section 4(5)" next to the appropriate check box; and

b. removing the reference to "4(6)" and adding in its place "4(5)" in the first sentence of the first paragraph of the General Instructions.

Note: The text of Form D does not, and the amendments will not, appear in the Code of Federal Regulations.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

10. The general authority citation for part 270 continues to read in part as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–34(d), 80a–37, and 80a–39, unless otherwise noted.

* * * * *

11. Amend § 270.17j–1, paragraph (a)(8), by removing the references to "4(6)"and "77d(6)" and adding in their places "4(5)" and "77d(5)", respectively.

[54] Public Law 104–121, tit. II, 110 Stat. 857 (1996).

[55] 15 U.S.C. 77b(a)(15), 77c(b), 77d(2), 77s and 77z–3.

[56] 15 U.S.C. 80a–38(a).

[57] 15 U.S.C. 80b–11(a).

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

12. The authority citation for part 275 continues to read in part as follows:

Authority: 15 U.S.C. 80b–2(a)(11)(G), 80b–2(a)(17), 80b–3, 80b–4, 80b–4a, 80b–6(4), 80b–6a, and 80b–11, unless otherwise noted.

* * * * *

13. Amend § 275.204A–1, paragraph (e)(7) by removing the references to "4(6)" and "77d(6)" and adding in their places "4(5)"and "77d(5)", respectively.

By the Commission.

Dated: January 25, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1922 Filed 1–28–11; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Part 1206

[Docket No. BOEM–2010–0062]

Notice of Intent To Establish an Indian Oil Valuation Negotiated Rulemaking Committee

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notice of intent; request for nominees and comments.

SUMMARY: The Office of Natural Resources Revenue (ONRR) is announcing its intent to establish an Indian Oil Valuation Negotiated Rulemaking Committee (Committee). The Committee will develop specific recommendations regarding proposed revisions to the existing regulations for oil production from Indian leases, especially the major portion valuation requirement. The Committee will include representatives of parties who would be affected by a final rule. The ONRR solicits comments on this initiative and requests interested parties to nominate representatives for membership on the Committee.

DATES: Submit nominations to the Committee or written comments on this notice on or before March 2, 2011

ADDRESSES: You may submit nominations to the Committee or comments on this notice by any of the following methods.

- Electronically go to *http://www.regulations.gov.* In the entry titled "Enter Keyword or ID," enter BOEM–2010–0062, and then click search. Follow the instructions to submit public comments or nominations. The ONRR will post all comments.
- Mail comments or nominations to Hyla Hurst, Regulatory Specialist, Office of Natural Resources Revenue, P.O. Box 25165, MS 61013B, Denver, Colorado 80225. Please reference the Docket No. BOEM–2010–0062 in your comments.
- Hand-carry comments or use an overnight courier service. Our courier address is Building 85, Room A–614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225. Please reference the Docket No. BOEM–2010–0062 in your comments.

FOR FURTHER INFORMATION CONTACT: John Barder, Western Audit and Compliance Management, ONRR; telephone (303) 231–3702; fax (303) 231–3473; e-mail to *John.Barder@onrr.gov. Mailing address:* Office of Natural Resources Revenue, Western Audit and Compliance Management, Denver B, P.O. Box 25165, MS 62220B, Denver, Colorado 80225–0165.

SUPPLEMENTARY INFORMATION:

I. Background

The existing rule for valuation of oil produced from Indian leases, codified at 30 CFR part 1206, subpart B, was published on January 15, 1988 (53 FR 1184), effective March 1, 1988. Since then, many changes have occurred in the oil market. Also, concerns have arisen about the need for revised valuation methodologies to address paragraph 3(c) of standard Indian oil and gas leases, such as the major portion analysis requirement for valuation of oil production from Indian leases.

The Minerals Revenue Management (MRM) division of the Minerals Management Service (MMS), now ONRR, published proposed rules for Indian oil valuation in February 1998 (63 FR 7089) and in January 2000 (65 FR 403). Each of these proposed rules was subsequently withdrawn because of market changes and the passage of time. In addition, eight public meetings were held during 2005 to consult with Indian tribes and individual Indian mineral owners and to obtain information from interested parties. Then a third proposed rule was published in February 2006 (71 FR 7453). Tribal and industry commenters on the 2006 proposed rule did not agree on most issues regarding oil valuation, and none of the commenters supported the major portion provisions.

The Royalty Policy Committee's Indian Oil Valuation Subcommittee evaluated the 2006 proposed rule but was unable to reach consensus about how the Department should proceed. Thus, MRM (now ONRR) decided to make only technical amendments to the existing Indian oil valuation regulations and to convene a negotiated rulemaking committee to make specific recommendations regarding the major portion provision. A final rule was published on December 17, 2007 (72 FR 71231), addressing the technical amendments. After publication of the final rule, MRM (now ONRR) started the process of forming the Indian Oil Valuation Negotiated Rulemaking Committee. However, the process was delayed because of the change in Administration. On June 8, 2010, the Secretary of the Interior signed a decision memorandum giving approval to go forward with establishing the Indian Oil Valuation Negotiated Rulemaking Committee.

II. Statutory Provisions

The Negotiated Rulemaking Act of 1996 (NRA) (5 U.S.C 561 *et seq.*); the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix 2, section 1 *et seq.*); the Indian Mineral Development Act of 1982 (25 U.S.C. 2101–2108); the Indian Mineral Leasing Act of 1938 (25 U.S.C. 396a–g); the Act of March 3, 1909 (25 U.S.C. 396); 25 CFR parts 211, 212; and 225; 30 CFR part 1206; and Indian oil and gas lease and agreement terms.

III. The Committee and Its Process

In a negotiated rulemaking, the provisions for a proposed rule are developed by a committee composed of representatives of government and the interests that will be significantly affected by the rule. Decisions are made by "consensus."

> "[C]onsensus" means unanimous concurrence among the interests represented on a negotiated rulemaking committee established under this subchapter, unless such committee (A) agrees to define such term to mean a general but not unanimous concurrence; or (B) agrees upon another specified definition.

5 U.S.C. 562(2) (A) and (B).

The negotiated rulemaking process is initiated by the agency's identification of interests potentially affected by the rulemaking under consideration. By this notice, ONRR is soliciting comments on this action.

Following receipt of nominations or comments, ONRR will establish the Negotiated Rulemaking Committee representing the identified interests to develop the provisions of a proposed rule. The ONRR will be a member of the Committee to represent the Federal Government's statutory mission. The Committee will be chaired by a facilitator. After the Committee reaches consensus on the provisions of a

proposed rule, as discussed in more detail below, ONRR will develop a proposed rule to be published in the **Federal Register**.

Under 30 U.S.C. 563, the head of the agency is required to determine that the use of the negotiated rulemaking procedure is in the public interest. In making such a determination, the agency head must consider certain factors. Taking these factors into account, ONRR has determined that a negotiated rulemaking is in the public interest because:

1. A rule is needed. Royalty payors have considerable difficulty in complying with the current regulations.
2. A limited number of identifiable interests will be significantly affected by the rule. Such interests are oil and gas companies who produce oil and pay royalties on Indian leases, and Indian tribes and individual Indian mineral owners who receive royalties from oil produced from Indian leases located on their lands.
3. There is a reasonable likelihood that the Committee can be convened with a balanced representation of persons who can adequately represent the interests discussed in item 2 above and who are willing to negotiate in good faith to attempt to reach a consensus on provisions of a proposed rule.
4. There is a reasonable likelihood that the Committee will reach consensus on a proposed rule within a fixed period of time. This objective was accomplished with the current Indian gas valuation regulations, which added certainty and simplicity through the negotiated rulemaking process.
5. The use of negotiated rulemaking will not unreasonably delay the development of a proposed rule because time limits will be placed on the negotiation. We anticipate that negotiation will expedite a proposed rule and ultimately the acceptance of a final rule.
6. The ONRR is making a commitment to ensure that the Committee has sufficient resources to complete its work in a timely fashion.
7. The ONRR, to the maximum extent possible and consistent with the legal obligations of the agency, will use consensus of the Committee as the basis for a proposed rule for public notice and comment.

IV. Negotiated Rulemaking Procedures

In compliance with FACA and NRA, ONRR will use the following procedures and guidelines for this negotiated rulemaking. The ONRR may modify them in response to comments received on this notice or during the negotiation process.

A. Committee Formation

The Committee will be formed and operated in full compliance with the requirements of FACA and NRA and specifically under the guidelines of its charter.

B. Interests Involved

The ONRR intends to ensure full and adequate representation of those interests that are expected to be significantly affected by the proposed rule. Under 30 U.S.C. 562(5), "'interest' means with respect to an issue or matter, multiple parties which have a similar point of view or which are likely to be affected in a similar manner." As discussed above, ONRR believes the interests significantly affected are oil and gas companies who produce oil and pay royalties on Indian leases, and Indian tribes and individual Indian mineral owners who receive royalties from oil produced from Indian leases located on their lands.

C. Members

The Committee should not exceed 25 members, and ONRR prefers 15. The ONRR will provide at least two members plus a facilitator. The facilitator will not count against the membership and will not be a voting member.

Responsibility for expenses is stated under 30 U.S.C. 568(c) as follows:

> Members of a negotiated rulemaking committee shall be responsible for their own expenses of participation in such committee, except that an agency may, in accordance with section 7(d) of the Federal Advisory Committee Act, pay for a member's reasonable travel and per diem expenses, expenses to obtain technical assistance, and a reasonable rate of compensation, if—
>
> (1) such member certifies a lack of adequate financial resources to participate in the committee; and
>
> (2) the agency determines that such member's participation in the committee is necessary to assure an adequate representation of the member's interest.

Therefore, ONRR commits to pay the travel and per diem expenses of Committee members if appropriate under the NRA and Federal travel regulations.

D. Request for Nominations

The ONRR solicits nominations for appointment to membership on the Committee. Members can be individuals or representatives of organizations. An organization should identify the individual who will be its representative.

Committee members need to have authorization to negotiate on behalf of their interests and be willing to negotiate in good faith. The ONRR interprets good faith to include a willingness to (1) bring all issues to the table; and (2) not to discuss the issues in other forums. Good faith also includes a willingness to move away from taking adversarial positions and instead to explore openly all relevant and productive ideas that may emerge from the discussion of the Committee.

Authorization for each application or nomination must include:

1. The name of the applicant or nominee and a description of the interests such person will represent;
2. A description of the person's qualifications and expertise regarding those interests;
3. A statement whether the participant will be seeking agency resources to participate on the Committee; and
4. A written commitment of the applicant or nominee to actively participate in good faith in the negotiated rulemaking and keep all issues at the table.

E. Tentative Schedule

If ONRR publishes a notice establishing the Committee, after considering comments and applications submitted in response to this notice, it will publish a list of proposed members as a result of the nominations received from this notice, a solicitation for comments on the proposed membership of the Committee, and an explanation of how a person may apply or nominate another person for membership. The notice establishing the Committee will also include a proposed agenda and schedule for completing the work of the Committee, including a target date for publication by the agency of a proposed rule for notice and comment. Further, the notice establishing the Committee will include a description of administrative support for the committee to be provided by ONRR, including technical assistance. The Committee will agree on dates, times, and locations of meetings. The ONRR plans to terminate the Committee if it does not reach consensus on the provisions of a proposed rule within 24 months of the first meeting. The Committee may end earlier upon the promulgation of the final rule under consideration, or if the ONRR, after consulting with the Committee, or the Committee itself specifies an earlier termination date.

V. Request for Nominations and Comments

To comply with negotiated rulemaking procedures, ONRR invites written comments on this initiative and

nominations for the negotiated rulemaking Committee. Written comments are specifically requested on the suitability of using the negotiated rulemaking procedure to develop a proposed valuation rule for oil production from Indian leases. Nominations are for all interests that could be affected by an Indian oil valuation rulemaking and must comply with paragraph IV. D., Request for Nominations, of this notice. All nominations and written comments must be sent to an appropriate address as listed in the **ADDRESSES** section of this notice.

Certification

For the above reasons, I hereby certify that the Indian Oil Valuation Negotiated Rulemaking Committee is in the public interest.

Dated: January 25, 2011.

Ken Salazar,

Secretary, Department of the Interior.

[FR Doc. 2011–2103 Filed 1–28–11; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2010–0860; FRL–9249–4]

Revisions to the California State Implementation Plan, Santa Barbara Air Pollution Control District, Placer County Air Pollution Control District, Antelope Valley Air Quality Management District, and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Santa Barbara Air Pollution Control District (SBAPCD), Placer County Air Pollution Control District (PCAPCD), Antelope Valley Air Quality Management District (AVAQMD), and Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from gasoline bulk plants, terminals and vehicle dispensing facilities. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by March 2, 2011.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2010–0860, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.
2. *E-mail: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: David Grounds, EPA Region IX, (415) 972–3019, *grounds.david@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: VCAPCD Rule 70, AVAQMD Rule 461, PCAPCD Rule 215, and SBAPCD Rule 316. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: December 21, 2010.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 2011–1923 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2008–0558; FRL9260–8]

RIN 2060–AP17

Regulation of Fuel and Fuel Additives: Alternative Test Method for Olefins in Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to allow refiners and laboratories to use an alternative test method for olefin content in gasoline. This proposed rule will provide flexibility to the regulated community by allowing an additional test method for compliance measurement while maintaining environmental benefits achieved from our fuels programs.

DATES: Comments or a request for a public hearing must be received on or before March 2, 2011.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2008–0558, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* "EPA–HQ–OAR–2008–0558, Environmental Protection Agency,

○ *Mailcode:* 2822T, 1301 Constitution Ave., NW., Washington, DC 20460."

○ *Hand Delivery:* EPA Headquarters Library, Room 3334, EPA West Building, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID Number EPA–HQ–OAR–2008–0558. EPA's policy is that all comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov, 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 instructions on submitting comments, go to Unit 1.B of the **SUPPLEMENTARY INFORMATION** section of this document: *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 Air Docket, EPA Headquarters Library, Mail Code: 2822T, EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. The telephone number for the Public Reading Room is (202) 566–1742, and the facsimile number for the Air Docket is (202) 566–9744.

FOR FURTHER INFORMATION CONTACT: Joe Sopata, Chemist, Environmental Protection Agency, 1200 Pennsylvania Ave. (6406J), NW., Washington, DC 20460; *telephone number:* (202) 343–9034; *fax number:* (202) 343–2801; *e-mail address: sopata.joe@epa.gov.*

SUPPLEMENTARY INFORMATION:

The contents of today's preamble are listed in the following outline.

I. General Information
A. Does this action apply to me?
B. What should I consider as I prepare my comments for EPA?
II. Proposed Rule Change
A. Alternative Test Method for Olefins in Gasoline
III. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act of 1995 (UMRA)
E. Executive Order 13123: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice and Minority Populations and Low-Income Populations
IV. Statutory Provisions and Legal Authority

I. General Information

A. Does this action apply to me?

Regulated categories and entities potentially affected by this proposed action include those involved with the production, importation, distribution, sale and storage of gasoline motor fuel and diesel motor fuel.

The table below is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this proposed action. This table lists the types of entities that EPA is now aware could be potentially regulated by this proposed action. Other types of entities not listed in the table could also be regulated. To determine whether an entity is regulated by this proposed action, one should carefully examine the existing regulations in 40 CFR part 80. If you have questions regarding the applicability of this proposed action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Category	NAICSs Codes [a]	SIC Codes [b]	Examples of potentially regulated parties
Industry	324110	2911	Petroleum Refiners.
Industry	54138	8734	Testing Laboratories.
Industry	422710, 422720	5171, 5172	Gasoline Marketers and Distributors.

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to EPA through EDOCKET, regulations.gov or e-mail. Clearly mark the part of 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 rulemaking by docket 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 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. Proposed Rule Change

A. Alternative Test Method for Olefins in Gasoline

Refiners, importers and oxygenate blenders producing gasoline are required to test Reformulated Gasoline (RFG), and conventional gasoline (CG) for various fuel parameters including olefin content. American Society for Testing and Materials (ASTM) D1319 is currently the designated test method for measuring the olefin content of gasoline.[1]

On July 6, 2006, the American Petroleum Institute (API) petitioned the Agency to allow ASTM D6550 as an alternative test method for measuring the olefin content of gasoline.[2] The Agency agreed with this request, viewed API's petition as non-controversial, and because no adverse comments were anticipated published a direct final rule,[3] along with a corresponding proposed rule,[4] on December 8, 2008, that would allow ASTM D6550 as an alternative test method provided no adverse comment was received by January 7, 2009, which was the close of the comment period. Before the close of the comment period, however, the Agency received an adverse comment[5] on the proposal for the allowance of ASTM D6550 as an alternative test method. On February 6, 2009, the Agency published a partial withdrawal notice[6] for the allowance of ASTM D6550 as an alternative test method. Since then, the American Petroleum Institute (API) and the New York State Department of Environmental Conservation (NYSDEC) have provided additional comments concerning the use of this alternative test method. These comments have been summarized and our responses to them are in the Response to Comments Document that has been placed in the docket for this rulemaking (Docket ID Number EPA–HQ–OAR–2008–0558).

EPA is proposing to allow ASTM D6550–05 (SFC) as an alternative to the designated test method, ASTM D1319–03$^{\varepsilon 1}$ (FIA), for measuring olefin content of gasoline, provided the results are correlated to ASTM D1319–03$^{\varepsilon 1}$ using a site-specific correlation of FIA (volume percent) versus SFC (weight percent). The Agency is also proposing that correlation be completed on a site-specific basis. The Agency believes it is in a test facility's best interest to ensure that the gasoline fuel set used to develop the correlation spans the range of olefin properties representative of that refinery's or importer's gasoline production. This gasoline fuel set would be analyzed by the test facility's laboratory using both ASTM D1319–03$^{\varepsilon 1}$ (also known as FIA, or the designated test method) and ASTM D6550–05. A resulting correlation equation would then be developed in terms of ASTM D1319–03$^{\varepsilon 1}$ in volume percent and ASTM D6550–05 in weight percent. Thus, the applicable range of the resulting correlation from a facility's site specific correlation would be consistent with that specific facility's olefin content range. Furthermore, the requirement of correlating SFC test methods results to the FIA designated test method produces an SFC–FIA equivalent result that is suitable for input into the Complex Model or for meeting fuel reporting requirements.

EPA originally proposed a 0.857 factor to convert from mass percent to volume percent when using ASTM D6500–05. NYSDEC commented this conversion factor was not intended for universal use and may not be appropriate for all gasoline. API commented that there is no need to use the 0.857 conversion factor when developing a correlation between ASTM D6500–05 and ASTM D1319–03.$^{\varepsilon 1}$ The Agency agrees with API's recommendation that there is no need to convert olefin content measured by ASTM D6550–05 in weight percent to volume percent. In today's proposal, EPA is omitting the initial conversion of olefin content measured by ASTM D6500–05 in weight percent to volume percent using the 0.857 factor, as earlier proposed on December 8, 2008.

NYSDEC commented that a bias in test measurement results may occur between ASTM D1319–03$^{\varepsilon 1}$ and ASTM D6550–05. The Agency agrees with NYSDEC that a bias in gasoline olefin measurement results may exist between ASTM D1319–03$^{\varepsilon 1}$ and ASTM D6550–05. In order to compensate for any bias that may exist between these two analytical test methods, EPA is proposing to require ASTM D6550–05 to be correlated to ASTM D1319–03,$^{\varepsilon 1}$ its respective designated test method. Refiners or importers that choose to use ASTM D6550–05 for the measurement of olefin content in gasoline must report the correlated result, on a site-specific basis, with the designated method, ASTM D1319–03,$^{\varepsilon 1}$ when using the proposed EPA-allowed alternative test method, ASTM D6550–05. The olefin result as determined by SFC (ASTM D6550–05) would be correlated to FIA (ASTM D1319–03$^{\varepsilon 1}$) based on a specific site's production and never used directly for compliance or as an input into the Complex Model.

The Agency believes today's proposal is consistent with past Agency practice with our allowance of other alternative test methods as specified in 40 CFR 80.46. The Agency currently allows eight alternative test methods for the measurement of gasoline or butane properties provided their results are correlated to the fuel parameter's respective EPA designated test method. These alternative test methods are: ASTM D5453, ASTM D6920, ASTM D3120 and ASTM D7039 for sulfur in gasoline,[7] ASTM D4468 and ASTM D3246 for sulfur in butane,[8] ASTM D1319 for aromatics in gasoline,[9] and ASTM D4815 for oxygenate content of gasoline.[10] In addition, ASTM D4294, ASTM D6920 and ASTM D5453 are approved alternative test methods for measuring the sulfur content of 500 ppm diesel fuel provided its test results are correlated to the designated test method, ASTM D2622.[11] The Agency has evaluated ASTM D6550 as an alternative test method for olefins in gasoline and agrees with API's

[1] 40 CFR 80.46(b).

[2] *See* Air Docket # EPA–HQ–OAR–2008–0558–0002.

[3] 73 FR 74350, December 8, 2008.

[4] 73 FR 74403, December 8, 2008.

[5] *See* Air Docket # EPA–HQ–OAR–2008–0558–0005.

[6] 74 FR 6233, February 6, 2009.

[7] *See* 40 CFR 80.46(a)(3)(i) through 80.46(a)(3)(iv).

[8] *See* 40 CFR 80.46(a)(4)(i) through 80.46(a)(4)(ii).

[9] *See* 40 CFR 80.46(f)(3)(i).

[10] *See* 40 CFR 80.46(g)(2)(i).

[11] *See* 40 CFR 80.580(c)(2).

request.[12] EPA invites comments on today's proposal to allow ASTM D6550–05 as an alternative test method for olefin content of gasoline. Comments must be received on or before March 2, 2011.

Although not the subject of today's proposed rule, EPA intends to establish a performance-based test method approach (PBTM) rule which would provide criteria for the qualification of alternative test methods.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

B. Paperwork Reduction Act

This proposed rule does not impose any new information collection burden. However, the Office of Management and Budget (OMB), under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* has approved the information collection requirements contained in the final RFG and anti-dumping rulemaking and has assigned OMB control number 2060–0277. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of today's direct final rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administrations' 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 direct final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 USC 603 and 604. Thus an Agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This proposed rule does not impose a regulatory burden on anyone, including small businesses. Instead, this proposed rule will have a positive impact by the allowance of ASTM D 6550–05 which will provide additional flexibility to the regulated community, including small businesses, in meeting olefins in gasoline testing requirements. We have therefore concluded that today's proposed rule will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, requires Federal agencies, unless otherwise prohibited by law, to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Federal agencies must also develop a plan to provide notice to small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates and must inform, educate, and advise small governments on compliance with the regulatory requirements.

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The proposed allowance of ASTM D 6550–05 will provide additional flexibility to the regulated community in meeting olefins in gasoline testing requirements. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

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 proposed rule 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. The proposed allowance of ASTM D 6550–05 will provide additional flexibility to the regulated community in meeting olefins in gasoline testing requirements. Thus, Executive Order 13132 does not apply to this direct final rule.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 6, 2000). This action applies to gasoline refiners, blenders and importers that supply gasoline. The proposed allowance of ASTM D6500–05 will provide additional flexibility to the regulated community in meeting olefins in gasoline testing requirements. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

EPA interprets EO 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 does not establish an environmental standard intended to mitigate health or safety risks.

[12] *See* EPA–HQ–OAR–2008–0558–0010.

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

This action is not subject to Executive Order 13211(66 FR 18355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer 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. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rule involves a technical standard. EPA is proposing to adopt an ASTM standard as described in Units II.A of the **SUPPLEMENTARY INFORMATION** section of this document. The technical standard included in today's rule is a standard developed by ASTM, a voluntary consensus standards body, and thus raises no issues under the NTTAA. The ASTM standard in today's action may be obtained from ASTM International at 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428–2959, 610–832–9585 (phone), 610–832–9555 (fax), or *service@astm.org* (e-mail); or through the ASTM Web site (*http://www.astm.org*).

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

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

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The proposed allowance of ASTM D6500–05 will provide additional flexibility to the regulated community in meeting olefins in gasoline testing requirements. This proposed rule amendment does not relax control measures on sources regulated by the rule and therefore will not cause emission increases from these sources.

IV. Statutory Provisions and Legal Authority

Statutory authority for today's proposed rule comes from sections 211(c) and 211(k) of the CAA (42.U.S.C. 7545(c) and (k)). Section 211(c) allows EPA to regulate fuels that contribute to air pollution which endangers public health or welfare, or which impairs emission control equipment. Section 211(k) prescribes requirements for RFG and CG and requires EPA to promulgate regulations establishing these requirements. Additional support for the fuels controls in today's proposed rule comes from sections 114(a) and 301(a) of the CAA.

Regulation of Fuel and Fuel Additives: Alternative Test Method for Olefins in Gasoline

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Diesel, Imports, Incorporation by reference, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: January 25, 2011.

Lisa P. Jackson,

Administrator.

For the reasons set forth in the preamble, part 80 of title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to reads as follows:

Authority: 42 U.S.C. 7414, 7521(l), 7545 and 7601(a).

Subpart D—[Amended]

2. Section 80.46 is amended by adding paragraphs (b)(2) and (h)(1)(iii) to read as follows:

§ 80.46 Measurement of reformulated gasoline fuel parameters.

* * * * *

(b) * * *

(2)(i) Any refiner or importer may determine olefin content using ASTM standard method ASTM D6550 (incorporated by reference, see paragraph (h) of this section) for purposes of meeting any testing requirement involving olefin content; provided that

(ii) The refiner or importer test result is correlated with the method specified in paragraph (b)(1) of this section on a site-specific basis.

* * * * *

(h) * * *

(1) * * *

(iii) ASTM standard method D6550–05 ("ASTM D6550"), Standard Test Method for Determination of Olefin Content of Gasolines by Supercritical-Fluid Chromatography, approved November 1, 2005.

* * * * *

[FR Doc. 2011–2046 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R08–OAR–2010–0749; FRL–9260–7]

Determination of Attainment for PM_{10}; Columbia Falls and Libby Nonattainment Areas, MT

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA is proposing to determine that the Columbia Falls and the Libby nonattainment areas in Montana attained the National Ambient Air Quality Standard for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM_{10}) as of December 31, 1994.

DATES: Written comments must be received on or before March 2, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2010–0749, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: freeman.crystal@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Callie Videtich, Director, Air Program, Environmental Protection

Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

• *Hand Delivery:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instruction on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Crystal Freeman, U.S. Environmental Protection Agency, Region 8, Air Program, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6602, *freeman.crystal@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the direct final action, of the same title, which is located in the Rules section of this **Federal Register**. EPA is approving the attainment determination as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule.

If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 20, 2011.

James B. Martin,

Regional Administrator, Region 8.

[FR Doc. 2011–2120 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 385, 386, 390, and 395

[Docket No. FMCSA–2004–19608]

RIN 2126–AB26

Hours of Service of Drivers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of public listening session and on-line comment and question session.

SUMMARY: FMCSA announces that it will hold a public listening session to solicit comments and information on its notice of proposed rulemaking (NPRM) on hours-of-service (HOS) requirements, which it published in the **Federal Register** on December 29, 2010. Specifically, the Agency wants to know what factors, issues, and data it should consider as it analyzes responses to its NPRM on HOS requirements for property-carrying commercial motor vehicle (CMV) drivers. The session, which will be held in Arlington, Virginia, will allow interested persons to present comments, views, and relevant new research that FMCSA should consider in its final rule. All comments will be transcribed and placed in the rulemaking docket for FMCSA's consideration. FMCSA also announces that it will hold an on-line comment and question session on the same day, a transcript of which will also be placed in the rulemaking docket.

DATES: The listening session will be February 17, 2011, in Arlington, VA (near Washington, DC). The listening session will begin at 10 a.m. and end at 5 p.m. e.t., or earlier, if all participants wishing to express their views have done so. The on-line comment and question session will be held from Noon to Midnight e.t.

ADDRESSES: The February 17, 2011, meeting will be held at the Crowne Plaza Washington National Airport, 1480 Crystal Drive, Arlington, VA 22202. The hotel telephone number is 800–972–3159.

Internet Address for Alternative Media Broadcasts During and Immediately After the Listening Session. FMCSA will post specific information on how to participate via the Internet and telephone on the FMCSA Web site at *http://www.fmcsa.dot.gov/rules-regulations/topics/hos/HOS–Listening-Sessions.aspx.*

You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2004–19608 using any of the following methods.

• *Federal eRulemaking Portal:* Go to *www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

FOR FURTHER INFORMATION CONTACT: For information concerning the HOS rules, contact Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division, (202) 366–4325.

If you need sign language assistance to participate in this HOS listening session, contact Mr. David Miller, FMCSA Regulatory Development Division, (202) 366–5370 or at *FMCSAregs@dot.gov,* by Thursday,

February 10, 2011, to allow us to arrange for such services. There is no guarantee that interpreter services requested on short notice can be provided.

SUPPLEMENTARY INFORMATION:

I. Background

On July 25, 2010, FMCSA submitted a draft HOS NPRM to OMB and on December 29, 2010, published the NPRM (75 FR 82170). The NPRM proposed to revise the regulations for hours of service for drivers of property-carrying commercial motor vehicles (CMVs).

II. Meeting Participation and Information FMCSA Seeks From the Public

The listening session is open to the public. Speakers' remarks will be limited to 5 minutes each. The public may submit material to the FMCSA staff at the session for inclusion in the public docket, FMCSA–2004–19608.

The Agency seeks data and answers relating to the following issues and questions. The comments sought below may be submitted in written form at the session and summarized verbally, if desired.

1. *Driving Time.* FMCSA is seeking additional studies or data that examine in greater detail the fatigue and safety differences between driving in the 10th and 11th hours. FMCSA is also interested in data that indicate when and how frequently the 11th hour is used. It seeks data on how much of the 11th hour is used when a driver goes beyond the 10th hour.

1a. For example, on days in which the driver both picks up and delivers a truckload, how often does the driver reach the 11th hour of driving?

1b. When the driver drives over 10 hours, is it by 5 minutes or by 55 minutes?

1c. What is the percentage of driving that takes place in each hour compared to total driving that occurs?

2. *Duty Time/Driving Window.* FMCSA is soliciting information on patterns of work for night drivers:

2a. For drivers who always drive at night, what is the typical length of their duty day?

2b. For drivers who sometimes drive at night, how frequently do they do that?

2c. FMCSA is seeking comments on whether drivers who drive at least 3 hours between midnight and 6 a.m. should have an hour less duty time available (12 hours rather than 13) to provide a longer period to obtain sleep.

3. *Time-On-Task (TOT) Function.* The Agency seeks comment on whether its approach to estimating its TOT function is reasonable given the lack of good exposure data. The Agency is interested in any suggestions for improving its approach for estimating TOT effects, especially information on where it might obtain better data on exposure and other driver characteristics that would enable it to improve its estimation of how or whether crash risk varies over successive hours of daily driving.

4. *Cumulative Fatigue.* The Agency seeks comment on whether its methodology for evaluating cumulative fatigue and its impact on driving performance is reasonable. The Agency also welcomes further information on the effects of cumulative fatigue, particularly in the form of scientific studies or data that would allow better evaluation of cumulative fatigue and its impact on workplace safety, driver safety performance, and productivity.

III. Alternative Media Broadcasts During and Immediately After the Listening Session on February 17, 2011

FMCSA will Web cast the listening session on the Internet and will have telephone lines available for those wishing to participate by telephone. FMCSA will also open a window on its Web site for commenters to send in comments and questions. That session will be open from Noon e.t. through Midnight e.t. During the separate Internet question and comment session, FMCSA representatives will respond to questions and provide clarification on the NPRM, subject to Administrative Procedure Act restrictions which prohibit Agency officials from engaging in policy discussions about open rulemaking proceedings. Specific information on how to participate via the Internet and the telephone access number will be on the FMCSA Web site at *http://www.fmcsa.dot.gov/rules-regulations/topics/hos/HOS–Listening-Sessions.aspx.*

FMCSA will docket the transcripts from the Internet comment and question session, as well as the webcast transcript and a separate transcription of the listening session that will be prepared by an official court reporter.

Issued on: January 26, 2011.

Anne S. Ferro,

Administrator.

[FR Doc. 2011–2084 Filed 1–28–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 110114034–1033–01]

RIN 0648–BA33

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Control Date

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

ACTION: Advanced notice of proposed rulemaking; consideration of a control date.

SUMMARY: NMFS announces that it is establishing a new control date to control future access to the snapper-grouper fishery operating in the exclusive economic zone (EEZ) of the South Atlantic. If changes to the management regime are developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), a control date could be used to further limit the number of participants in the fishery. This announcement is intended, in part, to promote awareness of the potential eligibility criteria for future access so as to discourage speculative entry into the fishery while the South Atlantic Fishery Management Council (Council) and NMFS consider whether and how access to the snapper-grouper fishery should be controlled.

DATES: Written comments must be received on or before 5 p.m., eastern time, March 2, 2011.

ADDRESSES: You may submit comments, identified by 0648–BA33, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Fax:* Attn: Karla Gore 727–824–5308.
- *Mail:* Karla Gore, NMFS Southeast Regional Office, Sustainable Fisheries Division, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business

Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council; toll free 1–866–SAFMC–10 or 843–571–4366; *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: At the September 2010 meeting, the Council voted to establish a new control date of September 17, 2010, for the snapper-grouper fishery in the South Atlantic, due to concern that the previous control date established for the snapper-grouper fishery of October 14, 2005 (70 FR 60058; October 14, 2005), was almost five years old.

The control date would apply to persons who are contemplating entering the snapper-grouper fishery in the EEZ of the South Atlantic region. The Council requested that this control date be published in the **Federal Register** to notify fishermen that if they enter such a fishery after September 17, 2010, they may not be assured of future access if the Council and/or NMFS decide to further limit entry or impose other measures to manage the snapper-grouper fishery.

Establishment of the new control date for the snapper-grouper fishery would allow the Council to evaluate the level of participation in the snapper-grouper fishery and address any level of overcapacity. Control dates are intended to discourage speculative entry into a fishery, as new entrants entering the fishery after the control date are forewarned that they are not guaranteed future participation in the fishery.

Establishment of this control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the snapper-grouper fishery. Fishermen are not guaranteed future participation in the fishery regardless of their level of participation before or after the control date. The Council may recommend a different control date or it may recommend a management regime that does not involve a control date. Other criteria, such as documentation of landings or fishing effort, may be used to determine eligibility for participation in a limited access fishery. The Council and/or NMFS also may choose to take no further action to control entry or access to the fisheries, in which case the control date may be rescinded. Any action by the Council will be taken pursuant to the requirements for fishery management plan and amendment development established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the snapper-grouper fishery in the South Atlantic EEZ.

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

Dated: January 25, 2011.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2011–2125 Filed 1–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 110114033–1032–01]

RIN 0648–BA32

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; King and Spanish Mackerel Coastal Migratory Pelagic Fishery Off the Southern Atlantic States; Control Date

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

ACTION: Advanced notice of proposed rulemaking; consideration of a control date.

SUMMARY: NMFS announces that it is establishing a new control date to control future access to the king and Spanish mackerel components of the coastal migratory pelagics fishery operating in the exclusive economic zone (EEZ) of the South Atlantic. If changes to the management regime are developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), a control date could be used to further limit the number of participants in the fishery. This announcement is intended, in part, to promote awareness of the potential eligibility criteria for future access so as to discourage speculative entry into the fishery while the South Atlantic Fishery Management Council (Council) and NMFS consider whether and how access to the fishery should be controlled.

DATES: Written comments must be received on or before 5 p.m., eastern time, March 2, 2011.

ADDRESSES: You may submit comments, identified by 0648–BA32, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Fax:* Attn: Karla Gore 727–824–5308.
- *Mail:* Karla Gore, NMFS Southeast Regional Office, Sustainable Fisheries Division, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council; toll free 1–866–SAFMC–10 or 843–571–4366; *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: At the September 2010 Council meeting, the Council recommended a new control date of September 17, 2010, for king and Spanish mackerel. The Council requested a new control date for the king and Spanish mackerel components because the Gulf of Mexico Fishery Management Council is beginning to look at latent permits which may ultimately impact the Council. A previous control date for the commercial king and Spanish mackerel components had been established on June 15, 2004 (70 FR 67985). The control date would apply to persons who are contemplating fishing for king and Spanish mackerel in the EEZ of the South Atlantic region. The Council requested that this control date be published in the **Federal Register** to notify fishermen that if they enter such a fishery after September 17, 2010, they may not be assured of future access if the Council and/or NMFS decide to further limit entry or impose other measures to manage this segment of the coastal migratory pelagics fishery.

Establishment of the new control date would allow the Council to evaluate the level of participation in the king and Spanish mackerel components of the coastal migratory pelagic fishery and address any level of overcapacity. Control dates are intended to discourage speculative entry into a fishery, as new entrants entering the fishery after the control date are forewarned that they are not guaranteed future participation in the fishery.

Establishment of this control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the coastal migratory pelagic fishery. Fishermen are not guaranteed future participation in the fishery regardless of their level of participation before or after the control date. The Council may recommend a different control date or it may recommend a management regime that does not involve a control date. Other criteria, such as documentation of landings or fishing effort, may be used to determine eligibility for participation in a limited access fishery. The Council and/or NMFS also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council will be taken pursuant to the requirements for fishery management plan and amendment development established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the coastal migratory pelagics fishery in the South Atlantic EEZ.

Classification:

Executive Order 12866: This rule has been determined to be not significant for purposes of EO 12866.

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

Dated: January 25, 2011.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2011–2129 Filed 1–28–11; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 76, No. 20

Monday, January 31, 2011

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 26, 2011.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Research Service

Title: National Program 216 Technology Transfer Project—End Users' Inputs.

OMB Control Number: 0518–NEW.

Summary of Collection: The Agricultural Research Service's (ARS) Agricultural System Competitiveness and Sustainability National Program (NP 216) focuses on understanding farms function and how changing or introducing new technology will affect their productivity, profitability, energy efficiency, and natural resource stewardship. The first step of developing more effective methods for delivering new technology to farmers is to assess the effectiveness of the current technology transfer methods and gather information as to how the farmers would prefer to learn about new technology. ARS will conduct a farmer survey to collect information needed to streamline the diffusion of new farming systems technology developed by ARS scientists. The authority to collect this information is contained in CFR, title 7, volume 1, part 2, subpart K, Sec. 2.65(92).

Need and Use of the Information: ARS will collect information to identify challenges and barriers to technology transfer and help in developing alternatives to improve technology transfer from ARS to end-users. The information will also be used as part of a project to identify the effective educational methods and communication channels in transferring new technologies developed under the Agricultural System Competitiveness and Sustainability National Program (NP–216) of the ARS to customers and producers and document the societal impacts of those new technologies.

Description of Respondents: Farms.

Number of Respondents: 5,113.

Frequency of Responses: Reporting: Other (one time).

Total Burden Hours: 315.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2011–2060 Filed 1–28–11; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program; 2011 Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program for Children. These adjustments address changes in the Consumer Price Index, as required under the Richard B. Russell National School Lunch Act. The 2011 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures that are extended nationwide by enactment of the Fiscal Year 2008 Consolidated Appropriations Act. The 2011 rates are also presented individually, as separate operating and administrative rates of reimbursement, to show the effect of the Consumer Price Index adjustment on each rate.

DATES: *Effective Date:* January 1, 2011.

FOR FURTHER INFORMATION CONTACT: Tina Namian, Head, CACFP and SFSP Section, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302, 703–305–2590.

SUPPLEMENTARY INFORMATION: This Program is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, and final rule-related notice published at 48 FR 29114, June 24, 1983).

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3518), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. Additionally, this notice has been determined to be exempt from formal review by the Office

of Management and Budget under Executive Order 12866.

Definitions

The terms used in this notice have the meaning ascribed to them under 7 CFR part 225 of the Summer Food Service Program regulations.

Background

This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program (SFSP). In accordance with sections 12(f) (42 U.S.C. 1760(f)) and 13 (42 U.S.C. 1761) of the Richard B. Russell National School Lunch Act (NSLA), and SFSP regulations in 7 CFR Part 225, the United States Department of Agriculture (USDA) announces the adjustments in SFSP payments for meals served to participating children during calendar year 2011.

The 2011 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures. Section 738 of the Consolidated Appropriations Act, 2008, Public Law 110–161, enacted on December 26, 2007, amended Section 13 of the NSLA and extends these procedures to all States. Since January 1, 2008, reimbursement has been based solely on a "meals times rates" calculation, without comparison to actual or budgeted costs.

Sponsors receive reimbursement that is determined by the number of reimbursable meals served multiplied by the combined rates for food service operations and administration. However, the combined rate is based on separate operating and administrative rates of reimbursement, each of which is adjusted differently for inflation.

Calculation of Rates

The combined rates are constructed from individually authorized operating and administrative reimbursements. Simplified procedures provide flexibility, enabling sponsors to manage their reimbursements to pay for any allowable cost, regardless of the cost category. Although the requirement to categorize costs as "operational" or "administrative" has been eliminated, this does not diminish the sponsors' responsibility for ensuring proper administration of the Program, while providing the best possible nutrition benefit to children.

The operating and administrative rates are calculated separately. However, the calculations of adjustments for both are based on the same set of changes in the *Food Away From Home* series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor. They represent a 1.3 percent increase in this series for the 12 month period, from November 2009 through November 2010 (from 224.633 in November 2009 to 227.512 in November 2010).

Table of 2011 Reimbursement Rates

Presentation of the 2011 maximum per meal rates for meals served to children in SFSP combines the results from the calculations of operational and administrative payments, which are further explained in this notice. The total amount of payments to State agencies for disbursement to SFSP sponsors will be based upon these adjusted combined rates and the number of meals of each type served. These adjusted rates will be in effect from January 1, 2011 through December 31, 2011.

SUMMER FOOD SERVICE PROGRAM—2011 REIMBURSEMENT RATES (COMBINED)

Per meal rates in whole or fractions of U.S. dollars	All states except Alaska and Hawaii		Alaska		Hawaii	
	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites
Breakfast	1.8800	1.8450	3.0450	2.9875	2.1975	2.1575
Lunch or Supper	3.2925	3.2375	5.3350	5.2500	3.8550	3.7925
Snack	0.7750	0.7575	1.2575	1.2275	0.9100	0.8875

Operating Rates

The portion of the SFSP rates for operating costs is based on payment amounts set in section 13(b)(1) of the NSLA (42 U.S.C. 1761(b)(1)). They are rounded down to the nearest whole cent, as required by section 11(a)(3)(B) of the NSLA (42 U.S.C. 1759a(a)(3)(B)).

SUMMER FOOD SERVICE PROGRAM—OPERATING COMPONENT OF 2011 REIMBURSEMENT RATES

Operating rates in U.S. dollars, rounded down to the nearest whole cent	All states except Alaska and Hawaii	Alaska	Hawaii
Breakfast	1.71	2.77	2.00
Lunch or Supper	2.98	4.83	3.49
Snack	0.69	1.12	0.81

Administrative Rates

The administrative cost component of the reimbursement is authorized under section 13(b)(3) of the NSLA (42 U.S.C. 1761(b)(3)). Rates are higher for sponsors of sites located in rural areas and for "self-prep" sponsors that prepare their own meals, at the SFSP site or at a central facility, instead of purchasing them from vendors. The administrative portion of SFSP rates are adjusted, either up or down, to the nearest quarter-cent.

SUMMER FOOD SERVICE PROGRAM ADMINISTRATIVE COMPONENT OF 2011 REIMBURSEMENT RATES

Administrative rates in U.S. dollars, adjusted, up or down, to the nearest quarter-cent	All states except Alaska and Hawaii		Alaska		Hawaii	
	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites
Breakfast	0.1700	0.1350	0.2750	0.2175	0.1975	0.1575
Lunch or Supper	0.3125	0.2575	0.5050	0.4200	0.3650	0.3025
Snack	0.0850	0.0675	0.1375	0.1075	0.1000	0.0775

Authority: Sections 9, 13, and 14, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1761, and 1762a, respectively).

Dated: *January 20, 2011.*

Julia Paradis,

Administrator.

[FR Doc. 2011–1975 Filed 1–28–11; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Bridger-Teton National Forest Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Bridger-Teton Resource Advisory Committee will meet in Kemmerer, Wyoming. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose is to listen to proposed project presentations.

DATES: The meeting will be held on February 28, 2011, and will begin at 5 p.m.

ADDRESSES: The meeting will be held at the South Lincoln Training and Event Center, 215 Wyoming Highway 233, Kemmerer, WY. Written comments should be sent to Tracy Hollingshead, Bridger-Teton National Forest, 308 Hwy 189 North, Kemmerer, WY 83101. Comments may also be sent via e-mail to *thollingshead@fs.fed.us,* or via facsimile to 307–828–5135.

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 Bridger-Teton National Forest, Hwy 189 North, Kemmerer, WY 83101. Visitors are encouraged to call ahead to 307–877–4415 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Tracy Hollingshead, DFO, USDA, Bridger-Teton National Forest, Hwy 189 North, Kemmerer, WY 83101; (307) 877–4415; E-mail *thollingshead@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) Approve minutes from February 14, 2011 meeting; (2) Listen to proposed project presentations; (3) Vote on proposed projects; and (4) 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.

Dated: January 25, 2011.

Tracy Hollingshead,

Designated Federal Officer.

[FR Doc. 2011–2001 Filed 1–28–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Kootenai National Forest's Lincoln County Resource Advisory Committee will meet on Wednesday, February 15, 2011 at 6 p.m. at the Forest Supervisor's Office in Libby, Montana for a business meeting. The meeting is open to the public.

DATES: February 15, 2011.

ADDRESSES: Forest Supervisor's Office, 31374 U.S. Hwy 2, Libby, Montana.

FOR FURTHER INFORMATION CONTACT: Janette Turk, Committee Coordinator, Kootenai National Forest at (406) 283–7764, or e-mail *jturk@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda will include community outreach for project proposals, grizzly bear DNA study update, and planning the spring field trip. If the meeting date or location is changed, notice will be posted in the local newspapers, including the Daily Interlake based in Kalispell, Montana.

Dated: January 20, 2011.

Maggie Pittman,

Acting Forest Supervisor.

[FR Doc. 2011–2005 Filed 1–28–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Chicago, et al.; Notice of Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Ave, NW., Washington, DC.

Docket Number: 10–067. Applicant: University of Chicago, Argonne LLC, Lemont, IL 60439. Instrument: Pilatus 100K Pixel Detector System. Manufacturer: Dectris Ltd., Switzerland. Intended Use: See notice at 75 FR 82372, December 30, 2010. Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of its order. Reasons: The instrument is the first and only commercially available pixel array detector for x-ray applications. The instrument's unique capabilities are a high detection efficiency (no readout noise and direct detection scheme), high dynamic range (20-bits), and fast readout speeds.

Docket Number: 10–068. Applicant: University of Chicago, Argonne LLC,

Lemont, IL 60439. Instrument: Pilatus 300K Pixel Detector System. Manufacturer: Dectris Ltd., Switzerland. Intended Use: See Notice at 75 FR 82372, December 30, 2010. Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of its order. Reasons: The instrument's unique capabilities are a high detection efficiency (no readout noise and direct detection scheme), high dynamic range (20-bits), and fast readout speeds, which are not available in any domestically produced equipment.

Docket Number: 10–069. Applicant: University of Minnesota School of Dentistry, Minneapolis, MN 55455. Instrument: Dental Imaging System: Cross-Polarization Swept Source Optical Coherence Tomography with a MEMS Handpiece. Manufacturer: Santec Corporation, Japan. Intended Use: See Notice at 75 FR 82372, December 30, 2010. Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of its order. Reasons: Three crucial aspects of the instrument are size (the hand piece is 16 x 15 x 80 mm), speed (can operate at 30 kHz swept source speed), and image contrast (able to suppress the parallel polarization by 30 dB), which are not available in any domestically produced instrument.

Dated: January 24, 2011.

Gregory W. Campbell,

Director, Subsidies Enforcement Office, Import Administration.

[FR Doc. 2011–2106 Filed 1–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–833]

Certain Polyester Staple Fiber From Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* January 31, 2011.

FOR FURTHER INFORMATION CONTACT: Michael A. Romani, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–0198.

SUPPLEMENTARY INFORMATION:

Background

At the request of interested parties, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on certain polyester staple fiber from Taiwan for 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 (June 30, 2010). The preliminary results are currently due no later than January 31, 2011.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published in the **Federal Register**. If it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

We determine that it is not practicable to complete the preliminary results of this review by the current deadline of January 31, 2011, because we require additional time to obtain additional information concerning the respondent's U.S. and home-market sales. Therefore, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), we are extending the time period for issuing the preliminary results of this review by 74 days to April 15, 2011.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: January 24, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–1938 Filed 1–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809, A–583–821]

Forged Stainless Steel Flanges From India and Taiwan: Final Results of Sunset Reviews and Revocation of Antidumping Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 1, 2010, the Department of Commerce (the Department) initiated the sunset review of the antidumping duty orders on forged stainless steel flanges from India and Taiwan. Because the domestic interested parties did not participate in these sunset reviews, the Department is revoking these antidumping duty orders.

DATES: *Effective Date:* January 23, 2011.

FOR FURTHER INFORMATION CONTACT: Robert James or Deborah Scott, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–0649 or (202) 482–2657, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1994, the Department issued antidumping duty orders on certain forged stainless steel flanges from India and Taiwan. *See Amended Final Determination and Antidumping Duty Order; Certain Forged Stainless Steel Flanges From India,* 59 FR 5994 (February 9, 1994) and *Antidumping Duty Order: Certain Forged Stainless Steel Flanges From Taiwan,* 59 FR 5995 (February 9, 1994). On January 23, 2006, the Department published its most recent continuation of the orders. *See Continuation of Antidumping Duty Orders: Forged Stainless Steel Flanges from India and Taiwan,* 71 FR 3457 (January 23, 2006) (*Notice of Continuation*). On November 1, 2010, the Department initiated sunset reviews of these orders. *See Initiation of Five-Year ("Sunset") Review,* 75 FR 67082 (November 1, 2010).

We did not receive a notice of intent to participate from domestic interested parties in these sunset reviews by the deadline date. As a result, in accordance with 19 CFR 351.218(d)(1)(iii)(A), the Department determined that no domestic interested party intends to participate in these sunset reviews, and

on November 22, 2010,[1] we notified the International Trade Commission, in writing, that we intended to issue a final determination revoking these antidumping duty orders. *See* 19 CFR 351.218(d)(1)(iii)(B)(2).

Scope of the Orders

The products covered by these orders are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld-neck, used for butt-weld line connections; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of these orders are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A–351. The flanges subject to these orders are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to these orders is dispositive of whether or not the merchandise is covered by the scope of the orders.

Determination To Revoke and Effective Date of Revocation

Pursuant to section 751(c)(3)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested party files a notice of intent to participate, the Department shall, within 90 days after the initiation of the sunset review, issue a final determination revoking the order. Because the domestic interested parties did not file a notice of intent to participate in these sunset reviews, the Department finds that no domestic interested party is participating in these sunset reviews. Therefore, consistent with 19 CFR 351.222(i)(1)(i) and section 751(c)(3)(A) of the Act, we are revoking the antidumping duty orders. The effective date of revocation of these antidumping duty orders is January 23, 2011, the fifth anniversary of the date of publication in the **Federal Register** of the most recent notice of continuation of this antidumping duty order. *See Notice of Continuation.*

Termination of Suspension of Liquidation

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.222(i)(2)(i), the Department intends to issue instructions to U.S. Customs and Border Protection, 15 days after publication of this notice, to terminate the suspension of liquidation of the merchandise subject to these orders entered, or withdrawn from warehouse, on or after January 23, 2011. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

These five-year (sunset) reviews and notice are published in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: January 25, 2011.

Christian Marsh,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–2108 Filed 1–28–11; 8:45 am]

BILLING CODE 3510–DS–P

[1] The deadline for this notification fell on November 21, 2010, a Sunday. Accordingly, we notified the International Trade Commission on the next business day.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–812]

Honey From Argentina: Notice of Initiation of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has received a request for a new shipper review of the antidumping duty order on honey from Argentina. *See Notice of Antidumping Duty Order: Honey From Argentina*, 66 FR 63672 (December 10, 2001) (*Order*). In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d), we are initiating an antidumping duty new shipper review of Villamora S.A. (Villamora). The period of review (POR) of this new shipper review is December 1, 2009, through November 30, 2010.

DATES: *Effective Date:* January 31, 2011.

FOR FURTHER INFORMATION CONTACT: Patrick Edwards or Angelica Mendoza, 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) 482–8029 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2001, the Department published the antidumping duty order on honey from Argentina. *See Order*, 66 FR at 63672. Thus, the antidumping duty order on honey from Argentina has a December anniversary month. On January 3, 2011, the Department received a timely filed request dated December 31, 2010, for a new shipper review from Villamora. In its request for a review, Villamora identified itself as an exporter of the subject merchandise. For the purpose of initiating this new shipper review, the Department determines that Villamora's submission was timely filed.

Pursuant to the requirements set forth in section 751(a)(2)(B)(i) of the Act and 19 CFR 351.214(b)(2), Villamora certified that (1) it did not export subject merchandise to the United States during the period of investigation (POI) (*see* section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i)); and (2) since the initiation of the investigation, it has never been affiliated with any company that exported subject merchandise to the United States during the POI, including those companies not individually examined during the investigation (*see* section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A)). Additionally, in accordance with 19 CFR 351.214(b)(2)(iv), Villamora submitted documentation establishing the following: (1) The date on which it first shipped subject merchandise to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated purchaser for exportation to the United States. Villamora also stated it had no shipments to the United States during the period subsequent to its first shipment.

Initiation of Review

Based on information on the record and in accordance with section 751(a)(2)(B) of the Act, and 19 CFR 351.214(d), we find that the request submitted by Villamora meets the statutory and regulatory requirements for initiation of a new shipper review. *See* Memorandum to the File, through Angelica L. Mendoza, Program Manager, regarding "Initiation of the Antidumping

Duty New Shipper Review: Honey from Argentina," dated January 25, 2011. Accordingly, we are initiating a new shipper review of the antidumping duty order on honey from Argentina exported by Villamora, for the period December 1, 2009, through November 30, 2010. We intend to issue the preliminary results of this review no later than 180 days after the date on which this review is initiated, and the final results within 90 days after the date on which we issue the preliminary results. *See* section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(h)(i).

We will instruct U.S. Customs and Border Protection (CBP) to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for certain entries of the subject merchandise exported by Villamora in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Villamora certified that it exports the subject merchandise, the sale of which forms the basis for its new shipper review request, we will instruct CBP to permit the use of a bond only for entries of subject merchandise which Villamora exported.

Interested parties may submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and this notice are issued and published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: January 25, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–2087 Filed 1–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–875]

Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a timely request from NEP Tianjin Machinery Company ("NEP Tianjin") the Department of Commerce (the "Department") is conducting the 2009–2010 administrative review of the antidumping duty order on non-malleable cast iron pipe fittings ("pipe fittings") from the People's Republic of China ("PRC"). The Department has reviewed shipments of subject merchandise made by NEP Tianjin and has determined that NEP Tianjin made sales below normal value ("NV") during the period of review ("POR"). If the preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis.*

We invite interested parties to comment on these preliminary results of review. Parties who submit comments are requested to submit with each argument a statement of the issue and a brief summary of the argument. We intend to issue the final results no later than 120 days from the date of publication of this notice.

DATES: *Effective Date:* January 31, 2011.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–4081.

SUPPLEMENTARY INFORMATION:

Background

On April 7, 2003, the Department published an antidumping duty order on pipe fittings from the PRC.[1] The Department received a timely request for review of this antidumping order in accordance with 19 CFR 351.213(b)(2) from NEP Tianjin. On May 28, 2010, the Department published a notice of initiation of an antidumping duty administrative review on pipe fittings from the PRC, in which it initiated a review of NEP Tianjin.[2]

On June 7, 2010, the Department issued the antidumping duty questionnaire to NEP Tianjin. We received a timely questionnaire response from NEP Tianjin. We issued supplemental questionnaires for sections A, C, and D to NEP Tianjin in September and October 2010, followed with secondary supplemental questionnaires for sections C and D in November 2010. We received timely responses from NEP Tianjin to our supplemental questionnaires between October 20, 2010, and December 8, 2010.

On October 22, 2010, the Department identified India, the Philippines, Indonesia, Thailand, Ukraine, and Peru as a non-exhaustive list of countries that are at a level of economic development comparable to the PRC and for which good quality data is most likely available.[3] In response to the Department's October 22, 2010, letter providing parties with an opportunity to submit comments regarding surrogate country and surrogate value ("SV") selection, NEP Tianjin submitted surrogate country and SV comments on November 9, 2010, and December 8, 2010, respectively.

On December 7, 2010, the Department extended the deadline for the preliminary results of administrative review until January 31, 2011.[4]

Period of Review

The POR is April 1, 2009, through March 31, 2010.

Scope of Order

The products covered by the order are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from ¼ inch to 6 inches, whether threaded or unthreaded, regardless of industry or proprietary specifications. The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings. These pipe fittings are also known as "cast iron pipe fittings" or "gray iron pipe fittings." These cast iron pipe fittings are normally produced to ASTM A–126 and ASME B.16.4 specifications and are threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (UL) certified. The scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings.

Fittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above or which have the same physical characteristics and are produced to ASME B.16.3, ASME B.16.4, or ASTM A–395 specifications, threaded to ASME

[1] *See Notice of Antidumping Duty Order: Non-Malleable Cast Iron Pipe Fittings From the People's Republic of China,* 68 FR 16765 (April 7, 2003).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 75 FR 29976, 29983 (May 28, 2010).

[3] *See* Memorandum from Carole Showers, Director, Office of Policy to Robert Bolling, Program Manager, Operations, NME unit, Office 4, "Request for a List of Surrogate Countries for and Administrative Review of the Antidumping Duty Order on Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China," dated October 22, 2010 ("Surrogate Countries Memorandum").

[4] *See Non-Malleable Cast Iron Pipe Fittings From the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review,* 75 FR 75964 (December 7, 2010).

B1.20.1 specifications and UL certified, regardless of metallurgical differences between gray and ductile iron, are also included in the scope of the order. These ductile fittings do not include grooved fittings or grooved couplings. Ductile cast iron fittings with mechanical joint ends (MJ), or push on ends (PO), or flanged ends and produced to the American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153 are not included.

Imports of subject merchandise are currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60, 7307.19.30.85. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the order is dispositive.[5]

Non-Market-Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country.[6] In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended ("the Act"), any determination that a country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment. Accordingly, the Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Selection of a Surrogate Country

When the Department conducts an antidumping duty administrative review of imports from an NME country, section 773(c)(1) of the Act directs the Department to base NV, in most cases, on the NME producer's factors of production ("FOPs") valued in a surrogate market-economy country or countries considered appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department will value FOPs using "to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are—(A) at a level of economic development comparable to that of the NME country, and (B) significant producers of comparable merchandise." Further, pursuant to 19 CFR 351.408(c)(2), the Department will normally value FOPs in a single country.

In the instant review, the Department has identified India, the Philippines, Indonesia, Thailand, Ukraine, and Peru as a non-exhaustive list of countries that are at a level of economic development comparable to the PRC and for which good quality data is most likely available.[7] We use the per capita Gross National Income ("GNI") as the primary basis for determining economic comparability. Once the countries that are economically comparable to the PRC have been identified, the Department selects an appropriate surrogate country by determining whether an economically comparable country is a significant producer of comparable merchandise and whether data for valuing FOPs are both available and reliable. Like the PRC, India has a broad and diverse production base, and the Department has reliable data from India that it can use to value the FOPs.[8] Therefore, the Department has determined that it is appropriate to use India as a surrogate country for the purposes of this administrative review, pursuant to section 773(c)(4) of the Act, based on the following: (1) It is at a similar level of economic development to the PRC; (2) it is a significant producer of identical merchandise; and (3) the Department has reliable data from India that it can use to value the FOPs. Thus, the Department calculated NV using Indian prices when available and appropriate to the FOPs of NEP Tianjin. The Department obtained and relied upon publicly available information wherever possible. In response to the Department's selection of a surrogate country, NEP Tianjin stated that it has no information to indicate that any country other than India should be the surrogate country.[9] The sources of the surrogate factor values are discussed under the "Normal Value" section below.[10] In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly-available information to value FOPs until 20 days after the date of publication of the preliminary results.[11]

Separate Rate

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.[12] Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test set out in the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from

[5] On April 21, 2009, in consultation with CBP, the Department added the following HTSUS classification to the AD/CVD module for pipe fittings: 7326.90.8588. *See* Memorandum from Abdelali Elouaradia, Office Director, Import Administration, Office 4 to Stephen Claeys, Deputy Assistant Secretary, Import Administration regarding the Final Scope Ruling on Black Cast Iron Cast, Green Ductile Flange and Twin Tee, antidumping duty order on non-malleable iron cast pipe fittings from China, dated September 19, 2008. *See also* Memorandum to the file from Karine Gziryan, Financial Analyst, Office 4, regarding Module Update adding Harmonized Tariff Schedule Number for twin tin fitting included in the scope of antidumping order on non-malleable iron cast pipe fittings from China, dated April 22, 2009.

[6] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 60632 (October 25, 2007).

[7] *See* Surrogate Countries Memorandum.

[8] *See* Memorandum from Karine Gziryan, Senior Financial Analyst, through Robert Bolling, Program Manager, to the File, "Antidumping Duty Administrative Review of Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China—Surrogate Values Memorandum," dated January 24, 2011 ("Surrogate Values Memorandum") at 1–6.

[9] *See* Letter from NEP (Tianjin) Machinery to the Secretary of Commerce, "Non-Malleable Cast Iron Pipe Fittings from China: Surrogate Country Selection Response" (November 9, 2010).

[10] *See* Surrogate Values Memorandum.

[11] In accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative SV information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

[12] *See Separate Rates and Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,* 70 FR 17233 (April 5, 2005), also available at: *http://ia.ita.doc.gov/policy/index.html.*

government control.[13] NEP Tianjin submitted information indicating that it is a wholly foreign-owned enterprise under Chinese law.[14] Therefore, for the purposes of these preliminary results, the Department finds that it is not necessary to perform a separate-rate analysis with respect to NEP Tianjin.

Fair Value Comparisons

In accordance with section 777A(d)(2) of the Act, to determine whether NEP Tianjin sold pipe fittings to the United States at less than NV, we compared the constructed export price ("CEP") of individual transactions of pipe fittings to the NV of pipe fittings, as described in the "U.S. Price" and "Normal Value" sections of this notice.

U.S. Price

In accordance with section 772(b) of the Act, we based NEP Tianjin's U.S. price on CEP because the first sale to unaffiliated purchasers were made post importation through its affiliated U.S. company, and export price was not otherwise warranted by the facts on the record. In accordance with section 772(b) of the Act, CEP is the price at which the merchandise under review is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d) of the Act. The Department calculated CEP for NEP Tianjin based on delivered prices to unaffiliated purchaser in the United States and made deductions, where applicable, from the U.S. sales price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These movement expenses included foreign inland freight from the plant to the port of exportation, foreign brokerage and handling fees, international freight, and U.S. customs duty. In accordance with section 772(d)(1) of the Act, the Department deducted credit expenses and indirect selling expenses for the U.S. price, all of which relate to commercial activity in the United States. Finally, the Department deducted CEP profit, in accordance with section 772(d)(3) and 772(f) of the Act. For details regarding the CEP calculation, *see* NEP Tianjin Analysis Memo.[15]

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the available information does not permit the calculation of NV using home market prices, third-country prices, or constructed value under section 773(a) of the Act. When determining NV in an NME context, the Department uses an FOP methodology because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under its normal methodologies.[16] Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department based NV on FOPs reported by the respondent for materials, energy, labor and packing.

Thus, in accordance with section 773(c) of the Act, we calculated NV by adding together the values of the FOPs, overhead, selling, general and administrative ("SG&A") expenses, profit, and packing costs.[17] We calculated FOP values by multiplying the reported per-unit factor-consumption rates by publicly available SVs (except as discussed below). Specifically, we valued material, labor, energy, and packing by multiplying the amount of the factor consumed in producing subject merchandise by the average unit SV of the factor. In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the U.S. Court of Appeals for the Federal Circuit ("CAFC") decision in *Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). We calculated surrogate overhead expenses, SG&A expenses, and profit, and added these to the FOP costs.[18]

Consistent with the Department's determination in *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China,* 71 FR 29303 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 9 ("*Diamond Sawblades*"), unchanged in *Notice of Amended Final Determination of Sales at Less Than Fair Value: Diamond Sawblades and Parts Thereof from the People's Republic of China,* 71 FR 35864 (June 22, 2006), we will deduct the SV of by-products from NV for the following reasons. First, in the instant administrative review, a careful analysis of the surrogate financial statements reveals that there is no reference to by-products in these statements. Therefore, the Department determines how to treat by-products based on whether the respondent sold or reused by-products. Second, because NEP Tianjin reported that they sold certain by-products, such as scrap iron, the Department has applied the by-product offset to NV. This deduction of scrap iron sold is consistent with accounting principles based on the reasonable assumption that if a company sells a by-product, the by-product necessarily incurs expenses for overhead, SG&A, and profit.[19]

Selected Surrogate Values

In selecting the SVs, we considered the quality, specificity, and contemporaneity of the data. In selecting the best available information for valuing FOP in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.[20] The record shows that the Indian import statistics represent import data that are

[13] *See Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China,* 64 FR 71104, 71104–71105 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate).

[14] *See* NEP Tianjin's July 7, 2010 Section A Questionnaire Response.

[15] Memorandum from Karine Gziryan, Senior Financial Analyst, through Robert Bolling, Program Manager, to the File, "Analysis Memorandum for NEP (Tianjin) Machinery Company," dated January 24, 2011 ("NEP Tianjin Analysis Memo").

[16] *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part,* 70 FR 39744, 39754 (July 11, 2005), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003–2004 Administrative Review and Partial Rescission of Review,* 71 FR 2517, 2521 (January 17, 2006).

[17] We applied SVs to the FOP, as indicated in the "Selected Surrogate Values" section below.

[18] *See* Surrogate Values Memorandum at 5 and Exhibit 6.

[19] *See, e.g., Diamond Sawblades* at Comment 9.

[20] See, e.g., Pure Magnesium from the People's Republic of China: Preliminary Results of 2007–2008 Antidumping Duty Administrative Review, 74 FR 27090, 27094 (June 8, 2009), unchanged in *Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 74 FR 66089 (December 14, 2009).

contemporaneous with the POR, product-specific, and tax-exclusive.

The Department used Indian import statistics to value the raw material and packing material inputs that NEP Tianjin used to produce the merchandise under review during the POR, except where listed below. It is the Department's practice to calculate a SV for various FOP using import statistics of the primary selected surrogate country from Global Trade Atlas ("GTA"), as published by Global Trade Information Services.[21]

In accordance with the *OTCA 1988* legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized.[22] In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[23] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Additionally, we excluded from our calculations imports that were labeled as originating from an unspecified country because we could not determine whether they were from either an NME country, or from a country with generally available subsidy programs. Where we could only obtain SVs that were not contemporaneous with the POR, we inflated (or deflated) the SVs using the Indian Wholesale Price Index as published in the International Financial Statistics of the International Monetary Fund.[24]

We valued FOPs in the preliminary results of this review using SVs, as follows (*see* Surrogate Values Memorandum for more specific details). Except as noted below, we valued raw materials (*e.g.,* pig iron, antirust, scrap steel, ferrosilicon) and packing materials using April 2009 through March 2010 weighted-average Indian import values derived from GTA.[25] The Indian import statistics that we obtained from GTA were published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce of India and are contemporaneous with the POR.[26]

The Department valued truck freight expenses using a per-unit average rate calculated from data on the Infobanc Web site.[27] The logistics section of this Web site contains inland freight truck rates between many large Indian cities. We only selected rates for this value which were contemporaneous with the POR.[28]

We valued electricity using the updated electricity price data for small, medium, and large industries, as published by the Central Electricity Authority, an administrative body of the Government of India, in its publication titled *Electricity Tariff & Duty and Average Rates of Electricity Supply in India,* dated March 2008. These electricity rates represent actual country-wide, publicly-available information on tax-exclusive electricity rates charged to small, medium, and large industries in India. We did not inflate this value because utility rates represent current rates, as indicated by the effective dates listed for each of the rates provided.[29]

On May 14, 2010, the CAFC, in *Dorbest Ltd.* v. *United States,* 604 F.3d 1363, 1372 (CAFC 2010), found that the "{regression-based} method for calculating wage rates {as stipulated by 19 CFR 351.408(c)(3)} uses data not permitted by {the statutory requirements laid out in section 773 of the Act (*i.e.,* 19 U.S.C. 1677b(c))}." The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. However, for these preliminary results, we have calculated an hourly wage rate to use in valuing the respondent's reported labor input by averaging industry-specific earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.

For the preliminary results of this administrative review, the Department is valuing labor using a simple average industry-specific wage rate using earnings or wage data reported under Chapter 5B by the International Labor Organization ("ILO"). To achieve an industry-specific labor value, we relied on industry-specific labor data from the countries we determined to be both economically comparable to the PRC, and significant producers of comparable merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the Surrogate Values Memorandum. The Department calculated a simple average industry-specific wage rate of $1.36 for these preliminary results. Specifically, for this review, the Department has calculated the wage rate using a simple average of the data provided to the ILO under Sub-Classification 28 of the ISIC–Revision 3 standard by countries determined to be both economically comparable to the PRC and significant producers of comparable merchandise. The Department finds the two-digit description under ISIC–Revision 3 ("Manufacture of Fabricated Metal Products, Except Machinery and Equipment") to be the best available wage rate SV on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. Consequently, we averaged the ILO industry-specific wage rate data or earnings data available from the following countries found to be economically comparable to the PRC and are significant producers of comparable merchandise: Ecuador, Egypt Arab Rep., Indonesia, Jordan, Peru, the Philippines, Thailand, and Ukraine. For further information on the calculation of the wage rate, *see* Surrogate Values Memorandum.

The Department valued brokerage and handling using a fee schedule of brokerage and handling charges for a standardized cargo of goods in India. The fee schedule was compiled based on a survey case study of the procedural requirements for a standard shipment of goods by ocean transport in India that

[21] *See Fresh Garlic From the People's Republic of China: Preliminary Results of New Shipper Reviews and Preliminary Rescission, in Part,* 75 FR 69415, 69420 (November 12, 2010); *Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review,* 74 FR 50946, 50950 (October 2, 2009), unchanged in *Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review,* 74 FR 65520 (December 10, 2009).

[22] *See* Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 590, 100th Cong., 2nd Sess. (1988) ("*OTCA 1988*").

[23] *See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order,* 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at 4–5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review,* 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at 4; *see Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review,* 74 FR 2512 (January 15, 2009) and accompanying Issues and Decision Memorandum at 17, 19–20; *see Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand,* 66 FR 50410 (October 3, 2001) and accompanying Issues and Decision Memorandum at 23.

[24] *See* Surrogate Values Memorandum at 2 and Exhibit 2.

[25] Available online at: *http://www.gtis.com/gta.html.*

[26] *See* Surrogate Values Memorandum at 2.

[27] Available at: *http://www.infobanc.com/logistics/logtruck.html.*

[28] *See* Surrogate Values Memorandum at 5.

[29] *See* Surrogate Values Memorandum at 4.

is published in *Doing Business 2010: India,* by the World Bank. The price list data is contemporaneous with the POR.[30]

We valued water using the revised Maharashtra Industrial Development Corporation water rates.[31] We only selected rates for this value which were contemporaneous with the POR.[32]

Lastly, we valued SG&A expenses, factory overhead costs, and profit using the 2009–2010 financial statements of three Indian producers of comparable merchandise, namely ductile iron fittings, cast iron products and pipe fittings. These producers are: Vishal Malleables Ltd., Truform Techno Products Limited, and Lokesh Foundries (P) Limited. From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy ("ML&E") costs; SG&A as a percentage of ML&E plus overhead (*i.e.,* cost of manufacture); and profit as a percentage of the cost of manufacture plus SG&A.[33]

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates can be accessed at the Web site of Import Administration.[34]

Preliminary Results of Review

We preliminarily determine that the following margin exists for NEP Tianjin during the period April 1, 2009, through March 31, 2010.

Company	Antidumping Duty Margin (percent)
NEP (Tianjin) Machinery Company	00.00

Disclosure, Briefs and Public Hearing

The Department will disclose the calculations used in our analysis to parties to this administrative review within five days of the date of publication of this notice.[35] Case briefs from interested parties may be submitted not later than 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue and (2) a brief summary of the argument. The Department also requests that interested parties provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. The Department requests that parties submitting written comments also provide the Department with an additional copy of those comments on diskette.

Any interested party may request a hearing within 30 days of publication of this notice.[36] Interested parties, who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed.[37] Issues raised in the hearing will be limited to those raised in the briefs.

The Department will issue the final results of this review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.[38]

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If the preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis.*

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) For the exporters listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis,* no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed review; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 75.50 percent;[39] and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are published in accordance with sections 751(a)(1) and 777(i) of the Act, 19 CFR 351.213, and 19 CFR 351.221(b)(4).

Dated: January 24, 2011.

Christian Marsh,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–2085 Filed 1–28–11; 8:45 am]

BILLING CODE 3510–DS–P

[30] *See* Surrogate Values Memorandum at 5–6 and Exhibit 8.

[31] The water rates are available online at: *http://www.midcindia.com/water-supply.*

[32] *See* Surrogate Values Memorandum at 4 and Exhibit 4.

[33] *See* Surrogate Values Memorandum at 5 and Exhibit 6.

[34] The Import Administration Web site is available at: *http://ia.ita.doc.gov/exchange/index.html.*

[35] *See* 19 CFR 351.224(b).

[36] *See* 19 CFR 351.310(c).

[37] *See* 19 CFR 351.310(c).

[38] *See* section 751(a)(3)(A) of the Act.

[39] *See Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 72 FR 38563, 38563 (July 13, 2007).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA185

Marine Mammals; File No. 15274

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Dan Salden, Ph.D., Hawaii Whale Research Foundation, 52 Cheshire Drive, Maryville, IL 62062, has applied in due form for a permit to conduct research on humpback whales (*Megaptera novaeangliae*).

DATES: Written, telefaxed, or e-mail comments must be received on or before March 2, 2011.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 15274 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808)944–2200; fax (808)973–2941.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by facsimile to (301)713–0376, or by e-mail to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the e-mail comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Joselyd Garcia-Reyes or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant requests a permit to conduct passive acoustics, underwater photography and videography, photo-identification surveys, and to collect sloughed skin to study humpback whales, Hawaiian Insular false killer whales (*Pseudorca crassidens),* and non-ESA listed cetaceans around the waters of Hawaii, primarily Kona Coast and Maui County near-Lanai waters, Kalohi Channel, and Pailolo Channel. Research would also occur in Southeast Alaska and Kachemak Bay area when platforms become available. Up to 3000 humpback whales and 150 Hawaiian Insular false killer whales could be harassed each year during photo-identification surveys. Additionally, false killer whales, killer whales (*Orcinus orca*), short-finned pilot whales (*Globicephala macrorhynchus*), bottlenose dolphins (*Tursiops truncatus*), spinner dolphins (*Stenella longirostris*), and pantropical spotted dolphins (*Stenella attenuata*) may be harassed. See the application for specific take numbers by species. The purposes of the proposed research are to: (1) Continue and expand a study of humpback whales, (2) examine the role and function of competitive groups as they relate to the mating system of humpback whales, (3) study the life histories of known individual humpback whales, and (4) opportunistically study the stock structure, life history parameters (reproductive rates, mortality, etc.) and abundance of other cetaceans. The permit would be valid for a period of five years.

A draft environmental assessment (EA) has been prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), to examine whether significant environmental impacts could result from issuance of the proposed scientific research permit. The draft EA is available for review and comment simultaneous with the scientific research permit application.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 25, 2011.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–2066 Filed 1–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA183

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of a scientific research permit.

SUMMARY: Notice is hereby given that NMFS has issued scientific research Permit 15390 to the Resource Conservation District of the Santa Monica Mountains (RCD), in southern California.

ADDRESSES: The permit application, the permit, and related documents are available for review, by appointment, at the foregoing address at: Protected Resources Division, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802 (ph: 562–980–4026, fax: 562–980–4027, e-mail at: *Matthew.McGoogan@noaa.gov).* The permit application is also available for review online at the Authorizations and Permits for Protected Species Web site at *https://apps.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Matt McGoogan at 562–980–4026, or e-mail: *Matthew.McGoogan@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Authority

The issuance of permits, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and, (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits are issued in accordance with and are subject to the ESA and NMFS regulations (50 CFR parts 222–226) governing listed fish and wildlife permits.

Species Covered in This Notice

This notice is relevant to the federally endangered Southern California Distinct Population Segment of steelhead (*Oncorhynchus mykiss*).

Permit Issued

A notice of the receipt of an application for Permit 15390 was published in the **Federal Register** on May 7, 2010 (75 FR 25205). Permit 15390 was issued to the RCD on October 8, 2010. Permit 15390 authorizes the RCD to conduct a scientific study of steelhead in Topanga Creek, Arroyo Sequit, and Malibu Creek. The purpose of this study is to gather information that will contribute to the understanding of migration patterns, diet, and the abundance and distribution of steelhead in the subject streams. Monitoring methods authorized by the permit include direct underwater observation techniques for estimating abundance and distribution of steelhead, migratory trapping, and Passive Integrated Transponder (PIT) tagging. Authorized sampling methods to obtain steelhead for abundance counts and PIT tagging include hand nets, seine nets, angling, fyke traps, and electrofishing.

Permit 15390 authorizes an annual non-lethal take of 1150 juvenile steelhead, 100 smolts, and 10 adult steelhead as well as an annual collection and possession of up to 950 steelhead tissue samples and 10 steelhead carcasses. The permit authorizes 100 smolts and up to 850 juvenile steelhead (depending on size) to be processed for PIT tags. The capture of adult steelhead in fyke traps is authorized by the permit, but PIT tagging of adults is not. The permit authorizes gastric lavage to be performed on up to 30 juvenile steelhead to gather information on feeding habits and diet. The authorized unintentional lethal take for the permit is 36 juvenile steelhead annually. No unintentional lethal take of adult steelhead nor intentional lethal take of any steelhead is authorized with this permit. All mortalities will be sent to NMFS Protected Resource Division in Long Beach, CA for genetic research and processing. Field activities associated with Permit 15390 began in October 2010 when the permit was issued and will cease when the permit expires on December 31, 2020.

Dated: January 25, 2011.

Therese Conant,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–2130 Filed 1–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA182

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of receipt of a permit application; request for comments.

SUMMARY: Notice is hereby given that NMFS has received an application for a permit to conduct research for scientific purposes from Stillwater Sciences (Stillwater) in Arcata, California. The requested permit would affect the endangered Southern California (SC) Distinct Population Segment (DPS) of steelhead (*Oncorhynchus mykiss*). The public is hereby notified of the availability of the permit application for review and comment before NMFS either approves or disapproves the application.

DATES: Written comments on the permit application must be received at the appropriate address or fax number (*see* **ADDRESSES**) on or before March 2, 2011.

ADDRESSES: Written comments on the permit application should be sent to Matt McGoogan, Protected Resources Division, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Comments may also be sent using e-mail (*FRNpermits.lb@noaa.gov*) or fax (562.980.4027). The permit application is available for review, by appointment, at the foregoing address and is also available for review online at the Authorizations and Permits for Protected Species Web site at *https://apps.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Matt McGoogan at phone number (562.980.4026) or *e-mail: matthew.mcgoogan@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should provide the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Permit Application Received

Stillwater has applied for a permit (permit 15774) to study steelhead in the Santa Maria River watershed. The purpose of this study is to gather information that will contribute to the understanding of steelhead rearing and over-summering patterns in the Santa Maria River estuary and abundance and distribution of steelhead in the upper Sisquoc River (a tributary to the Santa Maria River). In the Santa Maria River estuary monitoring methods include the use of hand nets, seine nets, and minnow traps to sample for the presence of steelhead during different times of the year. In the upper Sisquoc River direct underwater observation techniques (*i.e.* snorkel surveys) are proposed for estimating abundance and distribution of steelhead. Field activities will occur between March 2011 and December 2015. Stillwater has requested an annual non-lethal take of 100 juvenile steelhead and 20 smolts for the activities proposed in the Santa Maria River estuary. In the upper Sisquoc River, Stillwater is requesting permission to observe up to 3000 juvenile and 10 adult steelhead annually during snorkel surveys. The unintentional lethal take that may occur as a result of research activities in the Santa Maria River estuary is up to 1 juvenile steelhead and 1 smolt annually. No unintentional lethal take is expected from research activities in the Sisquoc River. Overall, no intentional lethal take steelhead is expected in association with any aspect of these research activities.

Dated: January 25, 2011.

Therese Conant,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–2064 Filed 1–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA061

Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops; Correction

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

ACTION: Notice of public workshops; correction.

SUMMARY: Due to inclement weather, NMFS cancelled the Protected Species Safe Handling, Release, and Identification workshop that was originally scheduled for January 13, 2011, in Manahawkin, NJ. This workshop was announced on December 1, 2010. NMFS has rescheduled the workshop for February 10, 2011, to be held at the same time (of day) and location: 9 a.m. to 5 p.m., Holiday Inn, 151 Route 72 East, Manahawkin, NJ 08050.

DATES: The Protected Species Safe Handling, Release, and Identification workshop that was originally scheduled for January 13, 2011, in Manahawkin, NJ, has been rescheduled for February 10, 2011. *See* **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The location of the rescheduled workshop has not changed. See **SUPPLEMENTARY INFORMATION** for further details.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson of the Highly Migratory Species Management Division at (727) 824–5399.

SUPPLEMENTARY INFORMATION:

Need for Correction

In the **Federal Register** of December 1, 2010 (75 FR 74693), in FR Doc. 2010–30238, on page 74694, in the third column, the date of the second Protected Species Safe Handling, Release, and Identification workshop listed under the heading "Workshop Dates, Times, and Locations" should be corrected to read as follows:

2. February 10, 2011, 9 a.m.–5 p.m., Holiday Inn, 151 Route 72 East, Manahawkin, NJ 08050.

Background

This workshop, originally scheduled for January 13, 2011, has been rescheduled to February 10, 2011, due to inclement weather along the east coast of the United States on the date of the originally scheduled workshop.

To register for a Protected Species Safe Handling, Release, and Identification workshop, please contact Angler Conservation Education at (386) 682–0158.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring specific items to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification.
- Representatives of a business owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification.
- Vessel operators must bring proof of identification.

Dated: January 26, 2011.

Emily H. Menashes,

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

[FR Doc. 2011–2072 Filed 1–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board (RFPB); Cancellation of Committee Meeting

AGENCY: Office of the Secretary of Defense Reserve Forces Policy Board, DoD.

ACTION: Notice of Cancellation of Committee Meeting.

SUMMARY: The meeting of the Reserve Forces Policy Board, scheduled for Tuesday and Wednesday, January 25th and 26th, 2011, was cancelled. The meeting was announced in the **Federal Register** on December 8, 2010 (Volume 75, No. 235) FR (76423). The purpose of the meeting was an open meeting of the Reserve Forces Policy Board. The meeting was canceled due to the less than required number of attendees required to hold the meeting.

FOR FURTHER INFORMATION CONTACT: Lt Col Julie A. Small, Designated Federal Officer, (703) 697–4486 (Voice), (703) 693–5371 (Facsimile), *RFPB@osd.mil.* Mailing address is Reserve Forces Policy Board, 7300 Defense Pentagon, Washington, DC 20301–7300. *Web site: http://ra.defense.gov/rfpb/.*

Dated: January 25, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–1948 Filed 1–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Defense Health Board (DHB) Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, and in accordance with Section 10(a)(2) of Public Law, DoD announces that the Defense Health Board (DHB) will meet March 7 and 8, 2011, in Herndon, Virginia.

DATES: the meeting will be held on the following dates and times—

March 7, 2011

9 a.m.–5 p.m. (Administrative Working Meeting)

March 8, 2011

9 a.m.–11:45 a.m. (Open Session)

11:45 a.m.–12:45 p.m. (Administrative Working Meeting)

12:45 p.m.–2 p.m. (Open Session)

ADDRESSES: The meeting will be held at the Hilton Washington Dulles Hotel, 13869 Park Center Road, Herndon, Virginia, 20171

FOR FURTHER INFORMATION CONTACT: Ms. Christine Bader, Director, Defense Health Board, Five Skyline Place, 5111 Leesburg Pike, Suite 810, Falls Church, Virginia 22041–3206, (703) 681–8448, Ext. 1215, Fax: (703) 681–3317, *Christine.bader@tma.osd.mil.*

SUPPLEMENTARY INFORMATION: Additional information, including agenda updates and meeting registration are available online at the Defense Health Board (DHB) Web site: *http://www.ha.osd.mil/dhb.* The public is encouraged to register early for the

meeting to ensure adequate space is available for attendees.

Purpose of the Meeting

The purpose of the meeting is for the Board to address and deliberate both pending and new issues and receive briefings on topics related to new or ongoing Board business.

Agenda

On March 7, 2011, the DHB meeting will consist of an administrative session for newly appointed Board members. On March 8, 2011, the DHB will receive briefings regarding military health needs and priorities. The following Defense Health Board Subcommittees will present updates to the Board: Trauma and Injury, Psychotropic Medication and Complementary and Alternative Medicine Work Groups, and Medical Ethics. Additionally, the Board will receive an information brief regarding the Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury (DCoE). The Board will vote on a recommendation regarding the proposed research priorities of the Trauma and Injury Subcommittee.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, the Defense Health Board meeting scheduled on March 7, 2011, from 9 a.m. to 5 p.m. will be an administrative session and is therefore not open to the public. On March 8, 2011, from 9 a.m. to 11:45 a.m. and 12:45 p.m. to 2 p.m., the DHB meeting will be open to the public.

Written Statements

Any member of the public wishing to provide input to the Defense Health Board should submit a written statement in accordance with 41 CFR 102–3.140(C) and section 10(a)(3) of the Federal Advisory Committee Act, and the procedures described in this notice. Written statements should address the following details: the issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and to provide any necessary background information.

Individuals desiring to submit a written statement may do so through the Board's Designated Federal Officer (*see* **FOR FURTHER INFORMATION CONTACT**) at any point. If the written statement is not received at least 10 calendar days prior to the meeting, which is subject to this notice, the Designated Federal Officer may choose not to provide it to the Defense Health Board until the next open meeting.

The Designated Federal Officer will review all timely submissions with the Defense Health Board Chairperson, and ensure they are provided to members of the Defense Health Board before the meeting that is subject to this notice. After reviewing the written comments, the Chairperson and the Designated Federal Officer may choose to invite the submitter of the comments to orally present their issue during an open portion of this meeting or at a future meeting.

The Designated Federal Officer, in consultation with the Defense Health Board Chairperson, may, if desired, allot a specific amount of time for members of the public to present their issues for review and discussion by the Defense Health Board. Written statements may be mailed to the address under **FOR FURTHER INFORMATION CONTACT**, e-mailed to *dhb@ha.osd.mil* or faxed to (703) 681–3317.

Special Accommodations

If special accommodations are required to attend (sign language, wheelchair accessibility) please contact Ms. Lisa Jarrett at (703) 681–8448 Ext. 1280 by February 25, 2010.

Dated: January 20, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–1951 Filed 1–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the following Federal Advisory Committee meeting of the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces (subsequently referred to as the Task Force) will take place.

DATES: Tuesday, February 22, 2011 and Wednesday, February 23, 2011 from 8 p.m.–5 p.m.

ADDRESSES: Embassy Suites DC Convention Center, 900 10th Street, NW., Washington, DC 20001.

FOR FURTHER CONTACT INFORMATION: Mail Delivery service through Recovering Warrior Task Force, Hoffman Building II, 200 Stovall St., Alexandria, VA 22332–0021 "Mark as Time Sensitive for February Meeting". E-mails to *taskforce.recoveringwarrior@wso.whs.mil.* Telephone (703) 325–6640. Fax (703) 325–6710.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* The purpose of the meeting is for the Task Force Members to convene and receive briefings on the Army Warrior Transition Command and Air Force Warrior and Survivor Care Programs.

Agenda: (Please refer to *http://dtf.defense.gov/rwtf/meetings.html* for the most up-to-date meeting information).

8 a.m.–5 p.m. Tuesday 22 February 2011

8 Opening and Introductions
8:30 Army Measures of Effectiveness and Systems of Performance and Accountability: NonMedical Case Management
10:15 Break
10:30 Army Support to Caregivers
11:30 Break
11:45 Army Measures of Effectiveness and Systems of Accountability: Army Medical Case Management
1:00 Break
1:15 Army Services for TBI and PTSD
2:15 Break
2:30 Army Programs for Transition Assistance
3:15 Break
3:30 Army Support Systems Disability Evaluation System
4:30–5 Close

8 a.m.–5 p.m. Wednesday 23 February 2011

8 Welcome and Opening Remarks
9 Public Forum
9:15 Air Force Measures of Effectiveness and Systems of Performance and Accountability for Non-Medical Case Management
10:30 Break
10:45 Air Force Measures of Effectiveness and Systems of Accountability: Medical Care Case Management
11:45 Break
1:00 Air Force Medical Services for TBI and PTSD
1:15 Air Force Programs for Transition Assistance
1:30 Break
1:45 Review of Focus Group Questions and Instruments
2:45 Focus Group Training
5 Close

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR

102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

Point of Contact: Denise F. Dailey, Designated Federal Officer, (703) 325–6640, Hoffman Building II, 200 Stovall St., Alexandria, VA 22332–0021, *taskforce.recoveringwarrior@wso.whs.mil.*

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of a planned meeting of the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces.

All written statements shall be submitted to the Designated Federal Officer for the Task Force through the above contact information, and this individual will ensure that the written statements are provided to the membership for their consideration.

Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed NLT 5 p.m. EST, Monday, February 14, 2011 which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Task Force until its next meeting. Please mark mail correspondence as "Time Sensitive for February Meeting."

The Designated Federal Officer will review all timely submissions with the Task Force Co-Chairs and ensure they are provided to all members of the Task Force before the meeting that is the subject of this notice.

Oral Statements: If individuals are interested in making an oral statement during the Public Forum time period, a written statement for a presentation of two minutes must be submitted as above and must identify it is being submitted for an oral presentation by the person making the submission. Identification information must be provided and at a minimum must include a name and a phone number. Determination of who will be making an oral presentation will depend on the submitted topic's relevance to the Task Force's Charter. Individuals may visit the Task Force Web site at *http://dtf.defense.gov/rwtf/* to view the Charter. Individuals making presentations will be notified by Friday, February 18, 2011. Oral presentations will be permitted only on Wednesday February 23, 2011 from 9 a.m. to 9:15 a.m. before the full Task Force. Number of oral presentations will not exceed five, with one minute of questions available to the Task Force members per presenter. Presenters should not exceed their two minutes.

Reasonable accommodations will be made for those individuals with disabilities who request them. Requests for additional services should be directed to Joseph Jordon, (703) 325–6640, by 5 p.m. EST, Monday, February 14, 2011.

Dated: January 25, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–1947 Filed 1–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Department of Defense Military Family Readiness Council (MFRC)

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Department of Defense Military Family Readiness Council (MFRC). The purpose of the Council meeting is to review the military family programs which will be the focus for the Council for next year, review the status of warrior care, and address selected concerns of military family organizations.

The meeting is open to the public, subject to the availability of space. Persons desiring to attend may contact Ms. Melody McDonald at 571–256–1738 or e-mail *FamilyReadinessCouncil@osd.mil* no later than 5 p.m. on Wednesday, 16 February 2011 to arrange for parking and escort into the conference room inside the Pentagon.

Interested persons may submit a written statement for consideration by the Council. Persons desiring to submit a written statement to the Council must notify the point of contact listed below no later than 5 p.m., Friday, 18 February 2011.

DATES: 23 February 2010, 10:30–12 p.m.

ADDRESSES: Pentagon Conference Center B6 (escorts will be provided from the Pentagon Metro entrance).

FOR FURTHER INFORMATION CONTACT: Ms. Melody McDonald or Ms. Betsy Graham, Office of the Deputy Under Secretary (Military Community & Family Policy), 4000 Defense Pentagon, Room 2E319, Washington, DC 20301–4000. Telephones (571) 256–1738; (703) 697–9283 and/or *e-mail: FamilyReadinessCouncil@osd.mil.*

SUPPLEMENTARY INFORMATION: Meeting agenda.

Wednesday, 23 February 2011

Welcome & Administrative Remarks.

Review and Comment on Council Action from December meeting.

Priority Areas Briefings.

Intentions for the 2011 activities and meetings.

Closing Remarks.

Note: Exact order may vary.

Dated: January 25, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–1950 Filed 1–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 274. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 274 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* February 1, 2011.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 273.

Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows: The changes in Civilian Bulletin 274 are updated rates for Alaska.

Dated: January 25, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA						
[OTHER]						
01/01 - 12/31	110		96		206	2/1/2011
ADAK						
01/01 - 12/31	120		79		199	7/1/2003
ANCHORAGE [INCL NAV RES]						
05/01 - 09/15	181		104		285	2/1/2011
09/16 - 04/30	99		96		195	2/1/2011
BARROW						
01/01 - 12/31	159		95		254	10/1/2002
BETHEL						
01/01 - 12/31	139		108		247	1/1/2011
BETTLES						
01/01 - 12/31	135		62		197	10/1/2004
CLEAR AB						
01/01 - 12/31	90		82		172	10/1/2006
COLDFOOT						
01/01 - 12/31	165		70		235	10/1/2006
COPPER CENTER						
09/16 - 05/14	95		95		190	1/1/2011
05/15 - 09/15	139		99		238	1/1/2011
CORDOVA						
01/01 - 12/31	95		130		225	1/1/2011
CRAIG						
10/01 - 03/31	151		80		231	2/1/2011
04/01 - 09/30	236		89		325	2/1/2011
DELTA JUNCTION						
05/01 - 09/30	145		65		210	1/1/2011
10/01 - 04/30	115		64		179	1/1/2011
DENALI NATIONAL PARK						
06/01 - 08/31	135		88		223	1/1/2011

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
09/01 - 05/31	90		84		174	1/1/2011
DILLINGHAM						
05/15 - 10/15	185		111		296	1/1/2011
10/16 - 05/14	169		109		278	1/1/2011
DUTCH HARBOR-UNALASKA						
01/01 - 12/31	121		99		220	2/1/2011
EARECKSON AIR STATION						
01/01 - 12/31	90		77		167	6/1/2007
EIELSON AFB						
05/05 - 09/15	175		107		282	1/1/2011
09/16 - 05/04	75		98		173	1/1/2011
ELFIN COVE						
01/01 - 12/31	200		45		245	8/1/2010
ELMENDORF AFB						
05/01 - 09/15	181		104		285	2/1/2011
09/16 - 04/30	99		96		195	2/1/2011
FAIRBANKS						
05/05 - 09/15	175		107		282	1/1/2011
09/16 - 05/04	75		98		173	1/1/2011
FOOTLOOSE						
01/01 - 12/31	175		18		193	10/1/2002
FT. GREELY						
05/01 - 09/30	145		65		210	1/1/2011
10/01 - 04/30	115		64		179	1/1/2011
FT. RICHARDSON						
05/01 - 09/15	181		104		285	2/1/2011
09/16 - 04/30	99		96		195	2/1/2011
FT. WAINWRIGHT						
05/05 - 09/15	175		107		282	1/1/2011
09/16 - 05/04	75		98		173	1/1/2011
GAMBELL						
01/01 - 12/31	105		39		144	1/1/2011
GLENNALLEN						
05/15 - 09/15	139		99		238	1/1/2011

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
09/16	- 05/14	95		95		190	1/1/2011
HAINES							
01/01	- 12/31	107		101		208	1/1/2011
HEALY							
06/01	- 08/31	135		88		223	1/1/2011
09/01	- 05/31	90		84		174	1/1/2011
HOMER							
05/15	- 09/15	167		117		284	1/1/2011
09/16	- 05/14	79		115		194	1/1/2011
JUNEAU							
05/01	- 09/30	149		127		276	1/1/2011
10/01	- 04/30	109		123		232	1/1/2011
KAKTOVIK							
01/01	- 12/31	165		86		251	10/1/2002
KAVIK CAMP							
01/01	- 12/31	150		69		219	10/1/2002
KENAI-SOLDOTNA							
05/15	- 09/15	179		150		329	2/1/2011
09/16	- 05/14	89		141		230	2/1/2011
KENNICOTT							
01/01	- 12/31	259		115		374	2/1/2011
KETCHIKAN							
05/01	- 09/30	140		90		230	2/1/2011
10/01	- 04/30	99		86		185	2/1/2011
KING SALMON							
05/01	- 10/01	225		91		316	10/1/2002
10/02	- 04/30	125		81		206	10/1/2002
KLAWOCK							
04/01	- 09/30	236		89		325	2/1/2011
10/01	- 03/31	151		80		231	2/1/2011
KODIAK							
05/01	- 09/30	141		120		261	2/1/2011
10/01	- 04/30	99		117		216	2/1/2011
KOTZEBUE							

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01	- 12/31	189		114		303	2/1/2011
KULIS AGS							
05/01	- 09/15	181		104		285	2/1/2011
09/16	- 04/30	99		96		195	2/1/2011
MCCARTHY							
01/01	- 12/31	259		115		374	2/1/2011
MCGRATH							
01/01	- 12/31	165		69		234	10/1/2006
MURPHY DOME							
05/05	- 09/15	175		107		282	1/1/2011
09/16	- 05/04	75		98		173	1/1/2011
NOME							
01/01	- 12/31	150		126		276	2/1/2011
NUIQSUT							
01/01	- 12/31	180		53		233	10/1/2002
PETERSBURG							
01/01	- 12/31	110		96		206	2/1/2011
POINT HOPE							
01/01	- 12/31	200		49		249	1/1/2011
POINT LAY							
01/01	- 12/31	225		23		248	1/1/2011
PORT ALEXANDER							
01/01	- 12/31	150		43		193	8/1/2010
PORT ALSWORTH							
01/01	- 12/31	135		88		223	10/1/2002
PRUDHOE BAY							
01/01	- 12/31	170		68		238	1/1/2011
SELDOVIA							
09/16	- 05/14	79		115		194	1/1/2011
05/15	- 09/15	167		117		284	1/1/2011
SEWARD							
10/01	- 04/30	85		96		181	2/1/2011
05/01	- 09/30	172		106		278	2/1/2011
SITKA-MT. EDGECUMBE							

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
05/01	- 09/30	119		114		233	2/1/2011
10/01	- 04/30	99		112		211	2/1/2011
SKAGWAY							
05/01	- 09/30	140		90		230	2/1/2011
10/01	- 04/30	99		86		185	2/1/2011
SLANA							
10/01	- 04/30	99		55		154	2/1/2005
05/01	- 09/30	139		55		194	2/1/2005
SPRUCE CAPE							
05/01	- 09/30	141		120		261	2/1/2011
10/01	- 04/30	99		117		216	2/1/2011
ST. GEORGE							
01/01	- 12/31	129		55		184	6/1/2004
TALKEETNA							
01/01	- 12/31	100		89		189	10/1/2002
TANANA							
01/01	- 12/31	150		126		276	2/1/2011
TOK							
05/01	- 09/30	89		129		218	2/1/2011
10/01	- 04/30	71		126		197	2/1/2011
UMIAT							
01/01	- 12/31	350		35		385	10/1/2006
VALDEZ							
09/16	- 04/30	119		111		230	2/1/2011
05/01	- 09/15	189		120		309	2/1/2011
WAINWRIGHT							
01/01	- 12/31	175		83		258	1/1/2011
WASILLA							
10/01	- 04/30	99		103		202	2/1/2011
05/01	- 09/30	153		108		261	2/1/2011
WRANGELL							
05/01	- 09/30	140		90		230	2/1/2011
10/01	- 04/30	99		86		185	2/1/2011
YAKUTAT							

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01 - 12/31	105		94		199	1/1/2011
AMERICAN SAMOA						
AMERICAN SAMOA						
01/01 - 12/31	139		122		261	12/1/2010
GUAM						
GUAM (INCL ALL MIL INSTAL)						
01/01 - 12/31	159		94		253	7/1/2010
HAWAII						
[OTHER]						
01/01 - 12/31	121		104		225	5/1/2010
CAMP H M SMITH						
01/01 - 12/31	177		106		283	5/1/2008
EASTPAC NAVAL COMP TELE AREA						
01/01 - 12/31	177		106		283	5/1/2008
FT. DERUSSEY						
01/01 - 12/31	177		106		283	5/1/2008
FT. SHAFTER						
01/01 - 12/31	177		106		283	5/1/2008
HICKAM AFB						
01/01 - 12/31	177		106		283	5/1/2008
HONOLULU						
01/01 - 12/31	177		106		283	5/1/2008
ISLE OF HAWAII: HILO						
01/01 - 12/31	121		104		225	5/1/2010
ISLE OF HAWAII: OTHER						
01/01 - 12/31	180		108		288	5/1/2009
ISLE OF KAUAI						
01/01 - 12/31	198		115		313	5/1/2009
ISLE OF MAUI						
01/01 - 12/31	169		104		273	5/1/2009
ISLE OF OAHU						
01/01 - 12/31	177		106		283	5/1/2008
KEKAHA PACIFIC MISSILE RANGE FAC						

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01 - 12/31	198		115		313	5/1/2009
KILAUEA MILITARY CAMP						
01/01 - 12/31	121		104		225	5/1/2010
LANAI						
01/01 - 12/31	229		124		353	5/1/2009
LUALUALEI NAVAL MAGAZINE						
01/01 - 12/31	177		106		283	5/1/2008
MCB HAWAII						
01/01 - 12/31	177		106		283	5/1/2008
MOLOKAI						
01/01 - 12/31	135		91		226	5/1/2010
NAS BARBERS POINT						
01/01 - 12/31	177		106		283	5/1/2008
PEARL HARBOR						
01/01 - 12/31	177		106		283	5/1/2008
SCHOFIELD BARRACKS						
01/01 - 12/31	177		106		283	5/1/2008
WHEELER ARMY AIRFIELD						
01/01 - 12/31	177		106		283	5/1/2008
MIDWAY ISLANDS						
MIDWAY ISLANDS						
01/01 - 12/31	125		49		174	5/1/2010
NORTHERN MARIANA ISLANDS						
[OTHER]						
01/01 - 12/31	55		72		127	10/1/2002
ROTA						
01/01 - 12/31	129		102		231	7/1/2010
SAIPAN						
01/01 - 12/31	121		98		219	6/1/2007
TINIAN						
01/01 - 12/31	85		71		156	7/1/2010
PUERTO RICO						
[OTHER]						

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01 - 12/31	62		57		119	10/1/2002
AGUADILLA						
01/01 - 12/31	124		113		237	9/1/2010
BAYAMON						
01/01 - 12/31	195		128		323	9/1/2010
CAROLINA						
01/01 - 12/31	195		128		323	9/1/2010
CEIBA						
01/01 - 12/31	210		141		351	11/1/2010
FAJARDO [INCL ROOSEVELT RDS NAVSTAT]						
01/01 - 12/31	210		141		351	11/1/2010
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]						
01/01 - 12/31	195		128		323	9/1/2010
HUMACAO						
01/01 - 12/31	210		141		351	11/1/2010
LUIS MUNOZ MARIN IAP AGS						
01/01 - 12/31	195		128		323	9/1/2010
LUQUILLO						
01/01 - 12/31	210		141		351	11/1/2010
MAYAGUEZ						
01/01 - 12/31	109		112		221	9/1/2010
PONCE						
01/01 - 12/31	149		87		236	9/1/2010
SABANA SECA [INCL ALL MILITARY]						
01/01 - 12/31	195		128		323	9/1/2010
SAN JUAN & NAV RES STA						
01/01 - 12/31	195		128		323	9/1/2010
VIRGIN ISLANDS (U.S.)						
ST. CROIX						
04/15 - 12/14	135		92		227	5/1/2006
12/15 - 04/14	187		97		284	5/1/2006
ST. JOHN						
04/15 - 12/14	163		98		261	5/1/2006
12/15 - 04/14	220		104		324	5/1/2006

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ST. THOMAS						
04/15 - 12/14	240		105		345	5/1/2006
12/15 - 04/14	299		111		410	5/1/2006
WAKE ISLAND						
WAKE ISLAND						
01/01 - 12/31	152		16		168	5/1/2009

[FR Doc. 2011–1954 Filed 1–28–11; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2011–0002]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is proposing to alter a system of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 2, 2011 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and/ Regulatory Information Number (RIN) and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, Room 3C842, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones at (703) 428–6185, or Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

SUPPLEMENTARY INFORMATION: Department of the Army notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the **FOR FURTHER INFORMATION CONTACT** address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 24, 2011, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' February 20, 1996, 61 FR 6427.

Dated: January 25, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0621–1 AHRC

SYSTEM NAME:

Civilian Schooling for Military Personnel (August 8, 2004, 69 FR 51271).

* * * * *

CHANGES:

SYSTEM NAME:

Delete entry and replace with "Army Continuing Education System Records."

SYSTEM LOCATION:

Delete entry and replace with "U.S. Army Human Resources Command, Chief, Army Continuing Education System, 200 Stovall Street, Alexandria, VA 22332–0400.

Segments exist at Army commands/ installations, organizations/activities, including overseas areas. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Any member of the U.S. Army to include Active Army, Army National Guard, Air National Guard and Army Reserve, veterans, military retirees, authorized adult family members, Federal civilian employees, members of other services to include members of their respective Reserve components and their authorized family members, and authorized foreign nationals."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Identification data: name, rank, Social Security Number (SSN), race/ethnicity, gender, and marital status.

Contact information: home telephone number, fax number, personal e-mail address, mailing/home address, home of record address, State, work telephone number.

Military personnel information: military records, additional skill identifier, branch of service, component, current position and tour information, enlistment records, enlistment status, evaluations, foreign service, grade, military occupational specialty (primary, secondary), military service obligation statutory expiration date, military status, past military positions, photograph/DA photo, promotion data, qualification record.

Dependent education information: academic and diagnostic tests, academic evaluation reports, academic reports, American Council on Education recommendations, civilian education, course and associated fees, personal resumes, previous schools attended, school contracts, theses, training achievements, class standing, degree, major, university, fraternities (social, honorary, clubs), academic counseling records, course attendance and completion records, education level, test scores, transcript registry and course descriptors, and military education information."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 4302, Enlisted members of Army: schools; AR 621–5, Army Continuing Education System and E.O. 9397 (SSN), as amended."

PURPOSE(S):

Delete entry and replace with "To document, monitor, manage, and administer the attendance at a civilian training agency or civilian school."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Keep records for 2 years then destroy by shredding or deleting."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0411.

All written inquiries should provide the full name, Social Security Number (SSN), date of birth, military status and current mailing address and any details which may assist in locating the record, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in

accordance with 28 U.S.C. 1746, in the following format:

IF EXECUTED OUTSIDE THE UNITED STATES:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United State of America that the foregoing is true and correct. Executed on (date). (Signature).

IF EXECUTED WITHIN THE UNITED STATES, ITS TERRITORIES, POSSESSIONS, OR COMMONWEALTHS:

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0411.

All written inquiries should provide the full name, Social Security Number (SSN), date of birth, military status and current mailing address and any details which may assist in locating the record, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

IF EXECUTED OUTSIDE THE UNITED STATES:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).

IF EXECUTED WITHIN THE UNITED STATES, ITS TERRITORIES, POSSESSIONS, OR COMMONWEALTHS:

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).

* * * * *

A0621–1 AHRC

SYSTEM NAME:

Army Continuing Education System Records

SYSTEM LOCATION:

U.S. Army Human Resources Command, Chief, Army Continuing Education System, 200 Stovall Street, Alexandria, VA 22332–0400.

Segments exist at Army commands/installations, organizations/activities, including overseas areas. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any member of the U.S. Army to include Active Army, Army National Guard, Air National Guard and Army Reserve, veterans, military retirees, authorized adult family members, Federal civilian employees, members of other services to include members of their respective Reserve components and their authorized family members, and authorized foreign nationals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Identification data: Name, rank, Social Security Number (SSN), race/ethnicity, gender, and marital status.

Contact information: Home telephone number, fax number, personal e-mail address, mailing/home address, home of record address, State, work telephone number.

Military personnel information: Military records, additional skill identifier, branch of service, component, current position and tour information, enlistment records, enlistment status, evaluations, foreign service, grade, military occupational specialty (primary, secondary), military service obligation statutory expiration date, military status, past military positions, photograph/DA photo, promotion data, qualification record.

Dependent education information: Academic and diagnostic tests, academic evaluation reports, academic reports, American Council on Education recommendations, civilian education, course and associated fees, personal resumes, previous schools attended, school contracts, theses, training achievements, class standing, degree, major, university, fraternities (social, honorary, clubs), academic counseling records, course attendance and completion records, education level, test scores, transcript registry and course descriptors, and military education information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 4302, Enlisted members of Army: schools; AR 621–5, Army Continuing Education System and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To document, monitor, manage, and administer the attendance at a civilian training agency or civilian school.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By individual's name and Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel and only in the performance of assigned duties. Use of automated systems requires user identification and passwords granted to authorized personnel responsible for the administration and processing of individual student data.

RETENTION AND DISPOSAL:

Keep records for 2 years then destroy by shredding or deleting.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0411.

All written inquiries should provide the full name, Social Security Number (SSN), date of birth, military status and current mailing address and any details which may assist in locating the record, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

IF EXECUTED OUTSIDE THE UNITED STATES:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United State of America that the foregoing is true and correct. Executed on (date). (Signature).

IF EXECUTED WITHIN THE UNITED STATES, ITS TERRITORIES, POSSESSIONS, OR COMMONWEALTHS:

I declare (or certify, verify, or state) under penalty of perjury that the

foregoing is true and correct. Executed on (date). (Signature).

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0411.

All written inquiries should provide the full name, Social Security Number (SSN), date of birth, military status and current mailing address and any details which may assist in locating the record, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

IF EXECUTED OUTSIDE THE UNITED STATES:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).

IF EXECUTED WITHIN THE UNITED STATES, ITS TERRITORIES, POSSESSIONS, OR COMMONWEALTHS:

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Army records and reports, documents from the civilian school or industry training agency.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–1949 Filed 1–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Public Availability of Defense Nuclear Facilities Safety Board FY 2010 Service Contract Inventory

AGENCY: Defense Nuclear Facilities Safety Board (Board).

ACTION: Notice of public availability of FY 2010 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the Board is publishing this notice to advise the public of the availability of the FY 2010 Service Contract inventory. This inventory provides information on service contract actions over $25,000 made in FY 2010. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* The Board has posted its inventory and a summary of the inventory on the Board's homepage at the following link: *http://www.dnfsb.gov/pub_docs/index.php.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Mark Welch at 202–694–7043 or *markw@dnfsb.gov.*

Dated: January 25, 2011.

Debra Richardson,

Deputy General Manager, Office of the General Manager.

[FR Doc. 2011–2077 Filed 1–28–11; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before March 2, 2011.

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: January 25, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Revision.

Title of Collection: Federal Perkins Loan Program and General Provision Regulations.

OMB Control Number: 1845–0019.

Agency Form Number(s): N/A.

Frequency of Responses: On Occasion.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government, State Education Agencies or Local Education Agencies.

Total Estimated Number of Annual Responses: 1,930.

Total Estimated Annual Burden Hours: 133,520.

Abstract: Under the Federal Perkins Loan Program regulations, the information collected, recorded, and/or disclosed will continue to be used as necessary to provide for the making and servicing of Perkins Loans. If the Department did not require the collection, recordation, and/or disclosure of information as specified in the Perkins regulations, the processing of Perkins Loans would not be possible.

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 4455. 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. 2011–1972 Filed 1–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before March 2, 2011.

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: January 25, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of the Secretary

Type of Review: Extension.

Title of Collection: Streamlined Process for Education Department General Administrative Regulations (EDGAR) Approved Grant Applications.

OMB Control Number: 1894–0004.

Agency Form Number(s): N/A.

Frequency of Responses: As necessary.

Affected Public: State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 1.

Total Estimated Annual Burden Hours: 1.

Abstract: This information collection clearance request seeks an extension of approval for an established expedited process which permits U.S. Department of Education (ED) program offices to make selection criteria substitutions under the Education Department General Administrative Regulations (EDGAR) grant application without having to submit to OMB a previously cleared application package for another review. Usage of the streamlined process for EDGAR approved grant applications, establishes a process for programs to submit an abbreviated list of items for an expedited streamlined approval process by OMB. Many discretionary grant programs in ED use the generic application package cleared under OMB #1894–0006 which allows programs to pick and choose the selection criteria for their grant competitions from among the general EDGAR selection criteria shown at 34 CFR 75.210. The remaining discretionary grant programs use program-specific application packages, cleared by OMB on a case-by-case basis, that require applicants to address specific selection criteria unique to the program, usually derived from program legislation or regulation. During the three-year period for which its specific application package is cleared, a program might need to substitute one or more of the EDGAR generic selection criteria, mentioned above, for one or more of the program-specific criteria contained in the package originally cleared by OMB. These substitutions generally result in a minor alteration in the burden hours imposed by the collection. Using an already approved application package for such actions reduces burden on the public best reaching the Departments goal of administering application competitions in a timely and efficient manner.

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 4449. 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. 2011–1973 Filed 1–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before March 2, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, *Attention:* Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or emailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: January 25, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: New.

Title of Collection: Enhanced Assessment Instruments Grants Program Application for New Grants (1894–0001).

OMB Control Number: Pending.

Agency Form Number(s): 1810–NEW.

Frequency of Responses: Annually.

Affected Public: Businesses or other for-profit; State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 5.

Total Estimated Annual Burden Hours: 300.

Abstract: The collection of information is an application package that will be used to collect applications for Enhanced Assessment Grant (EAG) program discretionary grant funds, which will be used by the U.S. Department of Education to review proposals for projects for a competition for FY 2010 EAG funds to be awarded in 2011.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

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 Website at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4500. 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. 2011–2100 Filed 1–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before January 31, 2011.

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: January 25, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title of Collection: Integrated Evaluation of American Recovery and Reinvestment Act (ARRA) Funding, Implementation and Outcomes.

OMB Control Number: 1850–0877.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 11,102.

Total Estimated Annual Burden Hours: 6,831.

Abstract: On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA) into law (Pub. L. 111–50). ARRA supports investments in innovative strategies that are intended to lead to improved results for students, long-term gains in school and local education agency capacity for success, and

increased productivity and effectiveness.

This evaluation will focus on answering four sets of policy/research questions:

- To what extent did ARRA funds go to the intended recipients?
- Is ARRA associated with the implementation of the key reform strategies it promoted?
- What implementation supports and challenges are associated with ARRA?
- Is ARRA associated with improved outcomes?

The integrated evaluation will draw on existing data, including the Department of Education (ED) data collections, ED ARRA program files, ARRA required reporting, and databases of achievement and other outcomes. The evaluation will also collect new information through surveys of (1) the 50 states and the District of Columbia, (2) a nationally representative sample of school districts, and (3) a nationally representative sample of schools within the sampled school districts. Surveys are planned for spring 2011, spring 2012, and spring 2013. Subsamples of school districts will also be drawn to receive a smaller set of questions (polls); these polls will be administered twice between 2011 and 2013.

A report will be prepared in the first year of the evaluation to describe the distribution of funding. A report and state tabulations will be prepared after each annual survey. The first report, based on the 2011 surveys, will focus on early ARRA implementation and strategies. The second report, based on the 2012 surveys, will expand upon strategies implemented under ARRA. The final report will draw upon existing data on outcomes as well as data from the 2013 surveys.

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 4413. 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. 2011–2099 Filed 1–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 1, 2011.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. 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 Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 26, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Extension.

Title of Collection: Annual Student Activities Report.

OMB Control Number: 1840–0781.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: Individuals or household.

Total Estimated Number of Annual Responses: 190.

Total Estimated Number of Annual Burden Hours: 570.

Abstract: This information collection provides the U.S. Department of Education with information needed to determine if Javits fellows have made substantial progress toward meeting the program's objectives and allows program staff to monitor and evaluate time-to-degree completion and the graduation rate of fellows. Congress has mandated, through the Government Performance and Results Act of 1993, that the U.S. Department of Education provide documentation regarding the progress being made by the program.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4495. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection 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. 2011–2094 Filed 1–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before March 2, 2011.

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: January 26, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title of Collection: National Educational Study of Transition.

OMB Control Number: 1850–NEW.

Agency Form Number(s): N/A.

Frequency of Responses: Once.

Affected Public: Individuals or households; State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 600.

Total Estimated Annual Burden Hours: 20,025.

Abstract: To gauge progress in addressing the needs of youth with disabilities, the U.S. Department of Education is sponsoring a five-year longitudinal study focused on the educational and transitional experiences of youth between the ages of 13 and 21 in December 2011. The study focuses on three sets of research questions: What are the characteristics of youth with disabilities? What services and accommodations do they receive and what are their courses of study? What are their transitional experiences as they leave high school and their educational, social, and economic outcomes? To shed light on the distinctive experiences of youth with disabilities the study will contrast them with those of youth without disabilities. The study we also compare the experiences of youth with disabilities with those of two previous cohorts of youth with similar disabilities, providing information on progress in addressing the needs of these youth. Districts and youth will be randomly selected to ensure that they are nationally representative. The study sample will include approximately 300 school districts and 15,000 students. Phase I data collection will occur in spring 2012 and spring 2014, when sample members will be ages 13–21 and 15–23, respectively. The study will collect data from parents, youth, principal teachers, and student school records.

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 4454. 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. 2011–2090 Filed 1–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Alaska Native Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2011; Office of Elementary and Secondary Education; Overview Information; Catalog of Federal Domestic Assistance (CFDA) Number: 84.356A

Dates:

Applications Available: January 31, 2011.

Deadline for Transmittal of Applications: April 1, 2011.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Alaska Native Education (ANE) program is to support innovative projects that enhance the educational services provided to Alaska Native children and adults. These projects may include the activities authorized under section 7304(a)(2) and (a)(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

Note: The construction of facilities that support the operation of Alaska Native education programs will be a permissible activity only if Congress specifically authorizes the use of FY 2011 funds for that purpose.

Priorities: This competition includes three competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(iv), Competitive Preference Priority 1 (*Alaska Native regional nonprofit organizations or consortia that include at least one Alaska Native regional nonprofit organization*) is from section 7304(c) of the ESEA (20 U.S.C. 7544(c)). Competitive Preference Priority 2 (*Improving the Effectiveness and Distribution of Effective Teachers or Principals*) and Competitive Preference Priority 3 (*Turning Around Persistently Lowest-Achieving Schools*) are from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486).

Competitive Preference Priorities: For FY 2011 and any subsequent year in which we make awards from the list of unfunded applicants from this

competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award an additional five points to an application that meets Competitive Preference Priority 1. We award an additional five points to an application that meets either Competitive Preference Priority 2 or Competitive Preference Priority 3. We will award no more than 10 points to an applicant that meets Competitive Preference Priorities 1, 2, and 3.

These priorities are:

Priority 1—Alaska Native Regional Nonprofit Organizations.

Applicants that are Alaska Native regional nonprofit organizations or consortia that include at least one Alaska Native regional nonprofit organization. In order to receive a competitive preference under this priority, the applicant must provide documentation supporting its claim that it meets this priority.

Priority 2—Improving the Effectiveness and Distribution of Effective Teachers or Principals.

Projects that are designed to address increasing the number or percentage of teachers or principals who are effective or reducing the number or percentage of teachers or principals who are ineffective, particularly in high-poverty schools (as defined in this notice), including through such activities as improving the preparation, recruitment, development, and evaluation of teachers and principals; implementing performance-based certification and retention systems; and reforming compensation and advancement systems.

Note: For the purposes of this priority, teacher and principal effectiveness should be measured using—

(1) Teacher or principal evaluation data, in States or local educational agencies that have in place a high-quality teacher or principal evaluation system that takes into account student growth (as defined in this notice) in significant part and uses multiple measures, that, in the case of teachers, may include observations for determining teacher effectiveness (such as systems that meet the criteria for evaluation systems under the Race to the Top program as described in criterion (D)(2)(ii) of the Race to the Top notice inviting applications (74 FR 59803)); or

(2) Data that include, in significant part, student achievement (as defined in this notice) or student growth (as defined in this notice) data and may include multiple measures in States or local educational agencies that do not have the teacher or principal evaluation systems described in paragraph (1).

Priority 3—Turning Around Persistently Lowest-Achieving Schools.

Projects that are designed to address one or more of the following priority areas:

(a) Improving student achievement (as defined in this notice) in persistently lowest-achieving schools (as defined in this notice).

(b) Increasing graduation rates (as defined in this notice) and college enrollment rates for students in persistently lowest-achieving schools (as defined in this notice).

(c) Providing services to students enrolled in persistently lowest-achieving schools (as defined in this notice).

Definitions: These definitions are from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486). For purposes of this competition, the following definitions apply:

Graduation rate means a four-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1) and may also include an extended-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1)(v) if the State in which the proposed project is implemented has been approved by the Secretary to use such a rate under title I of the ESEA.

High-poverty school means a school in which at least 50 percent of students are eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act or in which at least 50 percent of students are from low-income families as determined using one of the criteria specified under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965, as amended. For middle and high schools, eligibility may be calculated on the basis of comparable data from feeder schools. Eligibility as a high-poverty school under this definition is determined on the basis of the most currently available data.

Persistently lowest-achieving schools means, as determined by the State: (i) Any title I school in improvement, corrective action, or restructuring that (a) is among the lowest-achieving five percent of title I schools in improvement, corrective action, or restructuring or the lowest-achieving five title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or (b) is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and (ii) any secondary school that is eligible for, but does not receive, title I funds that: (a) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, title I funds, whichever number of schools is greater; or (b) is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

Student achievement means—

(a) For tested grades and subjects: (1) A student's score on the State's assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across schools.

(b) For non-tested grades and subjects: Alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools.

Student growth means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. A State may also include other measures that are rigorous and comparable across classrooms.

Program Authority: 20 U.S.C. 7541 *et seq.*

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 85, 86, 97, 98, and 99. (b) The notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486).

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $33,315,000 for the ANE program for FY 2011, of which we intend to use an estimated $9,500,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $300,000–$700,000.

Estimated Average Size of Awards: $500,000.

Estimated Number of Awards: 19.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* (a) Alaska Native organizations; (b) Educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages; (c) Cultural and community-based organizations with experience in developing or operating programs to benefit Alaska Natives; and (d) Consortia of organizations and entities described in this paragraph to carry out activities that meet the purposes of this program.

Note: A State educational agency (SEA) or local educational agency (LEA), including a charter school that is considered an LEA under State law, may apply for an award under this program only as part of a consortium involving an Alaska Native organization. The consortium may include other eligible applicants.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the program office. To obtain a copy via the Internet, use following address: *http://www.ed.gov/programs/alaskanative/applicant.html.* To obtain a copy from the program office, contact: Chuenee Boston, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E118, Washington, DC 20202–6200. Telephone: (202) 260–7008 or by e-mail: *Chuenee.Boston@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to no more than 25 pages, using the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, captions, charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit does not apply to the cover sheet; the budget section, including the recommended five-page budget narrative; the assurances and certifications; the one-page abstract; and other attachments including the resumes of key personnel, endnotes, indirect cost agreements, if applicable, and letters of support. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application that exceed the page limit. None of the material sent as appendices to the narrative, with the exception of resumes and endnotes, will be sent to the reviewers.

3. *Submission Dates and Times:*

Applications Available: January 31, 2011.

Deadline for Transmittal of Applications: April 1, 2011.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This competition is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* Under section 7304(b) of the ESEA (20 U.S.C. 7544(b)), not more than five percent of the funds provided to a grantee under this competition for any fiscal year may be used for administrative purposes. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and Central Contractor Registry:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*).

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted

electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the ANE program, CFDA number 84.356A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the ANE program at *http://www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.356, not 84.356A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- 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. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must attach any narrative sections of your application as files in a .PDF (Portable Document) format only. If you upload a file type other than a .PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an

exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Chuenee Boston, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E118, Washington, DC 20202–6200. FAX: (202) 260–8969.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.356A), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.356A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. The maximum score for all criteria is 100 points. The maximum possible score for each criterion is indicated in parentheses. The selection criteria for this competition are as follows:

(a) *Need for project* (20 points). The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Quality of the project design* (40 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable (20 points).

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs (20 points).

(c) *Quality of the management plan* (30 points). The Secretary considers the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (15 points).

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project (15 points).

(d) *Quality of the project evaluation* (10 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project (5 points).

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible (5 points).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, attainment of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has

not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has developed the following performance measures for measuring the overall effectiveness of the ANE program: (1) The percentage of Alaska Native students in schools served by the program who meet or exceed proficiency standards in reading, mathematics, and science on the Alaska State assessments; (2) the percentage of Alaska Native children participating in early learning and preschool programs who consistently demonstrate school readiness in language and literacy as measured by the Revised Alaska Development Profile (RADP); and (3) the percentage of Alaska Native students in schools served by the program who graduate from high school with a regular high school diploma in four years.

All grantees will be expected to submit an annual performance report that includes data addressing these performance measures, to the extent that they apply to the grantee's project.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made "substantial progress toward meeting the objectives in its approved application." This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Chuenee Boston, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E118, Washington, DC 20202–6200. Telephone: (202) 260–7008 or by e-mail: *Chuenee.Boston@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site. You can view this document in text of PDF at the following site, also: *http://www.ed.gov/programs/alaskanative/applicant.html.*

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: January 26, 2011.

Thelma Melendez de Santa Ana,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2011–2075 Filed 1–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Intent To Compromise Claim Against the State of Oklahoma Department of Education

AGENCY: Department of Education.

ACTION: Notice of intent to compromise claim with request for comments.

SUMMARY: The United States Department of Education (Department) intends to compromise a claim against the Oklahoma Department of Education (Oklahoma) now pending before the Office of Administrative Law Judges (OALJ), Docket No. 07–04–R. Before compromising a claim, the Department must publish its intent to do so in the Federal Register and provide the public an opportunity to comment on that action.

DATES: We must receive your comments on the proposed action on or before March 17, 2011.

ADDRESSES: Address all comments concerning the proposed action to Ronald B. Petracca, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6E111, Washington, DC 20202–2110.

FOR FURTHER INFORMATION CONTACT: Ronald B. Petracca, *Telephone:* (202) 401–6008. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audio tape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding this proposed action. During and after the comment period, you may inspect all public comments in room 6E312, FB–6, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern

time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing Comments

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

On December 21, 2006, the Assistant Secretary for Special Education and Rehabilitative Services (Assistant Secretary) issued a final program determination letter (PDL) seeking to recover from Oklahoma $583,943.29 of Part B of the Individuals with Disabilities Education Act (IDEA–B) funds. These funds, based on a finding in a single audit of Oklahoma (Audit Control Number 06–04–58175), were determined by the Assistant Secretary to have been expended, during fiscal year 2003, in violation of the IDEA–B's maintenance of effort requirement set out in 34 CFR 300.230–300.233 (2003).[1] Specifically, the PDL identified 76 LEAs in Oklahoma that violated the maintenance of effort requirement and the amount of that violation for each of those LEAs.

Oklahoma filed an *Application for Review* of this PDL with the Office of Administrative Law Judges (OALJ) on February 26, 2007. On April 16, 2007, the OALJ granted the parties *Joint Motion to Conduct Voluntary Discovery, Engage in Settlement, Negotiations, and Suspend the Procedural Schedule (Joint Motion).* Since this *Joint Motion* was granted, Oklahoma has presented the Department with extensive documentation and analysis, not available to the Department at the time the PDL was issued, to support its contention that the total level of the maintenance of effort violation was lower than set out in the PDL. On the basis of that documentation the Assistant Secretary, on November 22, 2010, filed a *Notice of Reduction of Claim* with the OALJ that reduced the claim in this matter from $583,943.29 to $289,501.76.

The Department proposes to compromise this remaining claim to $217,126.32. Based on litigation risks and the costs of proceeding through the administrative and, possibly, court process for this appeal, the Department has determined that it would not be practical or in the public interest to continue this proceeding. In addition, in light of corrective actions Oklahoma has taken, we do not anticipate recurrence of this maintenance of effort violation. As a result, under the authority in 20 U.S.C. 1234a(j), the Department has determined that compromise of this claim for $217,126.32 is appropriate. The public is invited to comment on the Department's intent to compromise this claim. Additional information may be obtained by calling or writing to Ronald B. Petracca at the telephone number and address listed at the beginning of this notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.ed.gov/legislation/FedRegister.*

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.access.gop.gov/nara/index.html.*

Program Authority: 20 U.S.C. 1234a(j).

Delegation of Authority: The Secretary of Education has delegated authority to Thomas Skelly, Director, Budget Service, to perform the functions and duties of the Chief Financial Officer of the Department of Education.

Dated: January 26, 2011.

Thomas Skelly,

Director, Budget Service.

[FR Doc. 2011–2079 Filed 1–28–11; 8:45 am]

BILLING CODE 4000–01–P

[1] When new regulations for the IDEA–B program were issued in 2006, the maintenance of effort requirements were re-codified at 34 CFR 300.203–300.205.

DEPARTMENT OF ENERGY

Public Availability of Department of Energy FY 2010 Service Contract Inventory

AGENCY: Department of Energy.

ACTION: Notice of public availability of FY 2010 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), Department of Energy is publishing this notice to advise the public of the availability of the FY 2010 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2010. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* Department of Energy has posted its inventory and a summary of the inventory at the following link: *http://www.management.energy.gov/policy_guidance/competitive_sourcing.htm.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Jeff Davis in the Strategic Programs Division at 202–287–1877 or *jeff.davis@hq.doe.gov.*

Dated: January 25, 2011.

David Boyd,

Deputy Director, Office of Procurement and Assistance Management.

[FR Doc. 2011–2028 Filed 1–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Advisory Board (EMAB). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, February 24, 2011, 8:30 a.m.–5 p.m.

ADDRESSES: Green Valley Ranch, 2300 Paseo Verde Parkway, Henderson, Nevada 89052.

FOR FURTHER INFORMATION CONTACT: Kristen G. Ellis, Designated Federal Officer, EMAB (EM–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Phone (202) 586–5810; fax (202) 586–0293 or e-mail: *kristen.ellis@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of EMAB is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on corporate issues confronting the EM program. EMAB contributes to the effective operation of the program by providing individual citizens and representatives of interested groups an opportunity to present their views on issues facing EM and by helping to secure consensus recommendations on those issues.

Tentative Agenda Topics:

- Acquisition and Project Management
- EM Journey to Excellence
- Human Capital
- Tank Waste
- Board Business and Subcommittee Updates

Public Participation: EMAB welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kristen G. Ellis at least seven days in advance of the meeting at the phone number or e-mail address listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda should contact Kristen G. Ellis at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Kristen G. Ellis at the address or phone number listed above. Minutes will also be available at the following Web site *http://www.em.doe.gov/stakepages/emabmeetings.aspx.*

Issued at Washington, DC, on January 25, 2011.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–2029 Filed 1–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Industrial Sites and Soils Committees of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, February 23, 2011, 5 p.m.

ADDRESSES: Atomic Testing Museum, 755 East Flamingo Road, North Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Denise Rupp, Board Administrator, 232 Energy Way, M/S 505, North Las Vegas, Nevada 89030. Phone: (702) 657–9088; Fax (702) 295–5300 or E-mail: *ntscab@nv.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Purpose of the Industrial Sites Committee: The purpose of the Committee is to review and make recommendations on industrial sites at the Nevada National Security Site including decontamination, closure, re-use and/or demolition.

Purpose of the Soils Committee: The purpose of the Committee is to focus on issues related to soil contamination at the Nevada National Security Site including decontamination and closure.

Tentative Agenda: The Committee members will meet with the Environmental Restoration Project Director to discuss current activities.

Public Participation: The EM SSAB, Nevada, welcomes the attendance of the public at its meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Denise Rupp at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Denise Rupp at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing to Denise Rupp at the address listed above or at the following Web site: *http://nv.energy.gov/nssab/MeetingMinutes.aspx.*

Issued at Washington, DC, on January 25, 2011.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–2031 Filed 1–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, February 16, 2011, 5 p.m.

ADDRESSES: Atomic Testing Museum, 755 East Flamingo Road, Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Denise Rupp, Board Administrator, 232 Energy Way, M/S 505, North Las Vegas, Nevada 89030. Phone: (702) 657–9088; Fax (702) 295–5300 or E-mail: *ntscab@nv.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Recommendation Development—Industrial Sites, CAU 566 Rail Cars
2. Recommendation Development—Proposed Mixed Low-Level Waste Treatment
3. Recommendation Development—Soils, CAU 375

Public Participation: The EM SSAB, Nevada, welcomes the attendance of the

public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Denise Rupp at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Denise Rupp at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing to Denise Rupp at the address listed above or at the following Web site: *http://nv.energy.gov/nssab/MeetingMinutes.aspx.*

Issued at Washington, DC on January 25, 2011.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–2030 Filed 1–28–11; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2004–0077; FRL–9259–4]

Agency Information Collection Activities; Proposed Collection; Comment Request; Significant New Alternatives Policy (SNAP) Program Final Rulemaking Under Title VI of the Clean Air Act Amendments of 1990; EPA ICR No. 1596.08, OMB Control No. 2060–0226

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on June 30, 2011. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 1, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2004–0077, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov.*
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 6102T, Attention Docket ID No. OAR, 1200 Pennsylvania Avenue, NW., Washington, DC 20460
- *Hand Delivery:* Public Reading Room, Room 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC.

Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2004–0077. 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/dockets.*

FOR FURTHER INFORMATION CONTACT: Melissa Fiffer, Stratospheric Protection Division, Alternatives and Emissions Reduction Branch, Mail Code 6205J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* (202) 343–9464; *fax number:* (202) 343–2362; *e-mail address:* fiffer.melissa@epa.gov.

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2004–0077, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1752.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of

information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under DATES.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name date, and Federal Register citation.

What information collection activity or ICR does this apply to?

Docket ID No. EPA–HQ–OAR–2004–0077.

Affected entities: Entities potentially affected by this action are manufacturers, importers, formulators and processors of substitutes for ozone-depleting substances.

Title: Significant New Alternatives Policy (SNAP) Program Final Rulemaking Under Title VI of the Clean Air Act Amendments of 1990.

ICR numbers: EPA ICR No. 1596.08, OMB Control No. 2006–0226.

ICR status: This ICR is currently scheduled to expire on June 30, 2011. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the Federal Register when approved, are listed in 40 CFR part 9, and are displayed either by publication in the Federal Register or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Information collected under this rulemaking is necessary to implement the requirements of the Significant New Alternatives Policy (SNAP) program for evaluating and regulating substitutes for ozone-depleting chemicals being phased out under the stratospheric ozone protection provisions of the Clean Air Act (CAA) and globally under the *Montreal Protocol on Substances That Deplete the Ozone Layer.* Under CAA Section 612, EPA is authorized to identify and restrict the use of substitutes for class I and class II ozone-depleting substances where EPA determines other alternatives exist that reduce overall risk to human health and the environment. The SNAP program, based on information collected from the manufacturers, formulators, and/or sellers of such substitutes, identifies acceptable substitutes. Responses to the collection of information are mandatory under Section 612 for anyone who sells or, in certain cases, uses substitutes for an ozone-depleting substance after April 18, 1994, the effective date of the final rule. Measures to protect confidentiality of information collected under the SNAP program are based on EPA's confidentiality regulations (40 CFR 2.201 *et seq.,* or Subpart B). Submitters may designate all or portions of their forms or petitions as confidential. EPA requires the submitters to substantiate their claim of confidentiality. Under CAA Section 114(c), emissions information may not be claimed as confidential.

To develop the lists of acceptable and unacceptable substitutes, the Agency must assess and compare "overall risks to human health and the environment" posed by use of substitutes in the context of particular applications. EPA requires submission of information covering a wide range of health and environmental factors. These include intrinsic properties such as physical and chemical information, ozone depleting potential, global warming potential, toxicity, and flammability, and use-specific data such as substitute applications, process description, environmental release data, exposure data during use of a substitute, environmental fate and transport, and cost information. Once a completed submission has been received, a 90 day review period under the SNAP program will commence. Any substitute which is a new chemical must also be submitted to the Agency under the Premanufacture Notice program under the Toxic Substances Control Act (TSCA). Alternatives that will be used as sterilants must be filed jointly with EPA's Office of Pesticide Programs and with SNAP.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 30 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 221.

Frequency of response: Annual.

Estimated total annual burden hours: 6,517 hours.

Estimated total annual costs: $465,450. This includes an estimated burden cost of $443,170 in labor costs, $22,070 in capital costs, and $210 in maintenance and operational costs.

Are there changes in the estimates from the last approval?

There is a decrease of 1,687 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. The development of new substitutes caused the number of persons filing a SNAP Information Notice or TSCA/SNAP addendum to increase slightly, but also resulted in fewer respondents keeping records for alternatives that are subject to narrowed use limits. In addition, respondents filing a SNAP Information Notice reported a decrease in total annual burden of hours when collecting data to complete the form and when responding to requests for additional information. This decrease may be attributable to increased respondent familiarity with EPA's forms, more examples in the public record for respondents to research and use in preparing responses, and general increased availability of computer software and information via the Internet.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: January 24, 2011.

Elizabeth Craig,

Acting Director, Office of Atmospheric Programs.

[FR Doc. 2011–1921 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9260–4]

California State Motor Vehicle Pollution Control Standards; Greenhouse Gas Regulations; Within-the-Scope Request; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of opportunity for public hearing and comment.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its passenger vehicle greenhouse gas (GHG) emissions program. These amendments were formally adopted by CARB's Board in September 2009 and February 2010. By letter dated June 28, 2010, CARB submitted a request seeking EPA's confirmation that these amendments are within-the-scope of the waiver of preemption issued by EPA under section 209(b) of the Clean Air Act on June 30, 2009. This notice announces that EPA has tentatively scheduled a public hearing and is accepting written comment on California's request.

DATES: EPA has tentatively scheduled a public hearing concerning CARB's request on Thursday, February 17, 2011, beginning at 10 a.m. EPA will hold a hearing only if a party notifies EPA by February 7, 2011, expressing interest in presenting oral testimony. By February 11, 2011, any person who plans to attend the hearing should call Kristien Knapp at (202) 343–9949, to learn if a hearing will be held. Interested parties may also refer to *http://www.epa.gov/otaq/cafr.htm* for information regarding the tentatively scheduled hearing.

Parties wishing to present oral testimony at the public hearing should provide written notice to Kristien Knapp at the e-mail address noted below. If EPA receives a request for a public hearing, that hearing will be held in Room 1332A of the Ariel Rios North Building, which is located at 1200 Pennsylvania Avenue, NW., Washington, DC 20004.

If EPA does not receive a request for a public hearing, then EPA will not hold a hearing, and instead consider CARB's request based on written submissions to the docket. Any party may submit written comments until March 17, 2011.

ADDRESSES: Submit your comments, identified by Docket ID EPA–HQ–OAR–2010–0653, by one of the following methods:

- *On-Line at http://www.regulations.gov:* Follow the On-Line Instructions for Submitting Comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* Air and Radiation Docket, Docket ID EPA–HQ–OAR–2010–0653, U.S. Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

On-Line Instructions for Submitting Comments: Direct your comments to Docket ID EPA–HQ–OAR–2010–0653. 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 automatically be 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.*

EPA will make available for public inspection materials submitted by CARB, written comments received from any interested parties, and any testimony given at the public hearing. Materials relevant to this proceeding are contained in the Air and Radiation Docket and Information Center, maintained in Docket ID EPA–HQ–OAR–2010–0653. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, located at 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open to the public on all Federal government work days from 8:30 a.m. to 4:30 p.m.; generally, it is open Monday through Friday, excluding holidays. The telephone number for the Reading Room is (202) 566–1744. The Air and Radiation Docket and Information Center's Web site is *http://www.epa.gov/oar/docket.html.* The electronic mail (e-mail) address for the Air and Radiation Docket is: *a-and-r-Docket@epa.gov,* the telephone number is (202) 566–1742, and the fax number is (202) 566–9744. An electronic version of the public docket is available through the Federal government's electronic public docket and comment system. You may access EPA docket at *http://www.regulations.gov.* After opening the *http://www.regulations.gov* Web site, enter EPA–HQ–OAR–2010–0653 in the "Enter Keyword or ID" fill-in box to view documents in the record. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

EPA's Office of Transportation and Air Quality also maintains a Web page that contains general information on its

review of California waiver requests. Included on that page are links to prior waiver **Federal Register** notices which are cited in today's notice; the page can be accessed at *http://www.epa.gov/otaq/cafr.htm.* Interested parties may also refer to the Web page for updated information on whether a hearing will held.

FOR FURTHER INFORMATION CONTACT: Kristien Knapp, Compliance and Innovative Strategies Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue (6405J), NW., Washington, DC 20460. *Telephone:* (202) 343–9949. *Fax:* (202) 343–2804. *E-mail: knapp.kristien@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Chronology

By letter dated December 21, 2005, CARB submitted to EPA a request seeking a waiver of preemption under section 209(b) of the Clean Air Act for California's passenger motor vehicle greenhouse gas (GHG) regulations. EPA originally denied CARB's request for a waiver of preemption in a **Federal Register** notice dated March 6, 2008.[1] CARB subsequently submitted a request that EPA reconsider that waiver denial on January 21, 2009. EPA's decision on reconsideration—granting California's waiver request—was issued on June 30, 2009, and published in the **Federal Register** on July 8, 2009.[2]

II. CARB's Passenger Vehicle GHG Amendments

In September 2009, CARB adopted its "Section 177 State 'Pooling' Amendments" that include provisions intended to streamline manufacturers' obligations by: (1) Providing manufacturers with the option of pooling vehicle sales across California and in States that have adopted California's GHG standards starting with model years 2009 through 2011,[3] and (2) revising its certification requirements to accept data from the Corporate Average Fuel Economy (CAFE) program.[4] Then in February 2010, CARB adopted its "2012–2016 Model Year National Program Amendments" that allow manufacturers to use the National Program greenhouse gas standards as deemed to comply with the California standards during the respective 2012 through 2016 model years.[5] By letter dated June 28, 2010, CARB submitted a request seeking EPA's confirmation that these two sets of amendments are within-the-scope of the waiver of preemption issued by EPA under section 209(b) of the Clean Air Act on June 30, 2009.

III. Clean Air Act Waivers of Preemption

Section 209(a) of the Clean Air Act preempts States and local governments from setting emission standards for new motor vehicles and engines; it provides:

> No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Through operation of section 209(b) of the Act, California is able to seek and receive a waiver of section 209(a)'s preemption. If certain criteria are met, section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a). A waiver can be granted for any State that had adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that its standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards (this is known as California's "protectiveness determination"). Because California was the only State to have adopted standards prior to 1966, it is the only State that is qualified to seek and receive a waiver.[6] The Administrator must grant a waiver unless she finds that: (A) California's above-noted "protectiveness determination" is arbitrary and capricious;[7] (B) California does not need such State standards to meet compelling and extraordinary conditions;[8] or (C) California's standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.[9] Regarding consistency with section 202(a), EPA reviews California's standards for technological feasibility and evaluates testing and enforcement procedures to determine whether they would be inconsistent with Federal test procedures (*e.g.,* if manufacturers would be unable to meet both California and Federal test requirements using the same test vehicle).[10]

IV. Within-the-Scope Determinations

If California amends regulations that were previously granted a waiver of preemption, EPA can confirm that the amended regulations are within-the-scope of the previously granted waiver if three conditions are met. First, the amended regulations must not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal standards. Second, the amended regulations must not affect consistency with section 202(a) of the Act. Third, the amended regulations must not raise any "new issues" affecting EPA's prior waivers.

V. EPA's Request for Comments

When EPA receives new waiver requests from CARB, EPA traditionally publishes a notice of opportunity for public hearing and comment, and then publishes a decision in the **Federal Register** following the conclusion of the comment period. In contrast, when EPA receives a request from CARB for a within-the-scope confirmation, EPA may publish a decision in the **Federal Register** and concurrently invite public comment if an interested party is opposed to EPA's decision.

Although CARB's request regarding its "Section 177 State 'Pooling' Amendments" and its "2012–2016 Model Year National Program Amendments" was submitted as a within-the-scope request, EPA is inviting comment on several issues. Within the context of a within-the-scope analysis, EPA invites comment on whether California's standards: (1) Undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards, (2) affect the consistency of California's requirements with section 202(a) of the Act, and (3) raise any other new issues affecting EPA's previous waiver determinations. EPA is also requesting comment on issues relevant to a full waiver analysis, in the event that EPA determines that California's standards should not be considered within-the-scope of CARB's

[1] 73 FR 12,156 (March 6, 2008).

[2] 74 FR 32,744 (July 8, 2009).

[3] California Code of Regulations, Title 13 § 1961.1(a)(1)(A)(i).

[4] California Code of Regulations, Title 13 § 1961(a)(1)(B).

[5] California Code of Regulations, Title 13 § 1961.1(a)(1)(A)(ii). The National Program referred to in California's regulation and promulgated by EPA and NHTSA can be found at 75 FR 25323 (May 7, 2010).

[6] *See* S.Rep. No. 90–403 at 632 (1967).

[7] Clean Air Act (CAA) section 209(b)(1)(A).

[8] CAA section 209(b)(1)(B).

[9] CAA section 209(b)(1)(C).

[10] *See, e.g.,* 74 FR at 32767 (July 8, 2009); *see also Motor and Equipment Manufacturers Association* v. *EPA (MEMA I),* 627 F.2d 1095, 1126 (DC Cir. 1979).

previous waivers, and instead require a full waiver analysis. Specifically, please comment on: (a) Whether CARB's determination that its standards, in the aggregate, are at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious, (b) whether California needs separate standards to meet compelling and extraordinary conditions, and (c) whether California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Act.

VI. Procedures for Public Participation

If a hearing is held, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. Regardless of whether a public hearing is held, EPA will keep the record open until March 17, 2011. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record from the public hearing, if any, all relevant written submissions, and other information that she deems pertinent. All information will be available for inspection at the EPA Air Docket EPA–HQ–OAR–2010–0653.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest extent possible and label it as "Confidential Business Information" (CBI). If a person making comments wants EPA to base its decision on a submission labeled as CBI, then a non-confidential version of the document that summarizes the key data or information should be submitted to the public docket. To ensure that proprietary information is not inadvertently placed in the public docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed, and according to the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: January 25, 2011.

Margo T. Oge,

Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2011–2045 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2010–1086; FRL–9260–1]

Potential Addition of Vapor Intrusion Component to the Hazard Ranking System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Opportunity for Public Input.

SUMMARY: The Environmental Protection Agency ("EPA") is soliciting stakeholder input on whether to include a vapor intrusion component to the Hazard Ranking System ("HRS"). The HRS is the principal mechanism EPA uses to place sites on the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) National Priorities List (NPL). This potential addition would allow the HRS to directly consider the human exposure to contaminants that enter building structures through the subsurface environment and thus, enabling sites with vapor intrusion contamination to be evaluated for placement on the NPL. EPA is accepting public feedback on specific topics related to the potential HRS revision (*see* **SUPPLEMENTARY INFORMATION** section of this Notice), and will consider information gathered during this comment period, as well as input from three public listening sessions before making a decision on whether to issue a proposed rulemaking to add a vapor intrusion component to the HRS. The Agency is requesting comments only regarding this potential addition to the HRS. The Agency is not considering changes to the remainder of the HRS.

DATES: Comments on the topics identified in the **SUPPLEMENTARY INFORMATION** section of this notice must be submitted (postmarked) on or before April 16, 2011.

ADDRESSES: Submit comments on the topics identified in the **SUPPLEMENTARY INFORMATION** section of this notice, identified by Docket ID No. EPA–HQ–SFUND–2010–1086, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: superfund.docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* U.S. Environmental Protection Agency; EPA Docket Center, Superfund Docket, Mail Code 28221T; 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center—Public Reading Room; EPA West Building, Room 3334; 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.
- *Listening Session:* Oral and written comments on the topics in the **SUPPLEMENTARY INFORMATION** section of this Notice will be accepted at each of the three listening sessions. Follow the instructions provided on the listening session Web site at *http://www.epa.gov/superfund/sites/npl/hrsaddition.htm* for preparing written comments to be submitted at one of the listening sessions.

Instructions: Direct comments on the topics identified in the **SUPPLEMENTARY INFORMATION** section of this notice to Docket ID No. EPA–HQ–SFUND–2010–1086. 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 *superfund.docket@epa.gov.* Note that 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 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, 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 EPA Docket Center—Public Reading Room, EPA/DC, EPA West, Room 3334; 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Superfund docket is (202) 566–0276.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone: (703) 603–8852, e-mail: *jeng.terry@epa.gov,* Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mail Code 5204P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: EPA is considering adding a vapor intrusion component as a new mechanism to the HRS that would enable vapor intrusion contamination to be included in an HRS evaluation. Presented below is background information on the HRS, its statutory basis, and further detail regarding this potential addition and related topics on which EPA is requesting public comment.

The Agency will conduct public outreach activities, including facilitating public listening sessions, providing public information documents, and establishing a Web site with more information regarding this potential addition to the HRS. The Agency will consider the information gathered from this Notice, listening sessions, and other sources before making a decision on whether to issue a proposed rulemaking to add subsurface contaminant intrusion to the HRS. The Agency is therefore requesting comments only regarding this potential addition to the HRS, and is not considering changes to the remainder of the HRS.

EPA is currently scheduled to hold three listening sessions following publication of this Notice to allow interested parties to present feedback on the potential HRS addition. EPA welcomes the input that will be provided to the Agency by listening session participants. This input will be considered by the Agency as it determines the need for and nature of the addition to the HRS.

For those stakeholders who cannot attend one of the listening sessions, comments on the topics described below in the *Potential Addition of Vapor Intrusion Component to the HRS* subsection of this Notice should be submitted in accordance with the instructions in the **DATES** and **ADDRESSES** sections of this Notice. Written comments will also be accepted at the listening sessions. Follow the instructions provided on the listening session Web site at *http://www.epa.gov/superfund/sites/npl/hrsaddition.htm* for preparing written comments to be submitted at one of the listening sessions; see also the **ADDRESSES** section of this Notice.

In a separate effort, EPA is also preparing a final guidance document on vapor intrusion that will replace the *2002 Office of Solid Waste and Emergency Response (OSWER) Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils (Subsurface Vapor Intrusion Guidance).* The guidance document is not directly related to the potential addition of a vapor intrusion component to the HRS and more information about this effort will be provided in a future **Federal Register** Notice. More information can be found on EPA's vapor intrusion Web site at *http://www.epa.gov/oswer/vaporintrusion/.*

Background

Vapor Intrusion

When hazardous substances, pollutants or contaminants are spilled on the ground or otherwise migrate to the subsurface, they can move in the subsurface environment and eventually enter buildings as a gas or vapor, or even as a liquid in some cases. Dry cleaning solvents and industrial degreasers are products that contain hazardous substances that when released to the environment, can migrate into the soil and subsurface environment, enter buildings by seeping through cracks in basements, foundations, sewer lines and other openings and ultimately result in human exposures. Vapor intrusion is of particular concern because concentrations of vapors can rise to a point where the health of residents or workers in those buildings could be at risk. Intrusion of contaminants in a non-vapor state may also be a pathway of concern because of the potential for human exposure to the liquids, the resulting precipitates, or associated vapors.

Statutory Basis

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601, *et seq.* ("CERCLA or "the Act") in response to the dangers posed by uncontrolled releases of hazardous substances, pollutants, or contaminants. Section 105(a)(8)(A) of CERCLA required that the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) include criteria for determining priorities among releases or threatened releases for the purpose of taking remedial or removal action. Criteria were to be based upon relative risk or danger, taking into account the population at risk, the hazardous potential of the substances at a facility, the potential for contamination of drinking water supplies, direct human contact, destruction of sensitive ecosystems, and other appropriate factors. Section 105(a)(8)(B) of CERCLA requires that the statutory criteria described in section 105(a)(8)(A) be used to prepare a list of national priorities among the known releases, or threatened releases throughout the United States, and that at least 400 sites be designated for priority. The list, which is Appendix B of the NCP, is the National Priorities List (NPL).

To implement CERCLA, EPA promulgated the revised NCP, 40 CFR Part 300, on July 16, 1982 (47 FR 31180) pursuant to section 105 of CERCLA and Executive Order 12316 (48 FR 42237 August 20, 1981). The NCP, further revised by EPA on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912), sets forth the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants under CERCLA. The Agency developed the Hazard Ranking System ("HRS") to implement Section 105(a)(8)(A). The HRS was codified as Appendix A of the NCP. The HRS is the primary mechanism EPA uses to evaluate a site for placement on the NPL.

CERCLA was amended by the Superfund Amendments and Reauthorization Act (SARA) in 1986. This amendment required the HRS to be revised to more accurately assess the relative degree of risk to human health and the environment posed by sites and facilities subject to review. Revisions to the HRS were proposed in 1988 (53 FR 51962) and promulgated in 1990 (55 FR 51532). The revisions changed the way EPA evaluates potential threats to human health and the environment from hazardous waste sites, as well as

made the HRS more accurate in assessing relative risk. The revisions included the addition of the human food chain and recreation threats to the surface water pathway and the addition of a new exposure pathway (i.e., soil exposure pathway). CERCLA called for the establishment of both the NPL and the HRS.

National Priorities List

CERCLA established in Appendix B of the NCP, the NPL, which is also commonly known as the Superfund List. The NPL is a list of contaminated sites identified to have known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States and its territories. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation. A site can be placed on the NPL via three methods (*see* 40 CFR 300.425(c) of the NCP for further information):

- Achieving a score of 28.50 or greater under the HRS;
- Designating by a State or Territory as its top priority for listing on the NPL (regardless of its HRS score); or
- Using the Agency for Toxic Substances and Disease Registry (ATSDR) listing mechanism (see 40 CFR.300.66(b)(4) of the NCP for further information).

Rationale for Adding Vapor Intrusion to the Hazard Ranking System

In a May 2010 report (*EPA's Estimated Costs to Remediate Existing Sites Exceed Current Funding Levels, and More Sites are Expected to Be Added to the National Priorities List,* GAO Report to Congressional Requesters, GAO–10–380, May 2010), the Government Accountability Office (GAO) concluded that if vapor intrusion sites are not assessed and, if needed, listed on the NPL, there is the potential that contaminated sites with unacceptable human exposure will not be acted upon. GAO recommended that the EPA Administrator determine the extent to which EPA will consider vapor intrusion in listing NPL sites and how this will affect the number of NPL sites listed in the future.

Many sites on the NPL that have subsurface contaminant intrusion problems were placed on the NPL by evaluation of pathways other than a contaminant intrusion pathway. There are other contaminated sites, however, that did not qualify for placement on the NPL under the current HRS. However, these sites may qualify for placement on the NPL if the threat from vapor intrusion was included in the HRS. A new HRS mechanism would enable EPA to identify situations in which individuals are exposed or potentially exposed to vapor or other contaminant intrusion in dwellings, work places, or other structures or enclosures.

Hazard Ranking System

The HRS is a screening tool used by EPA to assess the relative threat that sites with actual or potential contaminant releases pose to human health or the environment. The HRS is the primary mechanism EPA uses to place a site on the NPL. (As noted earlier, there are two other mechanisms that can be used to place sites on the NPL.) The sites on the NPL are then further investigated to determine the extent of the threat and whether cleanup of the site under EPA's Superfund Remedial program is warranted. The HRS is a numerically based screening system that uses information from initial, limited investigations that can be collected relatively quickly and inexpensively, thus allowing most Superfund resources to be directed to remedial actions at sites on the NPL. The HRS does not provide a risk assessment of a specific site, but serves as a screening level indicator of the highest priority hazardous releases or potential releases.

The HRS score is currently based on an evaluation of up to four separate pathways: ground water migration, soil exposure, surface water migration, and air migration. Pathways are routes by which exposure to contaminant releases by human or sensitive environments can occur.

1. The ground water migration pathway evaluates the likelihood that hazardous substances will travel through the ground below and contaminate aquifers and drinking water wells that draw on those aquifers. The groundwater pathway does not consider the potential risk of exposure to vapor intrusion from contaminated aquifers.

2. The surface water migration pathway evaluates the likelihood that hazardous substances can enter surface water and affect people or the environment. Threats to humans from this pathway include drinking water, the human food chain (*i.e.,* contaminants build up in the aquatic organisms that humans in turn consume), and sensitive environments.

3. The soil exposure pathway evaluates the potential threats to humans and terrestrial environments posed by direct, physical contact with hazardous substances or contaminated soil. This pathway includes threats to those living on property with hazardous substances or soils contaminated with hazardous substances, and those living nearby with access to the property.

4. Finally, the air migration pathway evaluates the likelihood of release of hazardous substances into the atmosphere and how many people and sensitive environments could be exposed to hazardous substances carried in the air, including gases and particulates. The air migration pathway does not consider indoor air contamination.

The scoring system for each pathway is based on a number of individual factors associated with risk-related conditions at the site. These factors are grouped into three categories:

1. Likelihood of exposure (*i.e.,* likelihood that a site has released or has the potential to release hazardous substances into the environment).

2. Waste characteristics (*i.e.,* inherent toxicity, mobility of the substances and the quantity of the hazardous substances that has been released).

3. Targets (*i.e.,* people or sensitive environments actually or potentially exposed to the release).

The HRS site score, which ranges from 0 to 100, is obtained by combining the pathway scores. A site may be scored for one or more of the pathways depending on the nature of the release. Any site scoring 28.50 or greater is eligible for placement on the NPL. As noted previously, the HRS score does not represent a specified level of risk, but is a cutoff point that serves as a screening-level indicator of the highest priority hazardous releases or potential releases based on the criteria identified in SARA.

Potential Addition of Vapor Intrusion Component to the HRS

Consistent with CERCLA Section 105 and SARA, the Agency regards it appropriate to consider amending or adding to the HRS when such amendments would identify sites of the highest priority for evaluation. EPA is considering the potential enhancement of the HRS by including a vapor intrusion component that address issues related to the intrusion of hazardous substances, pollutants, and contaminants into structures (*e.g.,* homes, offices, schools, manufacturing facilities). To comprehensively explore, and if determined appropriate, identify approaches for adding the threat posed by contaminant vapor intrusion into occupied structures to the HRS, EPA is beginning the process of soliciting stakeholder input. To determine whether to move forward with this addition, and if so, to determine a range of potential approaches, EPA is

soliciting input on the topics described below.

1. The level and extent of vapor intrusion contamination that would warrant evaluation for placement on the NPL, as well as the identification of screening level information sufficient to perform this evaluation.

2. Methods for incorporating vapor intrusion into the HRS while, to the extent possible, maintaining the structure of the other pathways in the current HRS and retaining that same structure throughout the new mechanism for vapor intrusion (*i.e.,* likelihood of release, waste characteristics, and targets). These methods could include the addition of vapor intrusion as a migration pathway (*e.g.,* groundwater), or part of an exposure pathway (*e.g.,* threat within a direct exposure pathway along with soil).

3. Consideration of the importance of evaluating the potential threat to populations not demonstrated to be exposed to contaminant intrusion.

4. The identification of sampling procedures available and practical to detect the presence of contamination due to vapor intrusion.

5. The availability of screening sampling strategies that can adequately compensate for the variability in vapor intrusion rates under different climatic and seasonal conditions.

6. Identification of analytical methods that are sufficiently precise and accurate to demonstrate a significant increase in contaminant levels from vapor intrusion.

7. The importance of the threat posed by exposure to contaminant vapor intrusion via inhalation, dermal contact with the vapors or condensate on surfaces, and ingestion.

8. The identification of what environmental factors (*e.g.,* porosity of soil, presence of a contaminated aquifer, climate) and structural and lifestyle factors (*e.g.,* houses with basements) should appropriately be considered in determining whether a site warrants sampling for contaminant vapor intrusion.

9. In addition to residences, schools and other occupied structures, the identification of structures in which contaminant vapor intrusion could result in a significant threat to human health (*e.g.,* community recreation centers, cultural centers, museums, athletic facilities).

10. The possible need to consider not only contaminant vapor intrusion, but also intrusion of contaminants in solid (*i.e.,* particulates) and liquid forms.

In addition to these topics, EPA also solicits input on community outreach methods that would be most effective in gathering and disseminating information regarding this potential addition to the HRS. To further support this effort, EPA requests public input on the identification of possible vapor intrusion sites. This information will be used for informational purposes only.

EPA will consider all public input when evaluating whether changes to the HRS are appropriate, and whether to issue a proposed amendment to the HRS.

Listening Sessions

The first listening session will be held in Arlington, VA on February 24, 2011. Specific details of the listening sessions, including dates and locations for the other two sessions, and instructions for those wishing to present oral comments will be posted at: *http://www.epa.gov/superfund/sites/npl/hrsaddition.htm.* At this site, users will also be able to sign up for a mailing list that will be used to distribute logistical information on these listening sessions. Registration is not required to attend a listening session with the following exceptions.

Due to space limitations, parties interested in presenting oral comments at the Arlington, VA listening session only, must register for that session. Registration must be completed at least 3 calendar days prior to the session. Details for registration will be posted on the Web at *http://www.epa.gov/superfund/sites/npl/hrsaddition.htm.* If no speakers have registered by 2 calendar days prior to this listening session, it will be cancelled and EPA will notify those registered of the cancellation. The Agency will also post on its Web site that the listening session has been cancelled.

In addition to attending in person, participation in the Arlington, VA listening session will be available via a teleconference. Those wishing to attend via teleconference must register as described above. EPA will provide the teleconference information to registrants via e-mail notification in advance of the session.

The Arlington, VA listening session will be held at EPA's Potomac Yard office located at: 2777 Crystal Drive, Arlington, VA 22202. The listening session will begin at 9 a.m. and end at 5 p.m. The Arlington, VA listening session may be webcast. Please refer to the Superfund "Addition of Vapor Intrusion to HRS" Web Site, *http://www.epa.gov/superfund/sites/npl/hrsaddition.htm* for information on how to access the webcast. Please note that the webcast is a supplementary public process provided only for convenience. If difficulties arise resulting in webcasting outages, the meeting will continue as planned.

In general, each oral comment at listening sessions should be limited to no more than 15 minutes in length. If, however, there are more individuals who wish to present comments than the allotted time for the listening session allows, an announcement will be made at the beginning of the listening session that the time limit has been adjusted to allow for the presentation of more comments.

Dated: January 25, 2011.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 2011–1934 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 2011–0010]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: Notice of Claim and Proof of Loss, Medium Term Guarantee.

SUMMARY: The Export-Import Bank of the United States ("Ex-Im Bank") is the official export credit agency of the United States. Its mission is to create and sustain U.S. jobs by financing U.S. exports through direct loans, guarantees, insurance and working capital credits. By neutralizing the effect of export credit support offered by foreign governments and by absorbing credit risks that the private sector will not accept, Ex-Im Bank enables U.S. exporters to compete fairly in foreign markets on the basis of price and product. Under the Medium Term Guarantee Program, Ex-Im Bank provides guarantees of principal and interest on floating or fixed-rate loans by eligible lenders to credit worthy buyers of US goods and services. The guarantee covers the repayment risks on the foreign buyer's debt obligations. Ex-Im Bank guarantees that, in the event of a payment default by the borrower, it will repay the lender the outstanding principal and interest on the loan.

In the event that a borrower defaults on a transaction guaranteed by Ex-Im Bank the guaranteed lender may seek payment by the submission of a claim. This collection of information is necessary, pursuant to 12 USC 635(a)(1), to determine if such claim complies with the terms and conditions of the relevant guarantee agreement.

This form can be reviewed *http://www.exim.gov\pub\pending\EIB10_05.pdf*

DATES: Comments should be received on or before (insert 30 days after publication) to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *http://www.regulations.gov* or by mail to Office of Information and Regulatory Affairs, 725 17th Street, NW. Washington, DC 20038 attn: OMB 3048–NEW.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: Notice of Claim and Proof of Loss, Medium Term Guarantee (EIB 10–05).

OMB Number: 3048–XXXX.

Type of Review: New.

Need and Use: This collection provides Ex-Im Bank staff with the information necessary to process the filing of a claim for a defaulted transaction under Ex-Im Bank's Medium Term Guarantee program.

Number of respondents: 65.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2011–2037 Filed 1–28–11; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 2011–0009]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: Notice of Claim and Proof of Loss, Working Capital Guarantee.

SUMMARY: The Export-Import Bank of the United States ("Ex-Im Bank") is the official export credit agency of the United States. Its mission is to create and sustain U.S. jobs by financing U.S. exports through direct loans, guarantees, insurance and working capital credits. By neutralizing the effect of export credit support offered by foreign governments and by absorbing credit risks that the private sector will not accept, Ex-Im Bank enables U.S. exporters to compete fairly in foreign markets on the basis of price and product. Under the Working Capital Guarantee Program, Ex-Im Bank provides repayment guarantees to lenders on secured, short-term working capital loans made to qualified exporters. The guarantee may be approved for a single loan or a revolving line of credit.

In the event that a borrower defaults on a transaction guaranteed by Ex-Im Bank the guaranteed lender may seek payment by the submission of a claim. This collection of information is necessary, pursuant to 12 U.S.C. 635(a)(1), to determine if such claim complies with the terms and conditions of the relevant insurance policy.

This form can be reviewed at *http://www.exim.gov/pub/pending/EIB1004.pdf.*

DATES: Comments should be received on or before March 2, 2011 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *http://www.regulations.gov* or by mail to Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20038 *attn:* OMB 3048–NEW.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: Notice of Claim and Proof of Loss, Working Capital. Guarantee (EIB 10–04)

OMB Number: 3048–XXXX.

Type of Review: New.

Need and Use: This collection provides Ex-Im Bank staff with the information necessary to process the filing of a claim for a defaulted transaction under Ex-Im Bank's Working Capital Guarantee program.

Number of respondents: 20.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2011–2038 Filed 1–28–11; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 2011–0008]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request. Form Title: Notice of Claim and Proof of Loss, Export Credit Insurance policies.

SUMMARY: The Export-Import Bank of the United States ("Ex-Im Bank") is the official export credit agency of the United States. Its mission is to create and sustain U.S. jobs by financing U.S. exports through direct loans, guarantees, insurance and working capital credits. By neutralizing the effect of export credit support offered by foreign governments and by absorbing credit risks that the private sector will not accept, Ex-Im Bank enables U.S. exporters to compete fairly in foreign markets on the basis of price and product. Under the Export Credit Insurance policies, coverage is provided for export sales to one or many different buyers.

In the event that a buyer defaults on a transaction insured by Ex-Im Bank the insured exporter or lender may seek payment by the submission of a claim. This collection of information is necessary, pursuant to 12 U.S.C. 635(a)(1), to determine if such claim complies with the terms and conditions of the relevant insurance policy.

This form can be reviewed at *http://www.exim.gov/pub/pending/EIB10_03.pdf.*

DATES: Comments should be received on or before (insert 30 days after publication) to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *http://www.regulations.gov* or by mail to: Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20038 attn: OMB 3048—NEW.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: Notice of Claim and Proof of Loss, Export Credit Insurance policies (EIB 10–03).

OMB Number: 3048–XXXX.

Type of Review: New.

Need and Use: This collection provides Ex-Im Bank staff with the information necessary to process the filing of a claim for a defaulted transaction under Ex-Im Bank's Export Credit Insurance program.

Number of respondents: 300.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2011–2039 Filed 1–28–11; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notice

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, February 1, 2011, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

Items To Be Discussed

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, *Telephone:* (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2011–1968 Filed 1–28–11; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0089; Docket No. 2010–0083; Sequence 29]

Submission for OMB Review; Request for Authorization of Additional Classification and Rate, Standard Form 1444

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding a reinstatement to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Request for Authorization of Additional Classification and Rate, Standard Form 1444. A notice published in the **Federal Register** at 75 FR 68608, on November 8, 2010. No comments were received.

DATES: Comments may be submitted on or before March 2, 2011.

ADDRESSES: Submit comments identified by Information Collection 9000–0089 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting "Information Collection 9000–0089" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0089". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0089" on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417. *Attn:* Hada Flowers/IC 9000–0089.

Instructions: Please submit comments only and cite Information Collection 9000–0089, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Clare McFadden, Procurement Analyst, Contract Policy Branch, GSA, (202) 501–0044 or e-mail *clare.mcfadden@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

This regulation prescribes labor standards for Federally financed and assisted construction contracts subject to the Davis-Bacon and Related Acts (DBRA), as well as labor standards for nonconstruction contracts subject to the Contract Work Hours and Safety Standards Act (CWHSSA).

The recordkeeping requirements in this regulation, Federal Acquisition Regulation (FAR) 22.406, are a restatement of requirements cleared under OMB control numbers 1215–0140, 1215–0149, and 1215–0017 for 29 CFR 5.5(a)(1)(i), 5.5(c), and 5.15 (records to be kept by employers under the Fair Labor Standards Act (FLSA), 29 CFR 516, which is the basic recordkeeping regulation for all the laws administered by the Wage and Hour Division of the Employment Standards Administration).

FAR 22.406–3, implements the recordkeeping and information collection requirements prescribed in 29 CFR 5.5(a)(1)(iii) cleared under OMB control number 1215–0140 (also prescribed at 48 CFR 22.406 under OMB control number 9000–0089), by providing SF 1444, Request for Authorization of Additional Classification and Rate, for the contractor and the Government to enter the recordkeeping and information collection data required by 29 CFR 5.5(a)(1)(ii) prior to transmitting the data to the Department of Labor.

This SF 1444 places no further burden on the contractor or the Government other than the information collection burdens already cleared by OMB for 29 CFR 5.

B. Annual Reporting Burden

There is no burden placed on the public beyond that prescribed by the Department of Labor regulations.

Number of Respondents: 2599.

Responses per Respondent: 1.

Total Responses: 2599.

Average Burden Hours per Response: .5.

Total Burden Hours: 1300.

The burden hour is estimated to be time necessary for the contractor to prepare and submit the form.

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0089, Request for Authorization of Additional Classification and Rate, Standard Form 1444, in all correspondence.

Dated: January 24, 2011.

Millisa Gary,

Acting Director, Office of Governmentwide Acquisition Policy.

[FR Doc. 2011–2010 Filed 1–28–11; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[2011–MV–1; Docket No. 2011–0006; Sequence 4]

Public Availability of General Services Administration FY 2010 Service Contract Inventory

AGENCY: Office of Acquisition Policy; General Services Administration (GSA).

ACTION: Notice.

SUMMARY: This notice announces that GSA is announcing the availability of the FY 2010 Service Contract inventory.

DATES: *Effective date:* January 31, 2011.

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Mr. Paul F. Boyle in the Office of Acquisition policy at (202) 501–0324 or *paul.boyle@gsa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), GSA is publishing this notice to advise the public of the availability of the FY 2010 Service Contract Inventory. This inventory provides information on service contract actions over $25,000 that were conducted in FY 2010. The information is organized by function to show how contracted resources are

distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* GSA has posted its inventory and a summary of the inventory on the GSA homepage at the following link: *http://www.gsa.gov/gsasci.*

Dated: January 21, 2011.

Joseph A. Neurauter,

Director, Office of Acquisition Policy and Senior Procurement Executive.

[FR Doc. 2011–1652 Filed 1–28–11; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–0920–11BO]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Carol Walker, Acting CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Community-based Organization (CBO) Monitoring and Evaluation Project (CMEP) of RESPECT (CMEP–RESPECT)—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC began formally partnering with CBOs in the late 1980s to expand the reach of HIV prevention efforts. CBOs were, and continue to be, recognized as important partners in HIV prevention because of their history and credibility with target populations and their access to groups that may not be easily reached. Over time, CDCs program for HIV prevention by CBOs has grown in size, scope, and complexity to respond to changes in the epidemic, including the diffusion and implementation of Effective Behavioral Interventions (EBIs) for HIV prevention.

CDCs EBIs have been shown to be effective under controlled research environments, but there is limited data on intervention implementation and client outcomes in real-world settings (as implemented by CDC-funded CBOs). The purpose of CMEP–RESPECT is to (a) assess the fidelity of the implementation of the selected intervention at the CBO; and (b) improve the performance of CDC-funded CBOs delivering the RESPECT intervention by monitoring changes in clients' self-reported attitudes and beliefs regarding HIV/STD and transmission risk behaviors after participating in RESPECT. The project also plans to conduct process monitoring of the delivery of the intervention in terms of recruitment, retention, data collection, data entry, and data management. Four CBOs will receive supplemental funding under PS 10–1003 over a five-year period to participate in CMEP–RESPECT.

CBOs will conduct outcome and process monitoring of the project between July 1, 2011 and June 30, 2015. They will recruit 400 men who are 18 years of age and older, report having had anal sex with a man in the last 12 months, and are enrolled in RESPECT to participate in CMEP–RESPECT. Each participant will complete a 20 minute, self administered, computer based interview prior to their participation in the RESPECT intervention and an 18 minute, self administered, computer based interview at two follow-up time points (90 and 180 days following the RESPECT intervention) to assess their HIV and STD related attitudes and behavioral risks. CBOs will be expected to retain 80% of these participants at both follow-up time points.

Throughout the project, funded CBOs will be responsible for managing the daily procedures of CMEP–RESPECT to ensure that all required activities are performed, all deadlines are met, and quality assurance plans, policies and procedures are upheld. CBOs will be responsible for participating in all CDC-sponsored grantee meetings related to CMEP–RESPECT.

Findings from this project will be primarily used by the participating CBOs. The CBOs may use the findings to (a) Better understand if the outcomes are different across demographic and behavioral risk groups as well as agency and program model characteristics; (b) improve the future implementation, management, and quality of RESPECT; and (c) guide their overall HIV prevention programming for MSM. CDC and other organizations interested in behavioral outcome monitoring of RESPECT or similar HIV prevention interventions can also benefit from lessons learned through this project. There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondent	Form	Number of respondents	Number of responses per respondent	Average burden response (in hours)	Total burden (in hours)
General population	Screener	500	1	2/60	17
General population	Baseline Survey	400	1	20/60	133
General population	90-Day Follow-Up Survey	320	1	18/60	96
General population	180-Day Follow-Up Survey	320	1	18/60	96
Total		500			342

Dated: January 24, 2011.

Carol E. Walker,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–2015 Filed 1–28–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-11–10FB]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Developing a Sexual Consent Norms Instrument—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Sexual violence prevention strategies are increasingly focusing on promoting positive behavioral norms such as safety, equality and respect in relationships. However, psychometrically validated measures do not exist for programs to use in evaluating their strategies. This project provides an opportunity to significantly contribute to the literature base and fill a gap in evaluation tools by developing a measure specific to consent norms for use in three populations: College students, late adolescents (ages 15–18) and early adolescents (ages 11–14). Sound measures of sexual consent norms will improve program evaluation efforts and potentially contribute to understanding of effective prevention strategies as well as the etiology of sexual violence perpetration.

The development of these measures will occur in four phases. All phases will consist of Asian, Black or African American, Hispanic or Latino and White students. Phase one will consist of multiple two-hour focus groups of 8–10 participants: 1 with prevention educators, 8 with college students, 8 with late adolescents (ages 15–18) and 8 with early adolescents (ages 11–14). Samples of college students and adolescents will include Asian, Black or African American, Hispanic or Latino, and White students. Half of the college student focus groups will be conducted with students who grew up in the United States; the other half will be conducted with students who came to the United States within the last five years. Focus group participants will be asked to comment on the proposed instruments relevant to their group. Prevention educators will comment on all three instruments. Comments will be used to refine the measures.

In phase two, 200 college students and 100 adolescents will complete the revised instrument appropriate to age group, plus a set of existing instruments that assess related variables, using online data collection methods.

Phase three will consist of multiple two-hour focus groups of 8–10 participants: 2 with prevention educators, 1 with college students, 1 with late adolescents (ages 15–18) and 1 with early adolescents (ages 11–14). Half of the college student focus groups will be conducted with students who grew up in the United States; the other half will be conducted with students who came to the United States in the last five years. All focus group participants will be asked to comment on data collected with the revised instruments in their age group. Prevention educators will be asked to comment on data from all age groups. Comments will be used to refine the instrument again, before administering it to larger samples.

In phase four, the refined instruments plus a set of existing instruments that assess related variables will be administered to 500 adolescents (200 early and 200 late). Data collection will occur via an online survey. These data will be used to examine the psychometric properties of the new instruments.

Findings will be used to demonstrate the adequacy of new instruments for use in racially and ethnically diverse populations of college student and adolescents by sexual assault prevention programs funded through the Rape Prevention and Education Program. There is no cost to respondents other than their time. The total estimated annual burden hours are 3005.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (hours)
Phase I: Focus Group of Prevention Educators	10	1	3
Phase I: Focus Group of College Students	80	1	2.5
Phase I: Focus Group of Late Adolescents	80	1	3
Phase I: Focus Group of Early Adolescents	80	1	3
Phase II: College Student Survey	200	1	2
Phase II: Late Adolescent Survey	50	1	2
Phase II: Early Adolescent Survey	50	1	1
Phase III: Follow-up Focus Group of Prevention Educators	20	1	3
Phase III: Follow-up Focus Group of College Students	10	1	2.5
Phase III: Follow-up Focus Group of Late Adolescents	10	1	3
Phase III: Follow-up Focus Group of Early Adolescents	10	1	3
Phase IV: Confirmatory Survey of College Students	500	1	2
Phase IV: Confirmatory Survey of Late Adolescents	200	1	2
Phase IV: Confirmatory Survey of Early Adolescents	200	1	1

Dated: January 25, 2011.

Carol E. Walker,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–2013 Filed 1–28–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–11–11AC]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Using Traditional Foods and Sustainable Ecological Approaches for Health Promotion and Diabetes Prevention in American Indian/Alaska Native Communities—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Type 2 Diabetes was rare among American Indians until the 1950s. Since that time, diabetes has become one of the most common and serious illnesses among American Indians and Alaska Natives (AI/AN). From 1994 to 2004, the age-adjusted prevalence of diagnosed diabetes doubled (from 8.5 to 17.1 per 1,000 population) among AI/ANs less than 35 years of age who used Indian Health Service healthcare services. However, dietary management and physical activity can help to prevent or control Type 2 diabetes.

In 2008, the CDC's Native Diabetes Wellness Program (NDWP), in consultation with American Indian/Alaska Native Tribal elders, issued a cooperative agreement entitled, "Using Traditional Foods and Sustainable Ecological Approaches for Health Promotion and Diabetes Prevention in American Indian/Alaska Native Communities." The Traditional Foods program seeks to build on what is known about traditional ways in order to inform culturally relevant, contemporary approaches to diabetes prevention for AI/AN communities. The program supports activities that enhance or re-introduce indigenous foods and practices drawn from each awardee's landscape, history, and culture. Example activities include the cultivation of community gardens, organization of local farmers' markets, and the dissemination of culturally appropriate health messages through storytelling, audio and video recordings, and printed materials.

CDC requests OMB approval to collect standardized information, called Traditional Foods Shared Data Elements (SDE), from awardees over a three-year period. The SDE will be organized in three domains: Traditional Local Healthy Foods, Physical Activity, and Social Support for Healthy Lifestyle Change and Maintenance. Since each awardee currently maintains activity data for local program improvement, reporting summary information to CDC in SDE format is not expected to entail significant burden to respondents.

The SDE will allow CDC to compile a systematic, quantifiable inventory of activities, products, and outcomes associated with the Traditional Foods program. The SDE will also allow CDC to analyze aggregate data for improved technical assistance and overall program evaluation, reporting, and identification of outcomes; allow CDC and awardees to create a comprehensive inventory/resource library of diabetes primary prevention ideas and approaches for AI/AN communities and identify emerging best practices; and improve dissemination of success stories. The annual Spring SDE submission will supplement the narrative progress report that awardees submit to CDC as part of the annual continuation application for funding. An additional SDE collection will be conducted annually in the Fall.

Respondents will be 17 Tribes and Tribal organizations that receive funding through the Traditional Foods program. The estimated burden per response is two hours. The SDE will be reported using a Web-based survey interface. The total estimated burden for routine, semi-annual information collection is 68 hours.

CDC also requests OMB approval to conduct one additional cycle of retrospective data collection during the first year of the three-year information collection request. The retrospective information collection will provide baseline SDE information about awardee activities that occurred in FY2010, which is needed for comparison purposes and optimal overall program evaluation. Inclusion of the retrospective data will enable CDC and awardees to have a clearer, more quantifiable view of the growth of Traditional Foods activities over the five-year funding cycle for the cooperative agreement. The estimated annualized burden for the one-time retrospective data collection is 12 hours.

There are no costs to respondents other than their time. The total estimated annualized burden hours are 80.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs)
AI/AN Tribal Awardees	Traditional Foods Shared Data Elements	17	2	2
	One-Time Retrospective Data Collection	6	1	2

Dated: January 24, 2011.

Carol E. Walker,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–2000 Filed 1–28–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Times and Dates:

9:15 a.m.–5 p.m., March 2, 2011

8:30 a.m.–12:30 p.m., March 3, 2011

Place: CDC, 1600 Clifton Road, NE., Tom Harkin Global Communications Center, Building 19, Room 232, Auditorium B, Atlanta, Georgia 30333.

Online Registration Required: In order to expedite the security clearance process at the CDC Roybal Campus located on Clifton Road, all CLIAC attendees are required to register for the meeting online at least 14 days in advance at *http://wwwn.cdc.gov/cliac/default.aspx* by clicking the "Register for a Meeting" link and completing all forms according to the instructions given. Please complete all the required fields before submitting your registration and submit no later than February 16, 2011.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This Committee is charged with providing scientific and technical advice and guidance to the Secretary, Department of Health and Human Services; the Assistant Secretary for Health; the Director, CDC; the Commissioner, Food and Drug Administration (FDA); and the Administrator, Centers for Medicare and Medicaid Services (CMS), regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact on medical and laboratory practice of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters To Be Discussed: The agenda will include agency updates from CDC, CMS, and FDA; presentations and discussions addressing activities of the Coordinating Council on the Clinical Laboratory Workforce; the National Institutes of Health Genetic Test Registry design and responses from testing laboratories; current testing practices and oversight of cytogenetic and cytogenomic testing; ongoing studies evaluating laboratory practices; and strategies for developing evidence-based methods for laboratory medicine quality improvement.

Agenda items are subject to change as priorities dictate.

Providing Oral or Written Comments: It is the policy of CLIAC to accept written public comments and provide a brief period for oral public comments whenever possible.

Oral Comments: In general, each individual or group requesting to make an oral presentation will be limited to a total time of five minutes (unless otherwise indicated). Speakers must also submit their comments in writing for inclusion in the meeting's Summary Report. To assure adequate time is scheduled for public comments, individuals or groups planning to make an oral presentation should, when possible, notify the contact person below at least one week prior to the meeting date.

Written Comments: CLIAC accepts written comments until the date of the meeting (unless otherwise stated) for individuals or groups unable to attend the meeting. However, the comments should be received at least one week prior to the meeting date so that the comments may be made available to the Committee for their consideration and public distribution. Written comments and one hard copy with original signature should be provided to the contact person below. In addition, written comments will be included in the meeting's Summary Report.

Contact Person for Additional Information: Nancy Anderson, Chief, Laboratory Practice Standards Branch, Division of Laboratory Science and Standards, Laboratory Science, Policy and Practice Program Office (LSPPPO), Office of Surveillance, Epidemiology and Laboratory Services, CDC, 1600 Clifton Road, NE., Mailstop F–11, Atlanta, Georgia 30333; telephone (404) 498–2741; fax (404) 498–2219; or via e-mail at *Nancy.Anderson@cdc.hhs.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 25, 2011.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2011–1999 Filed 1–28–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Pregnancy Risk Assessment Monitoring System (PRAMS), DP11–001 Panels A, B, and C, Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Times and Dates:

7:30 p.m.–9 p.m., March 1, 2011 (Closed)

8:30 a.m.–7 p.m., March 2, 2011 (Closed)

8:30 a.m.–5 p.m., March 3, 2011 (Closed)

Place: Georgian Terrace Hotel, 659 Peachtree Street, NE., Atlanta, GA 30308, Telephone: (404) 898–8305.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of "Pregnancy Risk Assessment Monitoring System (PRAMS), DP11–001 Panels A, B, and C."

Contact Person for More Information: Donald Blackman, Ph.D., Scientific Review Officer, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office of the Director, Extramural Research Program Office, 4770 Buford Highway, NE., Mailstop K–92, Atlanta, GA 30341, *Telephone:* (770) 488–3023, *E-mail: DBY7@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 25, 2011.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2011–1998 Filed 1–28–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA 2011–N–0002]

Advisory Committees; Filing of Closed Meeting Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, as required by the Federal Advisory Committee Act, the Agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings during fiscal year 2010.

ADDRESSES: Copies are available from the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, 301–827–6860.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hays, Committee Management Officer, Advisory Committee and Oversight Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 5290, Silver Spring, MD 20993–0002, 301–796–8220.

SUPPLEMENTARY INFORMATION: Under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. app.1) and 21 CFR 14.60(d), FDA has filed with the Library of Congress the annual reports for the following FDA advisory committees that held closed meetings during the period October 1, 2009, through September 30, 2010:

Center for Biologics Evaluation and Research:

Blood Products Advisory Committee,

Vaccines and Related Biological Products Advisory Committee.

National Center for Toxicological Research:

Science Board to the National Center for Toxicological Research.

Annual reports are available for public inspections between 9 a.m. and 4 p.m., Monday through Friday at the following locations:

1. The Library of Congress, Madison Bldg., Newspaper and Current Periodical Reading Room, 101 Independence Ave., SE., rm. 133, Washington, DC; and

2. The Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Dated: January 26, 2011.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2011–1992 Filed 1–28–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0567]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Restaurant Menu and Vending Machine Labeling: Recordkeeping and Mandatory Third Party Disclosure Under Section 4205 of the Patient Protection and Affordable Care Act of 2010

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by March 2, 2011.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0665. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3793.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Restaurant Menu and Vending Machine Labeling: Recordkeeping and Mandatory Third Party Disclosure Under Section 4205 of the Patient Protection and Affordable Care Act of 2010—(OMB Control Number 0910–0665)—Revision

On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act of 2010 ("Affordable Care Act") (Pub. L. 111–148). Section 4205 of the legislation, which principally amends sections 403 and 403A of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 343 and 343–1), requires chain restaurants and similar retail food establishments (SRFE) with 20 or more locations doing business under the same name and offering for sale substantially the same menu items (hereinafter "chain retail food establishments"), as well as operators of 20 or more vending machines (hereinafter "chain vending machine operators"), to disclose certain nutrition information for certain food items offered for sale so that consumers can make more informed choices about the food they purchase. Section 4205 of the Affordable Care Act preempts State and local governments from establishing menu labeling requirements for chain retail food establishments and vending machine nutrition labeling requirements that are not "identical to" the section 4205 requirements.

Section 4205 became effective on the date the law was signed, March 23, 2010. The provisions that went into immediate effect are as follows:

For chain retail food establishments:

- Disclosing the number of calories in each standard menu item on menus and menu boards,
- Making additional written nutrition information available to consumers upon request,
- Providing a statement on menus and menu boards about the availability of the written nutrition information, and
- Providing calorie information (per serving or per food item) for self-service items and food on display, in a sign adjacent to each food item.

For chain vending machine operators:

- Providing a sign in close proximity to each article of food (or the selection button) that discloses the number of calories contained in the article, unless a prospective purchaser is able to examine the Nutrition Facts Panel before purchasing the article, or visible nutrition information is otherwise provided at the point of purchase.

Section 4205 of the legislation requires recordkeeping—for the calorie analysis—and a third party disclosure—for the menu and vending machine labeling.

In the **Federal Register** of August 25, 2010 (75 FR 52427), FDA published a notice of availability of the guidance document entitled "Guidance for Industry: Questions and Answers Regarding the Effect of Section 4205 of the Patient Protection and Affordable Care Act of 2010 on State and Local Menu and Vending Machine Labeling Laws." The guidance is intended to clarify section 4205's effect on State and local menu and vending machine labeling laws, and to ensure that industry and State and local government understand the immediate effects of the law. Persons with access to the Internet may obtain the guidance at the following Web site: *http://www.cfsan.fda.gov/~dms/guidance.html.*

FDA published a second notice of availability in the **Federal Register** of August 25, 2010 (75 FR 52426), announcing the availability of a draft guidance document entitled "Draft Guidance for Industry: Questions and Answers Regarding Implementation of the Menu Labeling Provisions of Section 4205 of the Patient Protection and Affordable Care Act of 2010." In the **Federal Register** of January 25, 2011 (76 FR 4360), FDA announced the withdrawal of this draft guidance and its intention to complete the notice-and-comment rulemaking process for section 4205 before initiating enforcement activities based, in part, on extensive comments on the draft guidance submitted to the Agency.

Menu and vending machine labeling will be used by consumers to assess the calorie content of their purchases. The purpose of the disclosure is to allow consumers to choose foods that are appropriate for their energy needs. Because consumers do not observe the preparation of food prepared by restaurants or SRFE, and because many of these foods were exempted from nutrition labeling requirements under the National Labeling Education Act (NLEA), consumers were not able to ascertain the calorie content of this food, and therefore could not make informed decisions about how that food fits their calorie requirements without the disclosure. The calorie information will be collected and recorded by the chain retail food establishments and chain vending machine operators that are required to disclose calorie information to their customers. The covered entities will use the records to ensure that calorie information that they disclose is accurate.

Description of Respondents: Respondents to this collection of information include chain retail food establishments and chain vending machine operators.

In accordance with 5 CFR 1320.8(d), in the **Federal Register** of November 5, 2010 (75 FR 68361) (November 5, 2010 notice), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received 20 letters in response to the notice, each containing 1 or more comments.

(Comment 1) FDA received several comments on the utility of the vending machine labeling provisions of section 4205 of the Affordable Care Act. Some comments argued that the Affordable Care Act's vending machine labeling provisions have very little utility because the consumer is already familiar with the calorie content of vending machine products. Other comments stated that vending machine labeling would be useful to the consumer because grouping items in vending machines into categories (*e.g.,* beverages, chips, gums) on a menu would help consumers select items by comparing similar items.

(Response) As noted previously, section 4205 of the Affordable Care Act amends section 403(q) of the FD&C Act to, among other things, require vending machine operators that own or operate 20 or more vending machines to disclose nutrient content for certain food articles sold from vending machines; thus, this requirement is imposed by the law itself. Congress required FDA to publish a proposed rule by March 23, 2011, explaining how it will implement the law. Comments such as these on the utility of the provisions of the law are being considered by FDA in developing the proposed rules. FDA will also accept comments on the proposed rule and will consider them fully in developing final rules.

(Comment 2) Several comments suggested ways in which the burden of disclosing calorie content of vending machine products could be lessened. One comment suggested that vendors be permitted to post a sheet or menu on vending machines that lists the caloric contents of all their products. Another comment proposed electronic posting of calorie information, similar to the way that some vending machines post prices (the consumer looks it up by pressing the item number before making a purchase). Several other comments suggested ways in which the burden of disclosing calorie content on restaurant menus could be lessened. For example, comments suggested that restaurants be allowed flexibility with menu labeling because of the many types of menus and menu boards, citing the need for different menus for full service vs. quick service, drive-through service, carryout orders, and self-service food or buffets. Suggestions for flexibility included permitting the calorie disclosures on handouts or placards; permitting disclosures to be brief, only required on one page of the menu or one panel of the menu board, and combined with other required statements and disclosures; permitting calorie disclosure for self-service beverages on the menu board as opposed to at the beverage fountain; and permitting a standard per ounce calorie disclosure for standardized beverages such as coffee and orange juice.

(Response) The requirement that affected chain retail food establishments and vending machine operators disclose certain nutrition information for certain food items offered for sale is imposed by section 4205 of the Affordable Care Act. Comments such as these on minimizing the burden of the law are being considered by FDA in developing the proposed rule. FDA will also accept comments on the proposed rules and will consider them fully in developing final rules.

(Comment 3) Several comments argued that FDA underestimated the burden hours and costs associated with complying with the provisions of section 4205 of the Affordable Care Act. Several comments argued that the annual burden hours will be higher than FDA's estimate. One comment argued that FDA did not fully consider the time needed to acquire the required nutrition information. One comment suggested that FDA provide estimated burden hours individualized for each industry (*i.e.,* convenience stores, restaurants, and grocery stores). Some comments argued that FDA underestimated the number of affected businesses in the United States and their rate of growth. Other comments argued that the percentages of the industries that will be impacted will be higher.

(Response) FDA appreciates the data and suggestions provided in the comments. However, the Agency stands by its preliminary estimate of the paperwork burden resulting from section 4205 of the Affordable Care Act. Thus, FDA has not changed the burden hour estimates in tables 1 and 2 of this document. This rough estimate of 14 million recurring hours in annual burden was a preliminary figure designed to cover a range of possible, non-specific requirements. During the upcoming rulemaking process, FDA

seeks to minimize the regulatory burden on small businesses, and we anticipate the actual burden may differ from the preliminary estimate, depending upon the specific requirements that will be laid out in the final rules.

(Comment 4) Several comments had suggestions for the upcoming rulemaking.

(Response) FDA appreciates the information provided in the comments and will consider them in the upcoming rulemakings.

(Comment 5) One comment identified our inadvertent omission of the capital costs column in table 2 of the November 5, 2010 notice.

(Response) We have corrected the table in this document by inserting the missing capital costs column for comment.

FDA estimates the burden of this collection of information as follows.

The burden is described in the following paragraphs in two parts: A recordkeeping burden associated with discovering and recording the calorie count for each menu/vending item and the third party disclosure burden associated with communicating that information to the consumer. The estimates are also separated for retail food service and vending operators. FDA estimates a total of 1,388,010 initial burden hours. This number has been divided by three in the following tables in order to annualize the burden hours over a 3-year period, yielding 141,222 initial hours for recordkeeping and 312,448 initial hours for third party disclosure, for a sum of 462,670 initial hours. FDA estimates a total of 14,068,808 recurring hours, with nearly all of these for vending machine operators, including 31,408 recurring hours for recordkeeping and 14,037,400 recurring hours for third party disclosure.

Recordkeeping Burdens for Chain Retail Food Establishments

The time burden for calorie analysis on chain retail food establishments is the time necessary for creating a record, managing the contracts for analysis, and communicating the results of the analysis to the outlets. FDA estimates the hourly burden of calorie analysis on these firms to be 4 hours per menu item.

FDA estimates that there are approximately 1,069 restaurant chains, with 231,000 outlets, that will be required to disclose calorie information. On average, we estimate that a chain has 117 items on its menu, and that 48 percent of chain restaurants, or 516, do not already have calorie information. The hourly burden for restaurant chains is 241,488 hours (= 516 chains × 117 items/chain × 4 hours/item).

FDA estimates that there are 570 covered grocery and convenience store chains with an average of 40 standard menu items per chain. The hourly burden for grocery store chains is 91,200 hours (= 570 chains × 40 items/chain × 4 hours/item).

FDA estimates that there are 420 other chains that will be covered by the proposed rule. With 40 menu items on average, the number of hours required to deal with calorie analysis at these other chains is 67,200 hours (= 420 chains × 40 items/chain × 4 hours/item).

FDA has estimated that each of the 1,506 covered chains, on average, introduces new items or reformulates existing items 4 times per year. The recurring hourly burden of recordkeeping for new items, as displayed in the sixth row of table 1 of this document, is 24,096 hours (= 1,506 chains × 4 items/chain × 4 hours/item).

FDA estimates that 30 chains will become newly covered under the requirements of the proposed rule each year. With an average number of menu items of 60 per chain, this would result in approximately 7,200 hours (= 30 chains × 60 items/chain × 4 hours/item). This amount is displayed in the seventh row of table 1 of this document.

The final column of table 1 of this document gives the estimated capital costs associated with calorie and nutrition analysis. These are the costs of acquiring nutrition analyses. FDA has estimated that the average cost of a full analysis is $269 per menu item. These costs are calculated by multiplying this per item cost by the number of items in column three multiplied by the number of recordkeepers in column two.

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN: CALORIE ANALYSIS AND RECORDING [1]

Type of respondent	Number of recordkeepers	Annual frequency per recordkeeping	Total annual records	Hours per record	Total hours	Total capital costs
Restaurant chains	516	117	60,372	4	241,488	$16.2 million.
Grocery and Convenience Store chains.	570	40	22,800	4	91,200	$6.1 million.
Other chains	420	40	16,800	4	67,200	$4.5 million.
Vending operators	600	20	12,000	2	24,000	$20,000.
Total initial hours					423,888	$26.9 million.
New/Reformulated items	1,506	4	6,024	4	24,096	$1.6 million.
New chains	30	60	1,800	4	7,200	$0.5 million.
New vendors	3	20	60	2	120	$4,000.
Total recurring hours					31,416	$2.1 million.

[1] There are no operating and maintenance costs associated with this collection of information.

Third Party Disclosure Burdens for Chain Retail Food Establishments

The third party reporting burden for chain retail food establishments is the time necessary to display calorie information on menus, menu boards, displayed food, and other required locations. In practice, this is the time necessary to change out redesigned menu boards, FDA estimates 2 hours of time per menu board change.

FDA estimates that limited service restaurant chains have an average of three menu boards or displays per establishment. With 135,705 outlets having these displays, the total hourly burden estimated for third party disclosure at restaurants is 814,230 hours (= 135,705 outlets × 3 displays/outlet × 2 hours/display).

For grocery and convenience store chains, FDA estimates an average of 1 major menu board or display per establishment. With 41,945 outlets, the total hourly burden is 83,890 hours (= 41,945 outlets × 1 displays/outlet × 2 hours/display).

For other covered chains, FDA estimates 33,114 covered outlets, each with an average of one major display or menu board. At 4 hours per disclosure, FDA estimates an hourly burden of 66,228 hours (= 33,114 outlets × 1 displays/outlet × 2 hours/display).

Recurring Disclosure Burdens for Chain Retail Food Establishments

FDA estimates that the annual number of newly covered chains will be 30. At 20 establishments per chain, there will be 600 establishments at newly covered chains each year that will need to disclose calorie content. Taking an average number of displays equal to 2, the total hourly burden for disclosure due to newly covered chains is 2,400 hours (= 600 outlets × 2 displays/outlet × 2 hours/display).

The final column of table 2 of this document gives the estimated capital costs associated with third party disclosure. These are the costs of acquiring new menu boards or displays. FDA has estimated that the average cost of menu board to be $550. These costs are calculated by multiplying this per menu board cost by the frequency of disclosures in column three multiplied by the number of respondents in column two.

The estimated capital cost for Other chains decreased from $22 million to $18.2 million because of an arithmetic error. Correcting this error caused the Total initial capital costs to fall from $269.1 million to $265.3 million. A rounding error in the capital costs for "New SRFE outlets" led to an increase in estimated costs from $0.6 million to $0.7 million. Correcting this error led to an increase in the Total recurring capital costs of $0.1 million, to $3.5 million.

TABLE 2—ESTIMATED ANNUAL THIRD PARTY DISCLOSURE BURDEN: CALORIE CONTENT [1]

Type of respondent	Number of respondents	Annual frequency of disclosure	Total annual disclosures	Hours per disclosure	Total hours	Total capital costs
Restaurants	135,705	3	407,115	2	814,230	$224 million.
Grocery and Convenience Store chains	41,945	1	41,945	2	83,890	$23.1 million.
Other chains	33,114	1	33,114	2	66,228	$18.2 million.
Total initial hours					964,348	$265.3 million.
New SRFE outlets	600	2	1,200	2	2,400	0.7 million.
Vending (ongoing)	5,000	56,000	280,000,000	0.05	14,000,000	$2.8 million.
Vending (growth)	5,000	140	700,000	0.05	35,000	$7,000.
Total recurring hours					14,037,400	$3.5 million.

[1] There are no operating and maintenance costs associated with this collection of information.

Burdens for Chain Vending Machine Operators

Because almost all vending machines sell food that is previously manufactured and packaged, calorie analysis and production of calorie analysis displays will be most efficiently done at the manufacturer level instead of the operator level. Furthermore, most vended foods are subject to NLEA, which means that calorie content is already collected. A likely scenario for response to vending machine labeling is that food manufacturers include a set of calorie label stickers in each case of product. This would be efficient both because most manufacturers will already have the calorie information available, and because economies of scale exist for the manufacturer. In this case, vending machine operators will not need to keep a record of calorie content. Instead, the burden for most operators will be limited to that of administering records and passing the existing information on to consumers.

FDA estimates that there are approximately 300,000 beverage machines that sell unpackaged products. The manufacturer of the ingredients to these foods (hot coffee drinks and sodas) would not necessarily have calorie information if the products were not subject to NLEA in some form. There are likely a limited number of manufacturers of the inputs to the beverage machines. For the purposes of this document, FDA estimates that there are 10 manufacturers serving these machines, and 20 drinks per manufacturer, so that approximately 200 drinks would need to have calorie analysis. The cost of this calorie analysis will be included in the capital costs below. FDA estimates that the recordkeeping burden for these firms is half that for restaurants, or two hours per item. If there are 600 firms using beverage dispensers, then the hourly burden for recordkeeping is 24,000 hours (= 600 firms × 20 items/firm × 2 hours/item).

FDA believes that the set of items sold in these dispensary machines is approximately constant. If there is .5 percent growth in the number of firms, then approximately three new firms will become covered in this market in a given year. The burden associated with these three firms would be 120 hours (= 3 firms × 20 items/firm × 2 hours/item). This amount is given in the eighth row of table 1 of this document.

The third party reporting for chain vending machine operators is the time necessary to install calorie displays on their vending machines. Because there is wide variation in the kinds of vending machines used—in materials, display, mechanism—there likely will be a variety of solutions. On the high end, a calorie display that is integrated with the graphics on the machine may cost several hundred dollars or more. On the low end, a set of calorie stickers affixed to the front of the machine would cost at most a few dollars per machine. Given the low margins in the vending machine industry, and given that nearly all of the regulated operators will be small businesses, FDA believes that almost all operators will, at least initially, choose the sticker option. Because stickers do not require any initial investment and because they are not durable, all burden and costs will be on a recurring basis. In the long run, the manufacturers of vending machines, and the larger vending machine operators, such as the soft drink companies, may use the more integrated, and thus expensive, solution.

FDA tentatively estimates a recurring hourly burden of 1 hour per machine, two times per year to install the displays. If there are an average of 20 items per machine, then the burden per response is .05 hours (= 1 hours/machine/20 items/machine). This will be the time necessary to decide where to put the displays on the machine, and to sort, remove and affix calorie stickers. FDA expects the stickers to have a relatively short life, and the mix of product in a machine to change over time.

FDA estimates approximately 7 million machines are serviced by 5,000 operators, for an average number of machines per operator of 1,400 machines. If each machine has 20 items, then the average number of responses per operator is 28,000. Given that

stickers will likely need to be replaced twice per year on average, this number of responses doubles, to 56,000 responses per operator. The total recurring hours needed for third party display is then 14 million hours (= 5,000 firms × 1,400 machines/firm × 20 displays/machine × .05 hours/display × 2). This amount is recurring in every year, and is given in row 7 of table 2 of the document.

If growth in the vending machine industry is .5 percent, then each of the 5,000 respondents will have an average of 7 additional machines that would need to report calorie content each year. With an average number of items per machine of 20, the number of disclosures per respondent is 140. At .05 hours per response, the hours needed to disclose calorie content on new machines is 35,000 hours per year (= 5,000 firms × 7 machines/firm × 20 items/machine × .05 hours/item). This amount is displayed in row 8 of table 2 of this document.

Dated: January 25, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–1993 Filed 1–28–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0564]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Restaurant Menu and Vending Machine Labeling: Registration for Small Chains Under Section 4205 of the Patient Protection and Affordable Care Act of 2010

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by March 2, 2011.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0664. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3793.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

I. Background

Restaurant Menu and Vending Machine Labeling: Registration for Small Chains Under Section 4205 of the Patient Protection and Affordable Care Act of 2010—(OMB Control Number 0910–0664)—Revision.

On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) (Pub. L. 111–148). Section 4205 of the legislation, which principally amends sections 403 and 403A of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 343 and 343–1, respectively), requires chain restaurants and similar retail food establishments (SRFE) with 20 or more locations, as well as operators of 20 or more vending machines, to disclose certain nutrition information on certain food items offered for sale so that consumers can make more informed choices about the food they purchase. Section 4205 preempts State and local governments from establishing menu labeling requirements in restaurants and calorie declarations for food in vending machines that are not "identical to" the section 4205 requirements.

In addition to restaurant menu and vending machine labeling, section 4205 of the Affordable Care Act provides that persons or firms not subject to the disclosure of nutrition information required by this legislation, such as restaurants with fewer than 20 locations or vending machine operators with fewer than 20 vending machines, may elect to be subject to the requirements provided in section 4205 by registering biannually with FDA. As required by section 4205, FDA published a notice in the **Federal Register** of July 23, 2010 (75 FR 43182) (the July 23, 2010, notice) to explain how retail food establishments and vending machine operators not otherwise subject to the provisions of section 4205 may voluntarily elect to become subject to them. The information collection requirements of FDA's program of voluntary registration under section 4205 of the Affordable Care Act were approved under OMB control number 0910–0664.

Voluntary registration allows companies with outlets or machines regulated by local or State calorie labeling requirements to opt instead for the requirements of section 4205 of the Affordable Care Act. The information provided to FDA will help Federal, State or local officials to determine which jurisdiction's requirements apply to the firm.

Description of Respondents: Respondents to this collection of information include retail food establishments and vending machine operators with fewer than 20 outlets or machines.

FDA's July 23, 2010, notice requires that retail food establishments and vending machine operators register with FDA using the Agency's Form FDA 3757 available at *http://www.fda.gov/menulabeling.* FDA prefers that the information be submitted by email by typing complete information into the form (PDF), saving it on the registrant's computer, and sending it by email to *http://menulawregistration@fda.hhs.gov.* If email is not available, the registrant can either fill in the form (PDF) and print it out (or print out the blank PDF and fill in the information by hand or typewriter), and send it to FDA either by faxing the completed form to 301–436–2804 or mailing it to the Center for Food Safety and Applied Nutrition, Compliance Information Branch (HFS–681), 5600 Fishers Lane, Rockville, MD 20857.

Information FDA requires on the registration form for restaurants and similar retail food establishments includes the following:

- The name, address, phone number, email address, and contact information for the authorized official;
- The name, address, and email address of each restaurant or similar retail food establishment being registered, as well as the name and contact information for an official onsite, such as the owner or manager, for each specific restaurant or similar retail food establishment;
- All trade names the restaurant or similar retail food establishment uses;
- Preferred mailing address (if different from location address for each establishment) for purposes of receiving correspondence; and
- Certification that the information submitted is true and accurate, that the person or firm submitting it is

authorized to do so, and that each registered restaurant or similar retail food establishment will be subject to the requirements of section 4205.

Information FDA requires on the registration form for vending machine operators includes includes the following:

- The name, address, phone number, email address, and contact information for the vending machine operator;
- The address of each vending machine owned or operated by the vending machine operator, and the name and contact information, including email address, of the location in which each vending machine is located;
- Preferred mailing address (if different from location address), for purposes of receiving correspondence; and
- Certification that the information submitted is true and accurate, that the person or firm submitting it is authorized to do so, and that each registered restaurant or similar retail food establishment will be subject to the requirements of section 4205 of the Affordable Care Act.

In addition to the initial registration, the authorized official must register every other year with FDA, and the registration will automatically expire if not renewed.

In accordance with 5 CFR 1320.8(d), in the **Federal Register** of November 4, 2010 (75 FR 67978), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received one letter, which contained multiple comments in response to the notice.

(Comments) One comment suggested that FDA underestimated the number of affected businesses in the United States, particularly with regard to the number of affected convenience stores, and their rate of growth. Another comment suggested that FDA provide estimated burden hours individualized for each industry (i.e., convenience stores, restaurants, and grocery stores).

(Response) FDA appreciates the data and suggestions provided in the comments and will consider them in the upcoming rulemakings. However, the Agency stands by its preliminary estimate of the paperwork burden resulting from section 4205 of the Affordable Care Act. Thus, FDA has not changed the burden estimates in table 1 of this document.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of respondent	Number of respondents	Annual frequency per response	Total annual responses	Hours per response (average)	Total hours
Restaurant initial	103	1	103	2	206
Grocery initial	167	1	167	2	334
Convenience store initial	11	1	11	2	22
Other SRFE initial	81	1	81	2	162
Total initial hours					724
New registrations	7	1	7	1	7
Re-registrations	355	1	355	0.25	89
Total recurring hours					96
Total burden hours					820

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates the reporting burden of this information collection to be 724 hours in the first year and 96 hours each year thereafter. The registration burden will be an ongoing, semiannual reporting of firm contact and location information to FDA. FDA bases its per respondent burden on the PRA analysis for section 415 of the FD&C Act (21 U.S.C. 350d) as laid out for the proposed rule "Registration of Food Facilities under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002" (68 FR 5378, February 3, 2003) (Ref. 1). FDA estimates that the initial collection of the information, and presentation of it in a format that will meet the Agency's registration regulations, will require a burden of approximately 2 hours per registration for the first year because the registration system will not be fully automated.

FDA estimates that renewal registrations after the first year will require substantially less time because firms are expected to be able to affirm or edit the existing information in an online account in a way similar to other FDA firm registration systems. Therefore, FDA estimates that re-registration will take 0.25 hours for each registrant. Because there will be entry and exit from this set of firms, there will also be new registrations once the system is fully operational. FDA estimates that initial registration under the fully operational system will take 1 hour.

The pool of potential registrants will be restaurants and SRFE with outlets in jurisdictions that have their own menu labeling regulations and that are not explicitly regulated under section 4205 of the Affordable Care Act. Of the existing State and local regulations, the minimum number of outlets for which any of them currently apply is 15, and section 4205 applies explicitly to firms with 20 or more outlets. Therefore, only firms with between 15 and 19 outlets, inclusive, have any explicit incentive to register. However, chains with fewer outlets may choose to register, either because they are growing quickly, or because they are concerned about possible regulation, therefore, for the purposes of this analysis we include chains with between 10 and 19 outlets, inclusive. The primary source of potential registrants will be restaurant and specialty food chains, but there are significant numbers of convenience stores and grocery stores that prepare food onsite and have a partial function as a take-away, or quick-service, restaurant. In addition, small chains of similar retail food establishments that operate in retail, hotel, corporate, educational, military, or entertainment settings may want to register.

Because the statute preempts State and local regulations on vending machine labeling, no vending machine operators will have an incentive to

register. Therefore, FDA estimates that zero vending machine operators will register with FDA under section 4205 of the Affordable Care Act.

According to The NPD Group's Spring 2010 ReCount report, there were 579,416 sole purpose eating and drinking establishments in the United States in the winter of 2010 (Ref. 2). Of these, 40 percent will be explicitly subject to FDA rulemaking for the Affordable Care Act because they are part of chains with 20 or more outlets (Ref. 2). Of the remaining 350,000 outlets, only those that would be subject to local or State rules concerning menu labeling would have any incentive to register. Approximately 7.5 percent of restaurant outlets are in States or localities with currently operational menu labeling regulation, principally New York City, Oregon, Philadelphia, and some New York State counties (Ref. 3). NPD's Spring 2010 ReCount report shows a total of 20,000 outlets are part of chains with between 10 and 19 establishments. If outlets are evenly distributed geographically, then 1,500 outlets and 103 restaurant firms may have an incentive to register with FDA. The hourly burden for restaurant chains is 206 hours (=100 chains × 1 responses/chain/year × 2 hours/response).

From the U.S. Census County Business Patterns data, FDA estimates that there are approximately 62,000 grocery stores in 2010. Of these, approximately 6,500 are "independents" which means that they are part of chains with fewer than 11 outlets (Ref. 4), and 35,000 are known to belong to chains with more than 20 outlets (Ref. 5). We round the remaining 20,523 outlets up to 21,000 to account for those outlets in chains with 10 or 11 establishments. County Business Patterns show that 11.5 percent of all grocery stores are in jurisdictions that have relevant menu labeling regulations. Taking 11.5 percent of 21,000 yields approximately 2,400 stores run by 167 firms. The hourly burden for grocery chains is 334 hours (= 167 chains × 1 responses/chain/year × 2 hours/response).

According to Stagnito Media, there are 144,000 convenience store outlets in the United States (Ref. 6). Of these, 64,000 are defined as very small "mom and pop" locations. Approximately 60,000 outlets are controlled by 1 of top 100 chains, each having at least 65 outlets (Ref. 7). Of the remaining 20,000, FDA estimates that half fall in the 10 to 19 outlet range. From County Business Patterns (Ref. 3), 1.6 percent of all convenience store outlets are in a jurisdiction with a local or State menu labeling regulation that does not explicitly exempt convenience stores. FDA estimates that approximately 160 convenience store outlets from 11 firms may have an incentive to register under this notice. The hourly burden for convenience store chains is 22 hours (=11 chains × 1 responses/chain/year × 2 hours/response).

Additional covered establishments, such as those operating in lodging, corporate, entertainment, and educational settings are often provided by very large firms with many hundreds or thousands of outlets, and will thus be explicitly covered by section 4205 of the Affordable Care Act rather than by the registration provisions. FDA estimates that an additional 81 firms, controlling approximately 1,200 outlets may have an incentive to register. The hourly burden for these additional chains is 162 hours (= 81 chains × 1 responses/chain/year × 2 hours/response).

If all of these restaurant and similar retail food establishment chains choose to register with FDA, then FDA estimates the number of firms registering in the first year would be approximately 362 firms. At 2 hours per registration, the total initial hourly burden will then be 724 hours (= 362 firms × 2 hours/firm).

FDA estimates that the rate of growth for chains entering the 10 to 19 outlet segment will match the rate of growth out of this segment, so that the number of registrants will remain constant. County Business Patterns data shows an average growth rate in the number of establishments to be 2 percent per year over the 8 years from 1999 to 2007 for restaurants (Ref. 3). If the restaurant growth rate for outlets of approximately 2 percent per year applies to these chains, then new registrants will amount to approximately 7 per year, with the remaining 355 registrants only renewing their registration. The yearly burden for registration is estimated to be 1 hour per new registrant. Thus, the total hour burden will be 7 hours (7 firms × 1 hour/firm). The yearly burden for renewing registration is estimated to be 0.25 hour per continuing registrant. Thus, the total hour burden will be 89 hours (355 firms × 0.25 hour/firm = 88.75, rounded to 89). This yields a recurring hourly burden of 96 hours per year (7 hours + 89 hours).

II. References

The following references have been placed on display in the Division of Dockets Management (*see* **ADDRESSES**), and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified the Web site addresses, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register.**)

1. Food and Drug Administration. 2003. "Registration of Food Facilities Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002," 68 FR 5378, February 3, 2003.

2. The NPD Group, "Chains System Size Trend Report for U.S. FDA," *ReCount,* Spring 2010.

3. U.S. Census Bureau, 2007, County Business Patterns, *http://www.census.gov/econ/cbp/index.html,* 2007, version date September 22, 2009.

4. Moran, M., J. McTaggart, and D. Chanil, "Looking Up, Cautiously," *Progressive Grocer* 89(3): 20–52, 2010.

5. Food Marketing Institute, Top U.S. Supermarket & Grocery Chains (by 2007 grocery sales), *http://www.fmi.org,* 2008.

6. Stagnito Media, "Directory of Convenience Stores: FAQ," *http://www.conveniencestores.com/faq.html,* accessed June 1, 2010.

7. Longo, D. "Convenience Store News: Hot Top 100" *Convenience Store News*, 45(10), pp. 27–32, August 10, 2009.

Dated: January 25, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–1994 Filed 1–28–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2001–D–0254; formerly Docket No. 2001D–0037]

Draft Guidance for Industry: Pre-Storage Leukocyte Reduction of Whole Blood and Blood Components Intended for Transfusion; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled "Guidance for Industry: Pre-Storage Leukocyte Reduction of Whole Blood and Blood Components Intended for Transfusion" dated January 2011. The draft guidance document provides blood establishments with recommendations for pre-storage leukocyte reduction of Whole Blood and blood components intended for transfusion, including recommendations for validation and quality control monitoring of the leukocyte reduction process. This second draft guidance document incorporates revisions after reviewing comments on the January 2001 draft. This draft guidance replaces the draft guidance of the same title dated January 2001. This draft guidance, when

finalized, will supersede the FDA memorandum issued on May 29, 1996, entitled "Recommendations and Licensure Requirements for Leukocyte-Reduced Blood Products."

DATES: Although you can comment on any guidance at any time (*see* 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by May 2, 2011.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. *See* the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lori Jo Churchyard, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a revised, second draft document entitled "Guidance for Industry: Pre-Storage Leukocyte Reduction of Whole Blood and Blood Components Intended for Transfusion" dated January 2011. The draft guidance document provides blood establishments with recommendations for pre-storage leukocyte reduction of Whole Blood and blood components intended for transfusion, including recommendations for validation and quality control monitoring of the leukocyte reduction process. The draft guidance provides information to assist licensed blood establishments for submitting biologics license application supplements to include leukocytes reduced components. This second draft guidance document incorporates revisions after reviewing comments on the January 2001 draft, and in consideration of additional public discussions held at the June and December 2001 meetings of the Blood Products Advisory Committee and the July 2005 public workshop entitled "Update on Leukocyte Reduction of Blood and Blood Components." This draft guidance replaces the draft guidance of the same title dated January 2001 (January 31, 2001, 66 FR 8410). The draft guidance, when finalized, will supersede the FDA memorandum issued on May 29, 1996, entitled "Recommendations and Licensure Requirements for Leukocyte-Reduced Blood Products."

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent FDA's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 607 have been approved under OMB control number 0910–0052; the collections of information in 21 CFR 606.100(b), 606.100(c), and 606.121 have been approved under OMB control number 0910–0116; the collections of information in 21 CFR 211.192 and 211.198 have been approved under OMB control number 0910–0139; and the collections of information in 21 CFR 601.12 and 610.60 have been approved under OMB control number 0910–0338.

III. Comments

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Division of Dockets Management (*see* **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: January 25, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–1989 Filed 1–28–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0281]

Guidance for Industry and Food and Drug Administration Staff; "'Harmful and Potentially Harmful Constituents' in Tobacco Products as Used in Section 904(e) of the Federal Food, Drug, and Cosmetic Act"; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry and FDA staff entitled "'Harmful and Potentially Harmful Constituents' in Tobacco Products as Used in Section 904(e) of the Federal Food, Drug, and Cosmetic Act." This guidance provides written guidance to industry and FDA staff on certain provisions of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act).

DATES: Submit either electronic or written comments on this guidance at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850–3229. Send one self-addressed adhesive label to assist that office in processing your requests or include a fax number to which the guidance document may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Carol Drew, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850–3229, 301–796–3505.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 10, 2010 (75 FR 32952), FDA announced the availability of a draft guidance entitled "'Harmful and Potentially Harmful Constituents' in Tobacco Products as Used in Section 904(e) of the Federal Food, Drug, and Cosmetic Act." The Agency considered received comments as it finalized this guidance. The guidance document discusses the meaning of the term "harmful and potentially harmful constituent" in the context of implementing the listing requirements of section 904(e) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 387d(e)).

On June 22, 2009, the President signed the Tobacco Control Act (Pub. L. 111–310) into law. The Tobacco Control Act amended the FD&C Act by, among other things, adding a new chapter granting FDA important new authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. Section 904(e) of the FD&C Act, as added by the Tobacco Control Act, requires FDA to establish, and periodically revise as appropriate, "a list of harmful and potentially harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand." The guidance discusses the meaning of the term "harmful and potentially harmful constituent" in the context of implementing the listing requirements of section 904(e).

II. Significance of Guidance

This guidance is being issued as a level 1 guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on the meaning of the term "harmful and potentially harmful constituents" in the context of section 904(e) of the FD&C Act. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Comments

Interested persons may submit to the Division of Dockets Management (*see* **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.regulations.gov* or *http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/default.htm.*

Dated: January 25, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–1990 Filed 1–28–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the Agency; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Ryan White HIV/AIDS Program Part F Dental Services Report (OMB No. 0915–0151)—[Extension]

The Dental Reimbursement Program (DRP) and the Community Based Dental Partnership Program under Part F of the Ryan White HIV/AIDS Program, offer funding to accredited dental education programs to support the provision of oral health services for HIV-positive individuals. Institutions eligible for these Ryan White HIV/AIDS Programs are accredited schools of dentistry, post-doctoral dental education programs, and dental hygiene programs.

The DRP Application is the Dental Services Report that schools and programs use to apply for funding of non-reimbursed costs incurred in providing oral health care to patients with HIV, or to report annual program data. Awards are authorized under section 2692(b) of the Public Health Service Act (42 U.S.C. 300ff–111(b). The Dental Services Report collects data in four different areas: Program information, patient demographics and services, funding, and training. It also requests applicants to provide narrative descriptions of their services and facilities, as well as their links and collaboration with community-based providers of oral health services.

The primary purpose of collecting this information annually is to verify eligibility and determine reimbursement amounts for DRP applicants, as well as to document the program accomplishments of Community-Based Dental Partnership Program grant recipients. This information also allows HRSA to learn about (1) the extent of the involvement of dental schools and programs in treating patients with HIV, (2) the number and characteristics of clients who receive HIV/AIDS program-supported oral health services, (3) the types and frequency of the provision of these services, (4) the non-reimbursed costs of oral health care provided to patients with HIV, and (5) the scope of grant recipients' community-based collaborations and training of providers. In addition to meeting the goal of accountability to Congress, clients, advocacy groups, and the general public, information collected in the Dental Services Report is critical for HRSA, state and local grantees, and individual providers, to help assess the status of existing HIV-related health service delivery systems.

The annual estimate of burden is as follows:

Instrument	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Dental Services Report	70	1	70	20	1,400
Total	70	1	70	20	1,400

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Written comments should be received within 60 days of this notice.

Dated: January 25, 2011.

Robert Hendricks,

Director, Division of Policy and Information Coordination.

[FR Doc. 2011–2009 Filed 1–28–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Data System for Organ Procurement and Transplantation Network (42 CFR Part 121, OMB No. 0915–0184)—[Extension]

The operation of the Organ Procurement and Transplantation Network (OPTN) necessitates certain recordkeeping and reporting requirements in order to perform the functions related to organ transplantation under contract to HHS. This is a request for an extension of the current recordkeeping and reporting requirements associated with the OPTN. These data will be used by HRSA in monitoring the contracts for the OPTN and the Scientific Registry of Transplant Recipients (SRTR) and in carrying out other statutory responsibilities. Information is needed to match donor organs with recipients, to monitor compliance of member organizations with OPTN rules and requirements, to ensure that all qualified entities are accepted for membership in the OPTN, and to ensure patient safety.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Section and activity	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
121.3(b)(2)—OPTN membership and application requirements	40	3	120	15	1,800
121.3(b)(4)—Appeal for OPTN membership	2	1	2	3	6
121.6(c) (Reporting)—Submitting criteria for organ acceptance	900	1	900	0.5	450
121.6(c) (Disclosure)—Sending criteria to OPOs	900	1	900	0.5	450
121.7(b)(4)—Reasons for Refusal	900	38	34,200	0.5	17,100
121.7(f)—Transplant to prevent organ wastage	260	1.5	390	0.5	195
121.9(b)—Designated Transplant Program Requirements	10	1	10	5.0	50
121.9(d)—Appeal for designation	2	1	2	6	12
Total	954		36,524		20,063

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Please direct all correspondence to the "attention of the desk officer for HRSA."

Dated: January 25, 2011.

Robert Hendricks,

Director, Division of Policy and Information Coordination.

[FR Doc. 2011–1997 Filed 1–26–11; 11:15 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Transplantation and Tumor Immunology.

Date: February 24, 2011.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Betty Hayden, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–10–204: Research on Neuropathic Pain or Neural Plasticity Promoting Collaborative Brain Research.

Date: February 24, 2011.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: M Catherine Bennett, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurodevelopment, Neurodegeneration and Stroke Special Emphasis Panel.

Date: February 25, 2011.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Jay Joshi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 408–9135, *joshij@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Pathogenic Bacteria.

Date: March 2–3, 2011.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Tera Bounds, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–435–2306, *boundst@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Fellowships: Cognition, Language and Perception.

Date: March 4, 2011.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington, DC Downtown Hotel, 999 Ninth Street, NW., Washington, DC 20001.

Contact Person: Melissa S Gerald, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 408–9107, *geraldmel@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Small Business: Cancer Drug Development and Therapeutics.

Date: March 4, 2011.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Lambratu Rahman, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahmanl@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2026 Filed 1–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 8, 2011, 8 a.m. to February 9, 2011, 8 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on January 10, 2011, 76 FR 1442–1443.

The meeting will be held March 1, 2011, 8 a.m. to March 2, 2011, 3 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: January 25, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2025 Filed 1–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Place: National Human Genome Research Institute Special Emphasis Panel; NHGRI Sample Repository for Human Genetic Research.

Date: March 3, 2011.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: NHGRI Twinbrook Library, 5635 Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Rudy O. Pozzatti, PHD, Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, (301) 402–0838, *pozzattr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: January 25, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2024 Filed 1–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel; Pepper Centers.

Date: February 17–18, 2011.

Time: 1 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Alicja L. Markowska, PhD, DSC, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel; Clinical Trials.

Date: February 28, 2011.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call)

Contact Person: Rebecca J. Ferrell, PhD, Scientific Review Officer, National Institute on Aging, Gateway Building Rm. 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7703, *ferrellrj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 25, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2023 Filed 1–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities, Office of Science Policy, Office of the Director

Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Science Advisory Board for Biosecurity (NSABB), February 10, 2011, 8:30 a.m., National Institutes of Health, Building, 31, Center Drive, Conference Room 6, Bethesda, MD 20892 which was published in the **Federal Register** on January 21, 2011, 76 FR3918.

The meeting is canceled until further notice.

Dated: January 25, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2022 Filed 1–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Survey of Evidence-Based Practices for Mental Health and Substance Use Disorders in State Medicaid Plans: Coverage Structures, Access and Challenges—NEW

The Substance Abuse and Mental Health Services Administration (SAMHSA) is conducting a survey to gather information about current and planned State Medicaid activities and policies related to eight mental health/substance abuse evidence-based practices (EBPs). This survey is part of a five-year project to increase attention to and understanding of Medicaid mental health and substance abuse service issues among State Medicaid and Mental Health/Substance Abuse Directors, as well as improve the effectiveness of State Medicaid mental health services.

The purpose of the survey is to determine the overall management and delivery of mental health and substance abuse services within Medicaid and the use of eight specific evidence-based practices. The information provided through the survey will be vital to increasing awareness and understanding of Medicaid mental health/substance abuse evidence-based practice activities. This information will also be used to develop numerous products to help State Medicaid and Mental Health/Substance Abuse Directors adopt, deliver, and refine existing policies about mental health and substance abuse EBPs.

A survey will be sent to the director of each State Medicaid office in the 50 States and the District of Columbia, with responses expected over a four-week period. The survey contains a total of 114 questions on the overall management and delivery of mental health and substance abuse services within Medicaid and on the implementation of eight EBPs within the state Medicaid program. However, respondents will complete part or all of the survey, depending on how many of the eight EBPs are being implemented in their state. The survey will be sent electronically to State Medicaid Directors, and they may respond by email or facsimile. To reduce burden, prior to administering the survey several survey questions will be pre-completed based on existing information, as available.

Below is the table of the estimated total burden hours:

Respondent	Number of respondents	Number of responses per respondent	Average burden hour	Total burden hours
State Medicaid Directors	51	1	1	51

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 8–1099, One Choke Cherry Road, Rockville, MD 20857 *and* e-mail her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received within 60 days of this notice.

Dated: January 24, 2011.

Elaine Parry,

Director, Office of Management, Technology and Operations.

[FR Doc. 2011–2018 Filed 1–28–11; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2010–0070]

Agency Information Collection Activities: Proposed Collection; Comment Request, OMB No. 1660–0057; Chemical Stockpile Emergency Preparedness Program (CSEPP) Evaluation and Customer Satisfaction Survey

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments: revision of a currently approved information collection; OMB No. 1660–0057; Chemical Stockpile Emergency Preparedness Program (CSEPP) Evaluation and Customer Satisfaction Survey; FEMA Form 008–0–3, Pueblo EPZ Residential Survey; FEMA Form 008–0–4, Pueblo City Residential Survey; FEMA Form 008–0–5, Pueblo EPZ Business Survey; FEMA Form 008–0–6, Umatilla EPZ Residential Survey; FEMA Form 008–0–7, Blue Grass EPZ Residential Survey; FEMA Form 008–0–8, Deseret EPZ Residential Survey.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this Notice seeks comments concerning the collection of data from citizens living in the Immediate Response Zones and Protection Action Zones surrounding stockpile sites.

DATES: Comments must be submitted on or before April 1, 2011.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under Docket ID FEMA–2010–0070. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Legislation, Regulations & Policy Division, Office of Chief Counsel, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *E-mail.* Submit comments to *FEMA–POLICY@dhs.gov.* Include Docket ID FEMA–2010–0070 in the subject line.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Thomas Warnock, Program Specialist, Technological Hazards Division, National Preparedness Directorate, 703–605–1207 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or *e-mail address: FEMA–Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Chemical Stockpile Emergency Preparedness Program (CSEPP) is one facet of the multi-hazard readiness program in eight States that deal with hazardous material spills or releases. The program's goal is to improve preparedness to protect the people of these communities in the unlikely event of an accident. CSEPP, a cooperative effort between FEMA and the U.S. Army, provides funding (grants), training, community outreach, guidance, technical support and expertise to State, local, and Tribal governments to improve their capabilities to prepare for and respond to this type of disaster. Since no preparedness program can be successful without the public's understanding and cooperation, input from the residents and businesses of immediate and/or surrounding areas is vital for program managers' ability to design custom-tailored strategies to educate and communicate risks and action plans at the local level. This survey, which was initiated six years ago, will continue as the assessment mechanism to document and quantify program achievements. There are two authorities supporting this information collection: (1) The Government Performance Results Act of 1993, which mandates Federal agencies to provide valid and reliable quantification of program achievements, and (2) Executive Order 12862, which requires agencies to survey customers to determine their level of satisfaction with existing services.

Collection of Information

Title: Chemical Stockpile Emergency Preparedness Program (CSEPP) Evaluation and Customer Satisfaction Survey.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0057.

Form Titles and Numbers: FEMA Form 008–0–3, Pueblo EPZ Residential Survey; FEMA Form 008–0–4, Pueblo City Residential Survey; FEMA Form 008–0–5, Pueblo EPZ Business Survey; FEMA Form 008–0–6, Umatilla EPZ Residential Survey; FEMA Form 008–0–7, Blue Grass EPZ Residential Survey; FEMA Form 008–0–8, Deseret EPZ Residential Survey.

Abstract: To support the development of public outreach and education efforts that will improve the emergency preparedness, DHS/FEMA's Chemical Stockpile Emergency Preparedness Program (CSEPP) will collect data from the citizens living in the Immediate Response Zones (IRZ) and Protective Action Zones (PAZ) surrounding stockpile sites. Program managers use survey data findings to evaluate public awareness of protective actions at CSEPP sites, and identify outreach

weaknesses and strengths to develop effective outreach and education campaigns. Results from this information collection are shared with State, local, Tribal, and other FEMA officials for subsequent action plans addressing program-wide and stockpile site-specific issues. Results are also shared with other Federal agencies that lend expertise in specific areas of the program.

Affected Public: Individuals or households, Business or other for-profit.

Estimated Total Annual Burden Hours: 898.11 hours.

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Total number of responses	Average burden per response (in hours)	Total annual burden (in hours)
Individuals or households ...	Pueblo EPZ Residential Survey/FEMA Form 008–0–3.	737	1	737	0.25 (15 minutes)	184.25
Individuals or households ...	Pueblo EPZ Residential Survey/FEMA Form 008–0–3INT (Pilot web-based).	50	1	50	.25 (15 minutes)	12.5
Individuals or households ...	Pueblo City Residential Survey/FEMA Form 008–0–4.	383	1	383	0.17 (10 minutes)	65.11
Business or other for-profit	Pueblo EPZ Business Survey/FEMA Form 008–0–5.	86	1	86	0.25 (15 minutes)	21.5
Individuals or households ...	Umatilla EPZ Residential Survey/FEMA Form 008–0–6.	814	1	814	0.25 (15 minutes)	203.5
Individuals or households ...	Blue Grass EPZ Residential Survey/FEMA Form 008–0–7.	822	1	822	0.25 (15 minutes)	205.5
Individuals or households ...	Deseret EPZ Residential Survey/FEMA Form 008–0–8.	823	1	823	0.25 (15 minutes)	205.75
Total	.....	3,715		3,715		898.11

Estimated Cost: None.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to: (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Dated: January 24, 2011.

Lesia M. Banks,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2011–2032 Filed 1–28–11; 8:45 am]

BILLING CODE 9111–46–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–08]

Notice of Submission of Proposed Information Collection to OMB; HUD Stakeholder Survey

AGENCY: Office of the Chief Information Officer, HUD

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This data collection will allow HUD to collect feedback from a wide range of stakeholder groups using a brief, optional survey to be completed in person at the end of each stakeholder event. The events range in size from roughly 10 to 200 participants, and there are approximately 20 to 100 events per year. The expected response rate is between 30 and 70%.

DATES: *Comments Due Date:* March 2, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2501–New) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail *OIRA–Submission@omb.eop.gov fax:* 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Colette Pollard at *Colette.Pollard@hud.gov;* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the

burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice Also Lists the Following Information

Title of Proposal: HUD Stakeholder Survey.

OMB Approval Number: 2501–New.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: This data collection will allow HUD to collect feedback from a wide range of stakeholder groups using a brief, optional survey to be completed in person at the end of each stakeholder event. The events range in size from roughly 10 to 200 participants, and there are approximately 20 to 100 events per year. The expected response rate is between 30 and 70%.

Frequency of Submission: On-occasion.

	Number of respondent	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	3,150	10		0.1		3,150

Total Estimated Burden Hours: 3,150.

Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 25, 2011.

Colette Pollard,

Departmental Reports Management Officer Officer.

[FR Doc. 2011–2112 Filed 1–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5487–N–02]

Notice of Proposed Information Collection for Public Comment; Memorandum of Agreement (MOA) and Improvement Plan (IP) in Connection With the Public Housing Assessment System (PHAS)

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

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* April 1, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Colette Pollard., Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4160, Washington, DC 20410–5000; telephone 202.402.3400 (this is not a toll-free number) or email Ms. Pollard at *Colette_Pollard@hud.gov.* Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. (Other than the HUD USER information line and TTY numbers, telephone numbers are not toll-free.)

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street, SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Memorandum of Agreement (MOA), Progress Report and Improvement Plan (IP).

OMB Control Number: 2577–0237.

Description of the need for the information and proposed use: A Public Housing Agency (PHA) that is designated troubled or substandard under the Public Housing Assessment System (PHAS) must enter into a Memorandum of Agreement (MOA) with HUD to outline its planned improvements. Similarly, a PHA that is a standard performer, but receives a total PHAS score of less than 70% but not less than 60% is required to submit an Improvement Plan (IP). These plans are designed to address deficiencies in a PHA's operations found through the PHAS assessment process (management, financial, physical, or resident related) and any other deficiencies identified by HUD through independent assessments or other methods.

Agency form number: HUD–53336–A, 53336–Bi, 53336–B, 53337, 53337i and 53338.

Members of affected public: Public Housing Agencies.

Estimation of the total number of hours needed to prepare the information collection including number of respondents: 354 respondents for either an MOA or an IP, and either monthly or quarterly reports, 30 hours average response (including reporting), 25,134 hours total reporting burden hours.

Status of the proposed information collection: Extension of currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended.

Dated: January 25, 2011.

Merrie Nichols-Dixon,

Acting Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives.

[FR Doc. 2011–2114 Filed 1–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5415–N–22]

Notice of Availability: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2010 Transformation Initiative: Natural Experiments Grant Program

AGENCY: Office of the Chief of the Human Capital Officer, HUD.

ACTION: Notice.

SUMMARY: HUD announces the availability on its Web site of the applicant information, submission deadlines, funding criteria, and other requirements for HUD's Fiscal Year (FY) 2010 Transformation Initiative: Natural Experiments Grant Program. This NOFA announces the availability of approximately $600,000 in Fiscal Year (FY) 2010 funding to support scientific research that makes use of natural experiments to evaluate the impacts of local, state, and federal policies.

The notice providing information regarding the application process, funding criteria and eligibility requirements can be found using the Department of Housing and Urban Development agency link on the Grants.gov/Find Web site at *http://www.grants.gov/search/agency.do.* A link to Grants.gov is also available on the HUD Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* The Catalogue of Federal Domestic Assistance (CFDA) number for this program is 14.524. Applications must be submitted electronically through Grants.gov.

FOR FURTHER INFORMATION CONTACT: Questions regarding specific program requirements should be directed to the agency contact identified in the program NOFA. Program staff will not be available to provide guidance on how to prepare the application. Questions regarding the 2010 General Section should be directed to the Office of Grants Management and Oversight at (202) 708–0667 or the NOFA Information Center at 800–HUD–8929 (toll free). Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at 800–877–8339.

Dated: January 25, 2011.

Barbara S. Dorf,

Director, Office of Departmental Grants, Management and Oversight, Office of the Chief of the Human Capital Officer.

[FR Doc. 2011–2109 Filed 1–28–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Deadline for Submitting Completed Applications To Begin Participation in the Tribal Self-Governance Program in Fiscal Year 2012 or Calendar Year 2012

AGENCY: Office of Self-Governance, Interior.

ACTION: Notice of Application Deadline.

SUMMARY: In this notice, the Office of Self-Governance (OSG) establishes a March 1, 2011, deadline for Indian tribes/consortia to submit completed applications to begin participation in the tribal self-governance program in fiscal year 2012 or calendar year 2012.

DATES: Completed application packages must be received by the Director, Office of Self-Governance, by March 1, 2011.

ADDRESSES: Application packages for inclusion in the applicant pool should be sent to Sharee M. Freeman, Director, Office of Self-Governance, Department of the Interior, Mail Stop 355–G–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth D. Reinfeld, Office of Self-Governance, Telephone 202–208–5734.

SUPPLEMENTARY INFORMATION: Under the Tribal Self-Governance Act of 1994 (Pub. L. 103–413), as amended by the Fiscal Year 1997 Omnibus Appropriations Bill (Pub. L. 104–208), the Director, Office of Self-Governance may select up to 50 additional participating tribes/consortia per year for the tribal self-governance program, and negotiate and enter into a written funding agreement with each participating tribe. The Act mandates that the Secretary submit copies of the funding agreements at least 90 days before the proposed effective date to the appropriate committees of the Congress and to each tribe that is served by the applicable Bureau of Indian Affairs (BIA) agency. Initial negotiations with a tribe/consortium located in a region and/or agency which has not previously been involved with self-governance negotiations will take approximately two months from start to finish. Agreements for an October 1 to September 30 funding year need to be signed and submitted by July 1. Agreements for a January 1 to December 31 funding year need to be signed and submitted by October 1.

Purpose of Notice

The regulations at 25 CFR 1000.10 to 1000.31 will be used to govern the application and selection process for tribes/consortia to begin their participation in the tribal self-governance program in fiscal year 2012 and calendar year 2012. Applicants should be guided by the requirements in sections 1000.10 to 1000.31 in preparing their applications. Copies of these sections may be obtained from the information contact person identified in this notice.

Tribes/consortia wishing to be considered for participation in the tribal self-governance program in fiscal year 2012 or calendar year 2012 must respond to this notice, except for those tribes/consortia which are: (1) Currently involved in negotiations with the Department; (2) one of the 103 tribal entities with signed agreements; or (3) one of the tribal entities already included in the applicant pool as of the date of this notice.

Information Collection

This information collection is authorized by OMB Control Number 1076–0143, Tribal Self-Governance Program, which expires November 30, 2012.

Dated: January 20, 2011.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

[FR Doc. 2011–2061 Filed 1–28–11; 8:45 am]

BILLING CODE 4310–W8–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–12252, AA–12250, AA–12280, AA–12291, AA–12292, AA–12293; LLAK–962000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management (BLM) will issue an appealable decision to The Aleut Corporation. The decision will approve the conveyance of the surface and subsurface estates in certain lands pursuant to the Alaska Native Claims Settlement Act. The lands are located east of Sand Point, Alaska, and aggregate 86.80 acres. Notice of the decision will also be published four times in the *Anchorage Daily News.*

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have

been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until March 2, 2011 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may contact the BLM by calling the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

Dina L. Torres,

Land Transfer Resolution Specialist, Branch of Preparation and Resolution.

[FR Doc. 2011–2052 Filed 1–28–11; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD0500, L51010000.LVRWB10BXXX.FX0000]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Rising Tree Wind Farm, Kern County, CA and Possible Land Use Plan Amendment.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA), as amended, the Federal Land Policy and Management Act of 1976, as amended, and the California Environmental Quality Act, the Bureau of Land Management (BLM) Ridgecrest Field Office, Ridgecrest, California, cooperating with Kern County, intends to prepare an Environmental Impact Statement (EIS)/Environmental Impact Report (EIR), which may include an amendment to the California Desert Conservation Area (CDCA) Plan (1980 as amended) and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the EIS/EIR and possible plan amendment (PA). Comments on issues may be submitted in writing until March 2, 2011. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers, and the BLM Web site at: *http://www.blm.gov/ca/st/en/fo/cdd.html.* In order to be included in the Draft EIS/EIR, all comments must be received prior to the close of the scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide additional opportunities for public participation upon publication of the Draft EIS/EIR.

ADDRESSES: You may submit comments on issues and alternatives related to the Rising Tree Wind Farm Draft EIS/EIR and possible CDCA PA by any of the following methods:

- *Web site: http://www.blm.gov/ca/st/en/fo/cdd.html.*
- *E-mail: risingtreewind@blm.gov.*
- *Fax:* (951) 697–5299.
- *Mail: Attn:* Jeffery Childers, Project Manager, BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, California 92553–9046.

Documents pertinent to this proposal may be examined at the California Desert District Office.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Jeffery Childers; telephone (951) 697–5308; address BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, California 92553–9046; e-mail *jchilders@blm.gov.*

SUPPLEMENTARY INFORMATION: The applicant, Horizon Wind Energy LLC, a wholly-owned subsidiary of EDP Renewables, Inc., has requested a right-of-way (ROW) authorization to construct, operate, maintain and decommission the 234-megawatt Rising Tree Wind Farm. The proposed project is approximately three miles west of the town of Mojave and south of Highway 58 on private lands under the jurisdiction of Kern County and public lands administered by the BLM. The proposed project would include wind turbines, access roads, and energy collection lines on 2,745 acres, of which 527 acres are on public land. Pursuant to the CDCA Plan, sites associated with power generation or transmission not identified in the CDCA Plan will be considered through the plan amendment process.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the process for developing the Draft EIS/EIR. At present, the BLM has identified the following preliminary issues: Air quality and greenhouse gas emissions; biological resources, including special status species; cultural resources; geology and soils; hazards and hazardous materials; hydrology and water quality; land use, noise; recreation; traffic; visual resources; lands with wilderness characteristics; cumulative effects and areas of high potential for renewable energy development.

Authorization of this proposal will require amendment of the CDCA Plan. By this notice, the BLM is complying with requirements in 43 CFR 1610.2(c) to notify the public of potential amendments to land use plans.

The BLM will utilize and coordinate the NEPA commenting process to provide for public involvement required by Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) as described in 36 CFR 800.2(d)(3). Native American tribal consultations will be conducted in accordance with policy, and tribal concerns including impacts on Indian trust assets will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the BLM's decision on this project are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate as a cooperating agency.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2.

Karla Norris,

Associate Deputy State Director, California.

[FR Doc. 2011–2054 Filed 1–28–11; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–11–L19100000–BJ0000–LRCME0R04758]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on March 2, 2011.

DATES: Protests of the survey must be filed before March 2, 2011 to be considered.

ADDRESSES: Protests of the survey should be sent to Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Bureau of Indian Affairs, Rocky Mountain Region, Billings, Montana, and was necessary to determine individual and tribal trust lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 26 N., R. 45 E.

The plat, in one sheet, representing the dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of section 12, the adjusted original meanders of the former left bank of the Missouri River, downstream, through section 12, and the subdivision of section 12, and the survey of the meanders of the present left bank of the Missouri River, downstream, through a portion of section 12, Township 26 North, Range 45 East, Principal Meridian, Montana, was accepted January 21, 2011.

We will place a copy of the plat, in one sheet, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in one sheet, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in one sheet, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

Dated: January 21, 2011.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2011–2016 Filed 1–28–11; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Public Meeting, Santa Rosa and San Jacinto Mountains National Monument Advisory Committee; California

AGENCY: Bureau of Land Management, Interior; and Forest Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) and U.S. Department of Agriculture, Forest Service (Forest Service) Santa Rosa and San Jacinto Mountains National Monument Advisory Committee (MAC) will meet as indicated below.

DATES: March 7, 2011. The meeting will start at 3 p.m. and end at 6 p.m. with the public comment period beginning at 4 p.m. The meeting will be held at the County of Riverside Permit Assistance Center, Second Floor Conference Room, 38686 El Cerrito Road, Palm Desert, California.

FOR FURTHER INFORMATION CONTACT: Jim Foote, Monument Manager, Santa Rosa and San Jacinto Mountains National Monument, 1201 Bird Center Drive, Palm Springs, CA 92262, or telephone (760) 833–7136.

SUPPLEMENTARY INFORMATION: The MAC advises the Secretary of the Interior and the Secretary of Agriculture, through the BLM and Forest Service, with respect to the preparation and implementation of a management plan for the National Monument. The meeting will focus on a variety of planning and management issues associated with the National Monument. All MAC meetings are open to the public. The public may present written comments to the MAC in advance of or at the meeting. Each formal MAC meeting will also have time allocated for receiving public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Monument Manager as provided above.

Dated: January 11, 2011.

John R. Kalish,

Field Manager, Palm Springs-South Coast Field Office, California Desert District, Bureau of Land Management.

Dated: January 11, 2011.

Laurie Rosenthal,

District Ranger, San Jacinto Ranger District, San Bernardino National Forest, Forest Service.

[FR Doc. 2011–2002 Filed 1–28–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW50761]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW50761, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from W.A. Moncrief, Jr., Providence Minerals LLC, LaMar B. Roemer, Roemer Oil Company, John F. Sheridan, and Woods Research & Development for renewal of oil and gas lease WYW50761 for land in Converse County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessees have agreed to the amended lease terms for rentals and royalties at rates of $5 per acre or fraction thereof, per year, and 16–2/3 percent, respectively. The lessees have paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessees have met all the requirements for reinstatement of the

lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW50761 effective July 1, 2010, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease to any other interest affecting the lands.

Julie L. Weaver,

Chief, Fluid Minerals Adjudication.

[FR Doc. 2011–2117 Filed 1–28–11; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZC03000 L51050000.EA0000 LVRCSA0010000.241A, AZ–SRP–330–07–01 and AZ–SRP–330–07–02]

Notice of Temporary Closure of Selected Public Lands in La Paz County, AZ

AGENCY: Bureau of Land Management, Interior

ACTION: Notice.

SUMMARY: Pursuant to Bureau of Land Management (BLM) regulations, the BLM Lake Havasu Field Office announces the temporary closure of selected public lands under its administration in La Paz County, Arizona. This action is being taken to protect persons, property, and public lands and resources during the permitted running of the 2011 Parker 425 Desert Races. Areas subject to this closure include all public land, including county-maintained roads and highways located on public lands that are located within 2 miles of the designated course. The race course and closure areas are described in the **SUPPLEMENTARY INFORMATION** section of this notice and maps of the designated race course are maintained in the Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406.

DATES: The Parker 425 Desert Race closure is in effect from 2 p.m. (MST) Friday, February 4, 2011, through 11:59 p.m. (MST) Saturday, February 5, 2011.

FOR FURTHER INFORMATION CONTACT: Michael Dodson, Field Staff Ranger, BLM Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406, (928) 505–1200. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. FIRS is available 24 hours a day, 7 days a week, to leave a message or question for the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Description of Race Course Closed Area: Beginning at the eastern boundary of the Colorado River Indian Tribe (CRIT) Reservation, the race course closed area runs east along Shea Road, then east into Osborne Wash on the Parker-Swansea Road to the Central Arizona Project (CAP) Canal then north on the west side of the CAP Canal, crossing the canal on the county-maintained road, running northeast into Mineral Wash Canyon, then southeast on the county-maintained road, through the four-corners intersection to the Midway (Pit) intersection, then east on Transmission Pass Road, through State Trust Land located in Butler Valley, turning north into Cunningham Wash to North Tank; continuing back south to Transmission Pass Road and east (reentering public land) within 2 miles of Alamo Dam Road. The course turns south and west onto the wooden power line road, onto the State Trust Land in Butler Valley, turning southwest into Cunningham Wash to the Graham Well, intersecting Butler Valley Road, then north and west on the county-maintained road to the "Bouse Y" intersection, 2 miles north of Bouse, Arizona. The course proceeds north, paralleling the Bouse-Swansea Road to the Midway (Pit) intersection, then west along the north boundary (powerline) road of the East Cactus Plain Wilderness Area to Parker-Swansea Road. The course turns west into Osborne Wash crossing the CAP Canal, along the north boundary of the Cactus Plain Wilderness Study Area; it continues west staying in Osborne Wash and crossing Shea Road along the southern boundary of Gibraltar Wilderness, rejoining Osborne Wash at the CRIT Reservation boundary.

II. Prohibited Acts: Under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 USC 1733(a), 43 CFR 8360.0–7, and 43 CFR 8364.1), the following acts are prohibited during the temporary land closure:

1. Being present on, or driving on, the designated race course. Spectators may not be within 200 feet of the designated race course, except in designated spectator areas. This does not apply to race participants, race officials, nor emergency vehicles authorized or operated by local, State or Federal government agencies. Emergency medical response shall only be conducted by personnel and vehicles operating under the guidance of the La Paz County Emergency Medical Services and Fire, or the Arizona Department of Public Safety, or the Bureau of Land Management.

2. Vehicle parking or stopping in areas affected by the closure, except where such is specifically allowed (designated spectator areas).

3. Camping in any area, except in the designated spectator areas.

4. Discharge of firearms.

5. Possession or use of any fireworks.

6. Cutting or collecting firewood of any kind, including dead and down wood or other vegetative material.

7. Operating any vehicle (except registered race vehicles), including off-highway vehicles, not registered and equipped for street and highway operation.

8. Operating any vehicle in the area of the closure at a speed of more than 35 mph. This does not apply to registered race vehicles during the race, while on the designated race course.

9. Failure to obey any official sign posted by the BLM, La Paz County, or the race promoter.

10. Parking any vehicle in a manner that obstructs or impedes normal traffic movement.

11. Failure to obey any person authorized to direct traffic, including law enforcement officers, BLM officials, and designated race officials.

12. Failure to observe Spectator Area quiet hours of 10 p.m. to 6 a.m.

13. Failure to keep campsite or race viewing site free of trash and litter.

14. Allowing any pet or other animal to be restrained by a leash of more than 6 feet in length.

III. Persons Exempt From the Temporary Closure

In addition to the exemptions noticed above, the above restrictions do not apply to emergency or law enforcement vehicles owned by the United States, the State of Arizona, or La Paz County. Persons who violate this closure order are subject to arrest and may be taken before a United States Magistrate and upon conviction may be fined not more than $1,000 and/or imprisoned for not more than 12 months. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Authority: 43 CFR 8364.1.

Patricia A. Taylor,

Assistant Field Manager.

[FR Doc. 2011–2056 Filed 1–28–11; 8:45 am]

BILLING CODE 4310–32–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Liquid Crystal Display Devices, Products Containing Same, and Methods for Using the Same,* DN 2781; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: Marilyn R. Abbott, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Sharp Corporation on January 24, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain liquid crystal display devices, products containing same, and methods for using the same. The complaint names as respondents AU Optronics Corp. of Hsinchu, Taiwan; Au Optronics Corporation America of Houston, TX; BenQ America Corp. of Irvine, CA; BenQ Corp. of Taipei, Taiwan; Haier America Trading LLC of New York, NY; Haier Group Co. of Qingdao, China; LG Electronics Inc. of Seoul, Korea; LG Electronics U.S.A., Inc. of Englewood Cliffs, NJ; SANYO Electric Co. Ltd., of Osaka, Japan; SANYO North America Corp. of San Diego, CA; TCL Corp. of Guangdong Province, China; TTE Technology, Inc. of Indianapolis, IN; and VIZIO, Inc. of Irvine, CA.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number ("Docket No. 2781") in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules *(see* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

Issued: January 24, 2011.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2011–1967 Filed 1–28–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–690]

In the Matter of Certain Printing and Imaging Devices and Components Thereof; Notice of Commission Final Determination of No Violation of Section 337; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that no violation of section 337 occurred in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–1999. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its

Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 26, 2009, based on a complaint filed by Ricoh Company, Ltd. of Tokyo, Japan; Ricoh Americas Corporation of West Caldwell, New Jersey; and Ricoh Electronics, Inc. of Tustin, California (collectively "Ricoh"). 74 FR 55065 (Oct. 26, 2009). The complaint alleged, *inter alia,* violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain printing and imaging devices and components thereof by reason of infringement of U.S. Patent Nos. 6,209,048 ("the '048 patent"); 6,212,343 ("the '343 patent"); 6,388,771 ("the '771 patent"); 5,764,866 ("the '866 patent); and 5,863,690 ("the '690 patent"). The complaint named Oki Data Corporation of Tokyo, Japan and Oki Data Americas, Inc. of Mount Laurel, New Jersey (collectively "Oki") as respondents.

On September 23, 2010, the presiding administrative law judge ("ALJ") issued his final initial determination ("ID") finding that Oki violated section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain printing and imaging devices and components thereof by reason of infringement of several claims in the '690 patent. The ALJ found that Oki has not violated section 337 with respect to the '048, '343, '771, and '866 patents.

On November 22, 2010, the Commission determined to review the ALJ's ID in part as to the '343 and '690 patents. The Commission asked for, and received, briefing on the issues under review as well as on remedy, the public interest, and bonding.

Having examined the record of this investigation, including the ALJ's final ID and all the written submissions, the Commission has determined to affirm the ALJ's finding that no section 337 violation occurred with respect to the '343 patent, but reverse his finding that a violation occurred with respect to the '690 patent. As to both the '343 and '690 patents, the Commission has determined to reverse the ALJ's finding that Ricoh satisfied the economic prong of the domestic industry requirement of section 337(a)(3), 19 U.S.C. 1337(a)(3). As to the '343 patent, the Commission has determined to modify the ALJ's construction of "a lower edge" and affirm, on modified grounds, his findings that (1) Oki does not infringe the asserted claims of the '343 patent and (2) Ricoh does not meet the technical prong of the domestic industry requirement. As to the '690 patent, the Commission has determined to reverse the ALJ's finding that claims 1, 5, 9, and 13 of the '690 patent are not anticipated by the prior art. The Commission has determined to deny the outstanding request for oral argument, filed on December 23, 2010, as moot. The investigation is terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–50).

By order of the Commission.

Issued: January 25, 2011.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2011–1981 Filed 1–28–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

Notice is hereby given that on January 25, 2011, a proposed Consent Decree in *The United States of America and the Coeur d'Alene Tribe* v. *Lookout Mountain Mining and Milling Company and Silver Bowl, Inc.,* Civ. No. 11–0029, was lodged with the United States District Court for the District of Idaho.

Plaintiffs the United States and the Tribe filed a complaint concurrently with the Consent Decree alleging that Defendants Lookout Mountain Mining and Milling Company and Silver Bowl, Inc. are liable pursuant to Section 107(a) of CERCLA for response costs incurred and to be incurred by the United States and for natural resources damages in connection with releases of hazardous substances at or from Operable Unit 3 of the Bunker Hill Mining and Metallurgical Complex Superfund Site (Bunker Hill Site) in northern Idaho. The proposed Consent Decree grants the Defendants a covenant not to sue for response costs, as well as natural resource damages, in connection with the Bunker Hill Site. The Coeur d'Alene Tribe is a co-trustee of injured natural resources at the Bunker Hill Site and a party to the proposed Consent Decree. The settlement is based on a determination that Defendants have no ability to pay. The settlement requires, among other things, that Defendants assign their interest in insurance policies to a trust, established for the benefit of EPA and the natural resource trustees, and pay two percent of net smelter returns generated from any future mining activities.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In either case, the comments should refer to *U.S., et al.* v. *Lookout Mountain Mining and Milling Company and Silver Bowl, Inc.,* Civ. No. 11–0029 and D.J. Ref. No. 90–11–3–128/11.

During the comment period, the Consent Decree may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $18.75 (25 cents per page reproduction cost) payable to the United States Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2011–1979 Filed 1–28–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–NEW]

Bureau of Justice Statistics; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day notice of information collection under review: Survey of State Court Criminal Appeals, 2010.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until April 1, 2011. This process is conducted in accordance with 5 CFR 1320.10.

If you have additional comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Thomas H. Cohen, (202) 514–8344, Bureau of Justice Statistics, Office of Justice Programs, Department of Justice, 810 Seventh Street, NW., Washington, DC 20531 or *Thomas.H.Cohen@usdoj.gov.*

To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, *Attn:* DOJ Desk Officer, *Fax:* 202 395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number [1121–0234]. Also include the DOJ docket number found in brackets in the heading of this document.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* New data collection, Survey of State Court Criminal Appeals (SSCCA), 2010.

(2) *The title of the form/collection:* Survey of State Court Criminal Appeals or SSCCA, 2010.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form labels are SSCCA–IAC and SSCCA–COLR, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice.

(4) *Affected Public Who Will Be Asked or Required to Respond, as well as a Brief Abstract:* State intermediate appellate courts and state courts of last resort. Abstract: The 2010 SSCCA will focus on criminal cases disposed in a national sample of state intermediate appellate courts and courts of last resort and will aim to obtain information on certain key case characteristics of these appeals. Some of the information collected will include the types of criminal cases appealed to state intermediate appellate courts and courts of last resort, the legal issues raised on appeal, the impact of the appellate process on trial court outcomes, the extent that appellate claims are decided on the merits, and case processing time for criminal appeals. The 2010 SSCCA will also attempt to examine all death penalty cases decided on appeal in 2010 as well as cases that were adjudicated in both intermediate appellate courts and courts of last resort. All data collected will be accurate as of December 2010.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent to Respond:* The Survey of State Court Criminal Appeals (SSCCA) will collect data on a national sample of approximately 5,000 criminal appeals concluded in all of the nation's 143 intermediate appellate courts and courts of last resort in 2010. The burden hour computation involves both sample list generation and case level data collection. Each of the nation's 143 intermediate appellate courts and courts of last resort will be asked to generate a sample of all their direct criminal appeals disposed in 2010 from which a national sample can be drawn for the SSCCA. It is estimated that it should take 3 hours for each of the nation's 143 appellate courts to generate an appropriate sample list. The burden hour component regarding case level data collection involves copying the necessary appellate court documentation from three major sources for submission to the data collection agent including (1) The submitted legal briefs, (2) the opinions produced by the courts, and (3) the docketing information. Assuming 35 appeals per court (5,000 appeals/143 courts = 35 appeals) and 10 minutes to copy each legal brief or opinion, the burden hours to copy these paper documents for each court should be about 6 hours for the legal briefs and 6 hours for the opinions (35 appeals * .17 hours per opinion/brief = 6 hours). In addition to providing copies of legal briefs and opinions, it is estimated that each appellate court will require 3 hours to provide the necessary docketing information.

(6) *An Estimate of the Total Public Burden (in hours) Associated with the collection:* The estimated public burden associated with this collection is 1,224 hours. The burden hour computation is calculated by identifying those appellate courts that have limited online accessibility necessitating the submission of legal briefs, docketing materials, or court opinions for coding by the data collection agent. No burden hours are associated with collecting data from appellate courts with complete internet accessibility because all their data can be obtained online. It is estimated that a total of 795 hours will be needed for the appellate courts with limited internet accessibility to provide the documentation in the form of mailed legal briefs/opinions or docket extracts to complete the SSCCA data collection. The 795 number is calculated by first computing the total burden hours appellate courts need to provide copies of submitted legal briefs (90 courts * 6 hours per court to provide copies of submitted legal briefs = 540 hours); and secondly, by computing the total burden hours for providing data extracts of docketing information (57 courts * 3 hours per court to provide extracts of docketing information = 171 hours); and thirdly, by computing the total burden hours for providing copies of court opinions (14 courts * 6 hours per court to provide copies of court opinions = 84 hours). Hence, 540 hours for providing copies of submitted briefs + 171 hours for providing data extracts of docketing

information + 84 hours for providing copies of court opinions = 795 hours. When the burden hours for sample list generation are added, the total burden hours for the SSCCA project sums to 1,224 hours (795 hours to provide necessary case documentation + 429 hours for sample list generation = 1,224 hours).

If additional information is required contact: Mrs. Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: January 26, 2011.

Lynn Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2011–2086 Filed 1–28–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Gear Certification

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) hereby announces the submission of the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, "Gear Certification," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before March 2, 2011.

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, *Telephone:* 202–395–4816/*Fax:* 202–395–6881 (these are not toll-free numbers), *e-mail: OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Form OSHA–70 is used by applicants seeking accreditation from the OSHA to be able to test or examine certain equipment and material handling devices as required under the OSHA maritime regulations, 29 CFR part 1917 (Marine Terminals) and 29 CFR part 1918 (Longshoring). The OSHA uses this information to accredit companies to inspect and provide certification for cranes, derricks, and accessory gear used in the longshoring, marine terminal, and shipyard industries. Certain types of vessel cargo gear and shore-based material handling devices used in maritime operations are required to have accredited companies conduct examinations.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is currently approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1218–0003. The current OMB approval is scheduled to expire on January 31, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on November 5, 2010 (75 FR 68381).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference OMB Control Number 1218–0003. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Title of Collection: Gear Certification.

OMB Control Number: 1218–0003.

Affected Public: Private sector—businesses or other for-profits.

Total Estimated Number of Respondents: 1,116.

Total Estimated Number of Responses: 6,466.

Total Estimated Annual Burden Hours: 190.

Total Estimated Annual Costs Burden: $2,872,640.

Dated: January 25, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–1970 Filed 1–28–11; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Standard on Manlifts

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) hereby announces the submission of the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, "Standard on Manlifts," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before March 2, 2011.

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–4816/Fax: 202–395–6881 (these are not toll-free numbers), *e-mail: OIRA_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: The OSHA standard on manlifts requires that each manlift be inspected at least once every 30 days, and it requires that limit switches be checked weekly. A certification record of the inspection must be prepared upon completion of the inspection. The record must contain the date of the inspection, the signature of the person who performed the inspection, and the serial number or other identifier of the inspected manlift. The OSHA requires this information to be collected by employers for determining the cumulative maintenance status of a manlift and or taking the necessary preventive actions to ensure worker safety.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is currently approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1218–0236. The current OMB approval is scheduled to expire on January 31, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on October 21, 2010 (75 FR 65033).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference OMB Control Number 1218–0226. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Title of Collection: Standard on Manlifts.

OMB Control Number: 1218–0226.

Affected Public: Private sector—businesses or other for-profits.

Total Estimated Number of Respondents: 3,000.

Total Estimated Number of Responses: 36,042.

Total Estimated Annual Burden Hours: 37,801.

Total Estimated Annual Costs Burden: $0.

Dated: January 25, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–1995 Filed 1–28–11; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Regulations Containing Procedures for Handling of Retaliation Complaints

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) hereby announces the submission of the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, "Regulations Containing Procedures for Handling of Retaliation Complaints," to the Office of Management and Budget (OMB) for review and approval for continued use, as revised, in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before March 2, 2011.

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, *Telephone:* 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), *e-mail: OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: The OSHA administers and enforces a number of so-called "whistleblower" protection provisions in various Federal laws and regulations. These whistleblower provisions prohibit retaliatory action by employers against employees who report alleged violations of those laws or regulations or otherwise engage in protected activities specified by the whistleblower provisions. An employee may file a complaint alleging the employer violated the protection

provisions with the OSHA for investigation.

The complaint filing process is an information collection subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is currently approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1218–0236. The current OMB approval is scheduled to expire on January 31, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on October 28, 2010 (75 FR 66391).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference OMB Control Number 1218–0236. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Title of Collection: Regulations Containing Procedures for Handling of Retaliation Complaints.

OMB Control Number: 1218–0236.

Affected Public: Individuals or households.

Total Estimated Number of Respondents: 2,503.

Total Estimated Number of Responses: 2,503.

Total Estimated Annual Burden Hours: 2,503.

Total Estimated Annual Costs Burden: $0.

Dated: January 26, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–2048 Filed 1–28–11; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Renewal of the Advisory Committee on Apprenticeship (ACA) Charter

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Charter Renewal.

SUMMARY: The Secretary of Labor has determined that the renewal of a national advisory committee on apprenticeship is necessary and in the public interest. The Department of Labor will renew the ACA Charter with revisions. The revisions are not intended to change the purpose or the Committee's original intent. The revisions are intended as a routine updating of the Department's strategic goals and existing procedures. The Charter for the ACA expired on January 15, 2011.

SUPPLEMENTARY INFORMATION: Registered Apprenticeship is a unique public-private partnership that is highly dependent on the engagement and involvement of its stakeholders and partners for its ongoing operational effectiveness. Apart from the ACA, there is no single source or group with the broad representation of labor, employers, and the public available to consider the complexities and relationship of apprenticeship activities to other training efforts or to provide advice on such matters to the Secretary and DOL officials. It is particularly important to have such considerations at this time in view of the current widespread and national interest in the role apprenticeship can play in providing career pathways to good jobs for all populations in a range of high growth industries, including healthcare and clean and renewable energy. For these reasons, the Secretary of Labor has determined that the renewal of a national advisory committee on apprenticeship is necessary and in the public interest.

The ACA is being renewed to provide advice and recommendations to the Secretary on the following: (1) The development and implementation of policies, legislation and regulations affecting the National Registered Apprenticeship System; (2) strategies to expand the use of the Registered Apprenticeship model in demand occupations in industries, such as, but not limited to, clean and renewable energy sectors, and healthcare; (3) ways to more effectively partner with the public workforce system and educational institutions and communities to leverage Registered Apprenticeship as a valued post secondary credential; (4) the development of career pathways that can lead to good jobs for everyone and sustained employment for new and incumbent workers, youth, and under-utilized and disadvantaged populations; and (5) efforts to improve the performance, quality and oversight, and recognition and utilization of the National Registered Apprenticeship System which will foster quality work places that are safe, healthy, and fair.

The current ACA Charter expired January 15, 2011. The ACA's Charter is required to be renewed every two years from the date of the Secretary of Labor's signature. Given that the Charter was last renewed in January 2009, it has been revised in several sections to reflect the current state of the National Apprenticeship System and to better align with the Secretary's priorities.

FOR FURTHER INFORMATION CONTACT: Mr. John V. Ladd, Administrator, Office of Apprenticeship, Employment and Training Administration, U.S. Department of Labor, Room N–5311, 200 Constitution Avenue, NW., Washington, DC 20210. *Telephone:* (202) 693–2796, (this is not a toll-free number).

Signed at Washington, DC, this 25th day of January 2011.

Jane Oates,

Assistant Secretary for the Employment and Training Administration.

[FR Doc. 2011–1996 Filed 1–28–11; 8:45 am]

BILLING CODE 4510–FR–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (11–012)]

NASA Advisory Council; Science Committee; Astrophysics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The Meeting will be held for the purpose of soliciting from the scientific community and other persons scientific and technical information relevant to program planning.

DATES: Wednesday, February 16, 2011, 8:30 a.m. to 5:30 p.m., and Thursday, February 17, 2011, 8:30 a.m. to 5 p.m. EST.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Room 3H46 and 7H45, respectively, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–4118, or *mnorris@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 888–469–3351, pass code APS, to participate in this meeting by telephone. The WebEx link may be obtained by contacting Marian Norris. The agenda for the meeting includes the following topics:

—Astrophysics Division Update
—Update from the James Webb Space Telescope Office

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide a copy of their passport, visa, or green card in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship can provide identifying information 3 working days in advance by contacting Marian Norris via e-mail at *mnorris@nasa.gov* or by telephone at (202) 358–4452.

Dated: January 25, 2011.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2011–1974 Filed 1–28–11; 8:45 am]

BILLING CODE P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 5 p.m., Thursday, January 27, 2011.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Personnel. Closed pursuant to exemption (2).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2011–2167 Filed 1–27–11; 12:40 pm]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 75 FR 64357, and no substantial comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: Medical Clearance Process for Deployment to Antarctica.

OMB Number: 3145–0177.

Type of Request: Intent to seek approval to renew an information collection for three years.

Abstract

A. *Proposed Project:* All individuals who anticipate deploying to Antarctica and to certain regions of the Arctic under the auspices of the United States Antarctic Program are required to take and pass a rigorous physical examination prior to deploying. The physical examination includes a

medical history, medical examination, a dental examination and for those persons planning to winter over in Antarctica a psychological examination is also required. The requirement for this determination of physical status is found in 42 U.S.C. 1870 (Authority) and 62 FR 31522, June 10, 1997 (Source), unless otherwise noted. This part sets forth the procedures for medical screening to determine whether candidates for participation in the United States Antarctic [Page 216] Program (USAP) are physically qualified and psychologically adapted for assignment or travel to Antarctica. Medical screening examinations are necessary to determine the presence of any physical or psychological conditions that would threaten the health or safety of the candidate or other USAP participants or that could not be effectively treated by the limited medical care capabilities in Antarctica.

(b) Presidential Memorandum No. 6646 (February 5, 1982) (available from the National Science Foundation, Office of Polar Programs, Room 755, 4201 Wilson Blvd., Arlington, VA 22230) sets forth the National Science Foundation's overall management responsibilities for the entire United States national program in Antarctica.

B. Use of the Information

1. National Science Foundation—Polar Physical Examination (Antarctica/Arctic/Official Visitors) Medical History, will be used by the individual to record the individual's family and personal medical histories. It is a nine-page form that includes the individual's and the individual's emergency point-of-contact's name, address, and telephone numbers. It contains the individual's e-mail address, employment affiliation and dates and locations of current and previous polar deployments. It also includes a signed certification of the accuracy of the information and understandings of refusal to provide the information or providing false information. The agency's contractor's reviewing physician and medical staff complete the sections of the form that indicated when the documents were received and whether or not the person qualified for polar deployment, in which season and which location qualified to deploy and where disqualified, the reasons.

2. Polar Physical Examination—Antarctica/Arctic, will be used by the individual's physician to document specific medical examination results and the overall status of the individual's health. It is a two-page form which also provides for the signatures of both the patient and the examining physician, as well as contact information about the examining physician. Finally, it contains the name, address and telephone number of the agency's contractor that collects and retains the information.

3. National Science Foundation Polar Physical Examination (Antarctica/Arctic/Official Visitors) Medical History Interval Screening, has been discontinued. It was previously used to document changes in family and personal history for those healthy individuals who are under age 40 and had no adverse personal medical information to report for the preceding year.

4. *Polar Dental Examination*—Antarctica/Arctic/Official Visitors, will be used by the examining dentist to document the status of the individual's teeth and gums and to document when the individual was examined. It will also be used by the contractor's reviewing dentist to document whether or not the individual is dentally cleared to deploy to the Polar regions.

5. *Medical Waivers:* Any individual who is determined to be not physically qualified for polar deployment may request an administrative waiver of the medical screening criteria. This information includes signing a Request for Waiver that is notarized or otherwise legally acceptable in accordance with penalty of perjury statutes, and obtaining an Employer Statement of Support. Individuals on a case-by-case basis may also be asked to submit additional medical documentation and a letter from the individual's physician(s) regarding the individual's medical condition and his or her suitability for Antarctic deployment.

6. *Other information requested:* In addition to the numbered forms and other information mentioned above, the USAP medical screening package includes the following:

- The Medical Risks for NSF–Sponsored Personnel Traveling to Antarctica or Greenland.
- The NSF Privacy Notice.
- The NSF Medical Screening for Blood-borne Pathogens/Consent for HIV Testing.
- The NSF Authorization for Treatment of Field-Team Member/Participant Under the Age of 18 Years. This form will only be sent to the individuals who are under 18 years of age.
- The *Dear Doctor* and *Dear Dentist* letters, which provide specific laboratory and x-ray requirements, as well as other instructions.
- The influenza vaccination requirement letter.

7. *There are two other, non-medical forms included in the mailing:*

- The Personal Information Form—NSF Form Number 1424 includes a Privacy Act Notice. This form is used to collect information on current address and contact numbers, date and place of birth, nationality, citizenship, emergency point of contact information, travel dates, clothing sizes so that we may properly outfit those individuals who deploy, work-site information and prior deployment history.
- The Participant Notifications—Important Notice for Participants in the United States Antarctic or Arctic Program. These forms provide information on the laws, of the nations through which program participants must transit en route to Antarctica or Greenland, regarding the transport, possession and use of illegal substances and the possibility of criminal prosecution if caught, tried and convicted.

Estimate of Burden: Public reporting burden for this collection of information varies according to the overall health of the individual, the amount of research required to complete the forms, the time it takes to make an appointment, take the examination and schedule and complete any follow-up medical, dental or psychological requirements, the method used to complete the forms and the completeness of the forms submitted. The estimated time is up to six weeks from the time the individual receives the forms until he or she is notified by the contractor of their final clearance status. An additional period of up to eight weeks may be required for the individual who was disqualified to be notified of the disqualification, to request and receive the waiver packet, to obtain employer support and complete the waiver request, to do any follow-up testing, to return the waiver request to the contractor plus any follow-up information, for the contractor to get the completed packet to the National Science Foundation, and for NSF to make and promulgate a decision.

Respondents: All individuals deploying to the Antarctic under the auspices of the United States Antarctic Program and certain Arctic areas must complete these forms. There are approximately 3,000 submissions per year, with a small percentage (c.3%) under the age of 40 who provide annual submissions but with less information.

Estimated Number of Responses per Form: Responses range from 2 to approximately 238 responses.

Estimated Total Annual Burden on Respondents: 28,728 hours; fewer if the individual has previously deployed and

saved his or her prior year's data for future use.

Frequency of Responses: Physical qualifications are valid for 12 months. Individuals must complete the forms annually or not earlier than six months prior to their anticipated deployment date, if they are infrequent travelers. Depending on individual medical status some persons may require additional laboratory results to be current within two to six-weeks of anticipated deployment.

Frequency of Responses: Individuals must complete the forms annually to be current within 12 months of their anticipated deployment dates. Depending on individual medical status some persons may require additional laboratory results to be current within two to six-weeks of anticipated deployment.

Dated: January 25, 2011.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2011–1960 Filed 1–28–11; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the *second notice* for public comment; the first was published in the **Federal Register** at 75 FR 64357, *and* no substantial comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, *Attention:* Desk Officer for National Science Foundation, 725—17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: Medical Clearance Process for Deployment to Antarctica.

OMB Number: 3145–0177.

Type of Request: Intent to seek approval to renew an information collection for three years.

Abstract

A. *Proposed Project:* All individuals who anticipate deploying to Antarctica and to certain regions of the Arctic under the auspices of the United States Antarctic Program are required to take and pass a rigorous physical examination prior to deploying. The physical examination includes a medical history, medical examination, a dental examination and for those persons planning to winter over in Antarctica a psychological examination is also required. The requirement for this determination of physical status is found in 42 U.S.C. 1870 (Authority) and 62 FR 31522, June 10, 1997 (Source), unless otherwise noted. This part sets forth the procedures for medical screening to determine whether candidates for participation in the United States Antarctic [Page 216] Program (USAP) are physically qualified and psychologically adapted for assignment or travel to Antarctica. Medical screening examinations are necessary to determine the presence of any physical or psychological conditions that would threaten the health or safety of the candidate or other USAP participants or that could not be effectively treated by the limited medical care capabilities in Antarctica.

(b) Presidential Memorandum No. 6646 (February 5, 1982) (available from the National Science Foundation, Office of Polar Programs, Room 755, 4201 Wilson Blvd., Arlington, VA 22230) sets forth the National Science Foundation's overall management responsibilities for the entire United States national program in Antarctica.

B. Use of the Information:

1. National Science Foundation—Polar Physical Examination (Antarctica/Arctic/Official Visitors) Medical History, will be used by the individual to record the individual's family and personal medical histories. It is a nine-page form that includes the individual's and the individual's emergency point-of-contact's name, address, and telephone numbers. It contains the individual's e-mail address, employment affiliation and dates and locations of current and previous polar deployments. It also includes a signed certification of the accuracy of the information and understandings of refusal to provide the information or providing false information. The agency's contractor's reviewing physician and medical staff complete the sections of the form that indicated when the documents were received and whether or not the person qualified for polar deployment, in which season and which location qualified to deploy and where disqualified, the reasons.

2. Polar Physical Examination—Antarctica/Arctic, will be used by the individual's physician to document specific medical examination results and the overall status of the individual's health. It is a two-page form which also provides for the signatures of both the patient and the examining physician, as well as contact information about the examining physician. Finally, it contains the name, address and telephone number of the agency's contractor that collects and retains the information.

3. National Science Foundation Polar Physical Examination (Antarctica/Arctic/Official Visitors) Medical History Interval Screening, has been discontinued. It was previously used to document changes in family and personal history for those healthy individuals who are under age 40 and had no adverse personal medical information to report for the preceding year.

4. Polar Dental Examination—Antarctica/Arctic/Official Visitors, will be used by the examining dentist to

document the status of the individual's teeth and gums and to document when the individual was examined. It will also be used by the contractor's reviewing dentist to document whether or not the individual is dentally cleared to deploy to the Polar regions.

5. *Medical Waivers:* Any individual who is determined to be not physically qualified for polar deployment may request an administrative waiver of the medical screening criteria. This information includes signing a Request for Waiver that is notarized or otherwise legally acceptable in accordance with penalty of perjury statutes, and obtaining an Employer Statement of Support. Individuals on a case-by-case basis may also be asked to submit additional medical documentation and a letter from the individual's physician(s) regarding the individual's medical condition and his or her suitability for Antarctic deployment.

6. *Other information requested:* In addition to the numbered forms and other information mentioned above, the USAP medical screening package includes the following:

- The Medical Risks for NSF–Sponsored Personnel Traveling to Antarctica or Greenland.
- The NSF Privacy Notice.
- The NSF Medical Screening for Blood-borne Pathogens/Consent for HIV Testing.
- The NSF Authorization for Treatment of Field-Team Member/Participant Under the Age of 18 Years. This form will only be sent to the individuals who are under 18 years of age.
- The *Dear Doctor* and *Dear Dentist* letters, which provide specific laboratory and x-ray requirements, as well as other instructions.
- The influenza vaccination requirement letter.

7. *There are two other, non-medical forms included in the mailing:*

- The Personal Information Form—NSF Form Number 1424 includes a Privacy Act Notice. This form is used to collect information on current address and contact numbers, date and place of birth, nationality, citizenship, emergency point of contact information, travel dates, clothing sizes so that we may properly outfit those individuals who deploy, work-site information and prior deployment history.
- The Participant Notifications—Important Notice for Participants in the United States Antarctic or Arctic Program. These forms provide information on the laws, of the nations through which program participants must transit en route to Antarctica or Greenland, regarding the transport, possession and use of illegal substances and the possibility of criminal prosecution if caught, tried and convicted.

Estimate of Burden: Public reporting burden for this collection of information varies according to the overall health of the individual, the amount of research required to complete the forms, the time it takes to make an appointment, take the examination and schedule and complete any follow-up medical, dental or psychological requirements, the method used to complete the forms and the completeness of the forms submitted. The estimated time is up to six weeks from the time the individual receives the forms until he or she is notified by the contractor of their final clearance status. An additional period of up to eight weeks may be required for the individual who was disqualified to be notified of the disqualification, to request and receive the waiver packet, to obtain employer support and complete the waiver request, to do any follow-up testing, to return the waiver request to the contractor plus any follow-up information, for the contractor to get the completed packet to the National Science Foundation, and for NSF to make and promulgate a decision.

Respondents: All individuals deploying to the Antarctic under the auspices of the United States Antarctic Program and certain Arctic areas must complete these forms. There are approximately 3,000 submissions per year, with a small percentage (c.3%) under the age of 40 who provide annual submissions but with less information.

Estimated Number of Responses per Form: Responses range from 2 to approximately 238 responses.

Estimated Total Annual Burden on Respondents: 28,728 hours; fewer if the individual has previously deployed and saved his or her prior year's data for future use.

Frequency of Responses: Physical qualifications are valid for 12 months. Individuals must complete the forms annually or not earlier than six months prior to their anticipated deployment date, if they are infrequent travelers. Depending on individual medical status some persons may require additional laboratory results to be current within two to six-weeks of anticipated deployment.

Frequency of Responses: Individuals must complete the forms annually to be current within 12 months of their anticipated deployment dates. Depending on individual medical status some persons may require additional laboratory results to be current within two to six weeks of anticipated deployment.

Dated: January 25, 2011.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2011–1962 Filed 1–28–11; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382; NRC–2011–0023]

Entergy Operations, Inc., Waterford Steam Electric Station, Unit 3, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), 26.9, "Specific exemptions," from paragraphs (c) and (d) of 10 CFR 26.205, "Work hours," for Facility Operating License No. NPF–38, issued to Entergy Operations, Inc. (Entergy, the licensee), for operation of the Waterford Steam Electric Station, Unit 3 (Waterford 3), located in St. Charles Parish, Louisiana.

In accordance with 10 CFR 51.21, the NRC prepared an environmental assessment documenting its finding. The NRC concluded that the proposed actions will have no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would consider approval of an exemption for Waterford 3, from some of the requirements of 10 CFR part 26, "Fitness for duty programs." Specifically, the licensee requests approval of an exemption from the requirements of 10 CFR 26.205(c), "Work hours scheduling," and (d), "Work hour controls," to allow for sequestering site personnel prior to and following the entry and exit conditions (*i.e.,* emergency declaration) related to adverse weather conditions caused by a hurricane.

The licensee states that during declaration of severe weather conditions, such as hurricane watches and warnings or inland hurricane wind watches and warnings caused by a hurricane impacting the coast, adherence to all work hour controls requirements could impede the licensee's ability to use whatever staff resources may be necessary to respond to a plant emergency and ensure that the plant reaches and maintains a safe and secure status.

Since 10 CFR 26.207(d), "Plant emergencies," already provides an exception for the time period associated with a declared emergency, the exemption requested per 10 CFR 26.9 only applies to the applicable time periods prior to and following the 10 CFR 26.207(d) exception, requiring the sequestering of Waterford 3 response personnel and related staff resource limitations.

The proposed exemption will allow the licensee not to meet the requirements of 10 CFR 26.205(c) and (d), from the time the existing entry conditions for declaring an emergency condition that hurricane watches and warnings or inland hurricane wind watches and warnings caused by a hurricane impacting the coast sequestering conditions are met until severe weather exit conditions are satisfied. The exemption will only apply to individuals performing certain types of duties defined in 10 CFR 26.4(a)(1) through (a)(5), namely, (1) Operating or onsite directing of the operation of structures, systems and components (SSCs) that a risk-informed evaluation process has shown to be significant to public health and safety; (2) performing health physics or chemistry duties required as a member of the onsite emergency response organization minimum shift complement; (3) performing the duties of a fire brigade member who is responsible for understanding the effects of fire and fire suppressants on safe shutdown capability; (4) performing maintenance or onsite directing of the maintenance of SSCs that a risk-informed evaluation process has shown to be significant to public health and safety; and (5) performing security duties as an armed security force officer, alarm station operator, response team leader, or watchperson. When crew sequestering exit conditions are met, full compliance with 10 CFR 26.205(c) and (d) will be required.

The proposed action is in accordance with the licensee's application dated May 27, 2010, as supplemented by letters dated November 3 and 29, 2010, which are available to the public in the NRC's Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML101520325, ML103090716, and ML103350158, respectively.

The Need for the Proposed Action

The proposed action is needed because the licensee is unable to meet the requirements of 10 CFR 26.205(c) and (d) during existing entry and exit conditions when declarations of severe weather conditions that could result due to prevailing hurricane watches and warnings or inland hurricane wind watches and warnings caused by a hurricane impacting the coast impacting the facility are made.

Compliance with work hour control requirements would impede the licensee's ability to use whatever staff resources may be necessary to respond to a plant emergency and ensure that the plant reaches and maintains a safe and secure status.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there are no environmental impacts associated with the proposed exemption. The details of the staff's safety evaluation will be provided in the exemption, if approved by the NRC, that will be issued as part of the letter to the licensee approving the exemption to the regulation.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released offsite. There is no significant increase in the amount of any effluent released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

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 of 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; therefore, the staff has determined not to prepare an environmental impact statement for the proposed action.

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 exemption request would result in no change in current environmental impacts. If the proposed action was denied, the licensee would have to comply with the work hour control requirements in 10 CFR 26.205(c) and (d). This would cause unnecessary burden on the licensee, without a significant benefit in environmental impacts. The environmental impacts of the proposed exemption and the "no-action" alternative are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered by the NRC staff in the Final Environmental Statement for Waterford 3, dated September 1981 (NUREG–0779).

Agencies and Persons Consulted

In accordance with its stated policy, on January 4, 2011, the NRC staff consulted with the Louisiana State official, JiYoung Wiley, Department of Radiological Emergency Preparedness and Response, regarding the environmental impact of the proposed action. The Louisiana State official had no comments.

Finding of No Significant Impact

On the basis of the above environmental assessment which, pursuant to 10 CFR 51.32(a)(4) is incorporated into this finding of no significant impact by reference, 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 May 27, 2010, as supplemented by letters dated November 3 and 29, 2010. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2338. 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 21st day of January 2011.

For the Nuclear Regulatory Commission.

Nageswaran Kalyanam,

Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–2034 Filed 1–28–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Numbers 50–498, 50–499; NRC–2010–0375]

STP Nuclear Operating Company; Notice of Intent To Prepare an Environmental Impact Statement and Conduct the Scoping Process for South Texas Project, Units 1 and 2

STP Nuclear Operating Company (STPNOC) has submitted an application for renewal of Facility Operating Licenses NPF–76 and NPF–80 for an additional 20 years of operation at the South Texas Project (STP), Units 1 and 2. STP is located near Wadsworth, TX.

The current operating license for STP Unit 1 expires on August 20, 2027, and Unit 2 expires on December 15, 2028. The application for renewal, dated October 25, 2010, was submitted pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 54, which included an environmental report (ER). A separate notice of receipt and availability of the application was published in the **Federal Register** on December 9, 2010 (75 FRN 76757). A notice of acceptance for docketing of the application and opportunity for hearing regarding renewal of the facility operating license was also published in the **Federal Register** on January 13, 2011 (76 FRN 2426). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement (EIS) related to the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process, as defined in 10 CFR 51.29.

As outlined in 36 CFR 800.8, "Coordination with the National Environmental Policy Act," the NRC plans to coordinate compliance with Section 106 of the National Historic Preservation Act (NHPA) in meeting the requirements of the National Environmental Policy Act of 1969 (NEPA). Pursuant to 36 CFR 800.8(c), the NRC intends to use its process and documentation for the preparation of the EIS on the proposed action to comply with Section 106 of the NHPA in lieu of the procedures set forth at 36 CFR 800.3 through 800.6.

In accordance with 10 CFR 51.53(c) and 10 CFR 54.23, STPNOC submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR part 51 and is publicly available at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, or from the NRC's Agencywide Documents Access and Management System (ADAMS). The ADAMS Public Electronic Reading Room is accessible at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. The ADAMS Accession Number for the STP ER is ML103010263. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 800–397–4209 or 301–415–4737 or by e-mail at *pdr.resource@nrc.gov.* The ER may also be viewed on the Internet at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications/south-texas-project.html.* In addition, paper copies of the ER are available to the public for viewing near the site at the Bay City Public Library, 1100 7th Street, Bay City, TX 77414.

Public comments and supporting materials related to this notice can be found at the Federal Rulemaking Web site, *http://www.regulations.gov,* by searching on Docket ID NRC–2010–0375.

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the NRC's ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants,'' (NUREG–1437) related to the review of the application for renewal of the STP operating licenses for an additional 20 years.

Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. The NRC is required by 10 CFR 51.95 to prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with NEPA and the NRC's regulations found at 10 CFR part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in the scoping process by members of the public and local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action, which is to be the subject of the supplement to the GEIS;

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth;

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant;

d. Identify any environmental assessments and other EISs that are being or will be prepared that are related to, but are not part of, the scope of the supplement to the GEIS being considered;

e. Identify other environmental review and consultation requirements related to the proposed action;

f. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule;

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies; and

h. Describe how the supplement to the GEIS will be prepared and include any contractor assistance to be used.

The NRC invites the following entities to participate in scoping:

a. The applicant, STPNOC;

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or that is authorized to develop and enforce relevant environmental standards;

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards;

d. Any affected Indian tribe;

e. Any person who requests or has requested an opportunity to participate in the scoping process; and

f. Any person who has petitioned or intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold public meetings for the STP license renewal supplement to the GEIS. The

scoping meetings will be held on March 2, 2011, and there will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. CST and will continue until 3:30 p.m. The second session will convene at 7 p.m. with a repeat of the overview portions of the meeting and will continue until 9 p.m., as necessary. Both sessions will be held at the Bay City Civic Center, 201 Seventh Street, Bay City, Texas 77414.

Both meetings will be transcribed and will include: (1) An overview by the NRC staff of the NEPA environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; and (2) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No formal comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below.

Persons may register to attend or present oral comments at the meetings on the scope of the NEPA review by contacting the NRC Project Manager, Mr. Tam Tran, by telephone at 800–368–5642, extension 3617, or by e-mail at *Tam.Tran@nrc.gov* no later than February 23, 2011. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. Mr. Tran will need to be contacted no later than February 23, 2011, if special equipment or accommodations are needed to attend or present information at the public meeting so that the NRC staff can determine whether the request can be accommodated.

Members of the public may submit comments by any one of the following methods. Please include Docket ID NRC–2010–0375 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 *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.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2010–0375. Address questions about NRC dockets to Ms. Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Ms. 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. To be considered in the scoping process, written comments should be postmarked by April 1, 2011. Comments will be available electronically and accessible through ADAMS at *http://www.nrc.gov/reading-rm/adams.html.*

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, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Federal Rulemaking Web site: Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2010–0375.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting. The notice of acceptance for docketing of the application and opportunity for hearing that was published in the **Federal Register** (76 FRN 2426) describes the hearing process.

Dated at Rockville, Maryland, this 24th day of January 2011.

For the Nuclear Regulatory Commission.

Bo M. Pham,

Chief, Reactor Projects Branch 1, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–1904 Filed 1–28–11; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on February 2, 2011 at 10 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

The Commission will consider whether to propose rules and a form to implement Section 763 of the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to the registration and regulation of security-based swap execution facilities.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: January 26, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–2136 Filed 1–27–11; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Clean Energy and Power, Inc., Order of Suspension of Trading

January 27, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Clean Energy and Power, Inc. ("Clean Energy") because it has not filed any periodic reports since the period ended September 30, 2007. Clean Energy is quoted on the Pink Sheets operated by OTC Markets Group Inc. under the ticker symbol KEPI.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading

in the securities of the above-listed company, and any equity securities of any entity purporting to succeed to this issuer.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company, and any equity securities of any entity purporting to succeed to this issuer, is suspended for the period from 9:30 a.m. EST on January 27, 2011, through 11:59 p.m. EST on February 9, 2011.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–2159 Filed 1–27–11; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63761; File No. SR–ISE–2011–04]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change To Establish a New Class of Market Participant for Index Options

January 25, 2011.

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 January 12, 2011, International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend its rules to establish a new class of market participant for index options traded on the Exchange. This new class of market participants will trade on the Exchange pursuant to a trading license. The text of the proposed rule change is available on the Exchange's Web site *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to establish a new class of market participant for index options traded on the Exchange called Index Options Primary Market Makers ("IXPMM") [3] and Index Options Competitive Market Makers ("IXCMM"),[4] collectively referred to as IXMMs. IXMMs will trade on the Exchange pursuant to a trading license.

ISE currently lists options on 28 cash-settled equity indexes. Currently, three of the 28 indexes—the Russell 2000 Index (RUT), the Nasdaq-100 Index (NDX), and the Mini-Nasdaq-100 Index (MNX)—account for over 90 percent of the total index options volume traded at ISE. Each index options product currently trading on the Exchange is allocated to a Primary Market Maker ("PMM") and multiple Competitive Market Makers ("CMM"). All current PMMs will retain the right to trade as an IXPMM in all existing and future index products, including Eligible Index Options (as defined in proposed Rule 2013(c)). Similarly, all current CMMs will also retain the right to trade as an IXCMM in all existing and future index products, including Eligible Index Options.

Traditionally, new index products have been allocated as part of the general allocation to the ISE's "First Market," which is the general market for higher-volume equity, ETF and index options. The Exchange proposes now to sell trading licenses much like how the Exchange currently sells foreign currency ("FX") options trading licenses to FX market makers.[5] IXPMM allocations would be based on the same methodology ISE currently uses for FXPMMs in its FX products, which is based, in part, on market quality commitments. In addition, existing market makers will have "first right" to be an IXPMM in a new index product if the terms of its application for becoming an IXPMM in that product are equal to those of new market makers.

The Exchange believes that introducing trading licenses for index options will allow for a greater number of market makers to trade new and untested index products. The market maker trading licenses proposed herein do not hold any equity interest in the Exchange. An IXMM who is not a First Market PMM/CMM will not be able to trade in equity or ETF options traded on the Exchange. This proposal would cover new index products and currently-traded index options classes that are delisted by the Exchange and subsequently re-listed.

Under the proposal, Eligible Index Options are (i) index options that have a 6-month average daily volume of less than 10,000 contracts in the U.S. market, and (ii) index options that have a trading history of less than 6 months, in which case the eligibility threshold would be prorated proportionately over the time that an index was listed in the U.S. market. Prior to the listing of an Eligible Index Option, the Exchange will conduct a one-time eligibility test to determine whether an index product is an Eligible Index Option. The Exchange will conduct the eligibility test when an index product is qualified for listing under ISE rules and prior to its certification with the Options Clearing Corporation. The Exchange currently follows this process with regards to the listing of all equity (including ETF) and index option products traded on the Exchange. The following index products are not Eligible Index Options: Russell 2000 Index ("RUT"), the NASDAQ–100 Index ("NDX"), and the Mini–NASDAQ–100 Index ("MNX").

Current and future First Market PMMs/CMMs may act in the capacity of an IXCMM for an Eligible Index Option for no additional cost. Current and future First Market PMMs/CMMs may acquire an IXPMM trading right by participating in an auction, which participation requires the submission of a monetary bid and market quality commitments. All things being equal in

[3] An IXPMM is defined in proposed ISE Rule 2013(a) as a primary market maker in Eligible Index Options traded on the Exchange pursuant to proposed ISE Rule 2013.

[4] An IXCMM is defined in proposed ISE Rule 2013(a) as a competitive market maker in Eligible Index Options traded on the Exchange pursuant to proposed ISE Rule 2013.

[5] *See* Securities Exchange Act Release No. 55575 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR–ISE–2006–59).

an auction for a trading right for an Eligible Index Option between a First Market PMM/CMM and a new Member who is not a First Market PMM/CMM, the Exchange shall allocate the Eligible Index Option to the First Market PMM/CMM.

Index options listed on the Exchange prior to December 31, 2010 ("Legacy Index Options")[6] already have an IXPMM[7] assigned thus those products will not be subject to the auction process found in Rule 2013. A Member who is not a First Market PMM/CMM will be required to purchase an IXCMM trading license to trade in Legacy Index Options as an IXCMM. A current and future First Market PMM may trade Legacy Index Options without having to purchase an additional IXMM trading license. In the event a Legacy Index Option is de-listed, any future listing of that Legacy Index Option will be subject to the auction process applicable to PMMs found in Rule 2013.

The Exchange will conduct a one-time eligibility test where any index product whose six-month average daily volume ("ADV") exceeds 10,000 contracts in the U.S. market will not be subject to a market maker trading license. For index options that have a trading history of less than six months, the eligibility threshold would be prorated proportionately over the time that an index was listed. Thus, if an index has a trading history for just three months in the U.S. market, the prorated eligibility threshold applied by ISE would be 20,000 ADV. As noted above, the one-time eligibility test will be conducted prior to the listing of an Eligible Index Option. The Exchange believes that index options trading licenses will attract additional market makers because the costs associated with becoming an index options market maker will be much lower than those associated with becoming a PMM or CMM.

The Exchange notes that while First Market PMMs and CMMs do not have a need to purchase an additional license, a Member who is not currently a First Market PMM/CMM will require an IXMM trading license for each Eligible Index Options product if that Member wants to serve as an IXMM in an Eligible Index Option. Further, a Member may acquire and hold an IXMM trading license only if and for so long as such Member is qualified and approved to be a Member of the Exchange. An IXMM trading license is not transferable and may not be, in whole or in part, transferred, assigned, sublicensed or leased; provided, however, that the holder of the IXMM trading license may, with the prior written consent of the Exchange, transfer it to a qualified and approved Member (i) who is an affiliate or (ii) who continues substantially the same business of such trading right holder without regard to the form of the transaction used to achieve such continuation, *e.g.,* merger, sale of substantially all assets, reincorporation, reorganization or the like.[8] A Member may purchase an unlimited amount of IXMM trading licenses across all Eligible Index Options.[9]

Once an IXPMM obtains a trading license in an Eligible Index Option, the IXPMM will have all of the responsibilities and privileges of a PMM under the Exchange's rules. For example, IXPMMs will enjoy privileges that include, among other things, participation rights and small order execution preference while accepting responsibilities that include, among other things, the obligation to provide continuous quotations in an Eligible Index Option for which it has a trading license, to conducting the opening rotation on a daily basis for as long as the IXPMM retains a trading license in an Eligible Index Option. Similarly, once an IXCMM obtains a trading license in an Eligible Index Option, the IXCMM will have all the responsibilities and privileges under the Exchange's rules.[10]

Proposed ISE Rule 2013(e) relates specifically to IXPMMs and states that there will be one (1) IXPMM per each Eligible Index Option and that all IXPMM trading licenses shall be permanently granted as long as the IXPMM meets its stated market quality commitments, except that the Board or designated committee may suspend or terminate any trading license of a market maker whenever, in the Board's or designated committee's judgment, the interests of a fair and orderly market are best served by such action. Further, IXPMM trading licenses will be sold by means of a sealed bid auction conducted by the Exchange. The price at which an IXPMM trading license is sold in an auction shall be referred to as the "Auction Price." The Auction Price paid by an IXPMM shall remain unchanged for as long as an IXPMM retains a trading license in the Eligible Index Option. The Exchange will conduct one (1) sealed bid auction per Eligible Index Option for an IXPMM trading license. Together with its bid, a Member seeking an IXPMM trading license must provide, at a minimum, market quality commitments regarding (i) the average quotation size it will disseminate in an Eligible Index Option, and (ii) the maximum quotation spread it will disseminate in such product at least ninety percent (90%) of the time. At the end of the auction, the Exchange will determine the winning bidder for an IXPMM trading license based on bid amount and market quality commitment, and may reject a bid if the Exchange deems a market quality commitment to be unrealistic or significantly inferior to market quality commitments submitted by other bidding Members.

Additionally, under proposed Rule 2013(e)(4), the Exchange will measure market quality commitments on a quarterly basis to ensure IXPMMs are in compliance with their stated commitments. Failure to meet stated commitments may, at the discretion of the Exchange and subject to the procedural protections provided under the rules of the Exchange,[11] result in ISE terminating an allocation and conducting an auction to reallocate the failing IXPMM's Eligible Index Option to another Member.[12] The IXPMM may only change its market quality commitment to the extent that the new commitments are an improvement to its existing commitment.

Under proposed Rule 2013(e)(5), current market makers shall be given priority to purchase a IXPMM trading license in an Eligible Index Option so long as the terms of a current market maker's bid to purchase an IXPMM trading license in an Eligible Index Option, as well as its market quality

[6] As of December 31, 2010, the following indexes are Legacy Index Options: Mini FTSE 100 (symbol, UKX); ISE Semiconductors (BYT); ISE Electronic Trading (DMA); ISE–Revere Natural Gas (FUM); ISE Water (HHO); ISE Homeland Security (HSX); ISE Long Gold (HVY); ISE 250 (IXZ); ISE U.S. Regional Banks (JLO); ISE Oil and Gas Services (OOG); ISE Integrated Oil and Gas (PMP); ISE Bio-Pharmaceuticals (RND); ISE Homebuilders (RUF); ISE SINdex (SIN); ISE Nanotechnology (TNY); ISE Revere Wal-Mart Supplier (WMX); KBW Bank Index (BKX); KBW Mortgage Finance Index (MFX); Morgan Stanley Technology Index (MSH); Morgan Stanley Retail Index (MVR); Nasdaq Q–50 Index (NXTQ); Mini-Russell 2000 (RMN); Russell 1000 Index (RUI); S&P Mid Cap 400 Index (MID); Standard & Poor's Small Cap 600 Index (SML).

[7] The current PMM is deemed the IXPMM for Legacy Index Options and will receive an IXPMM trading license in the Legacy Index Option.

[8] *See* Proposed ISE Rule 2013(b).

[9] *See* Proposed ISE Rule 2013(d).

[10] In this Filing, the Exchange also proposes to amend ISE Rule 802(b) to permit the allocation of Eligible Index Options, subject to proposed Rule 2013. As a result, market makers in Eligible Index Options will be subject to the obligations imposed on Exchange market makers, per Chapter 8 of the Exchange's rules.

[11] *See* Chapter 17 of ISE Rules.

[12] A Member seeking an allocation of a failing IXPMM's Eligible Index Option will be required to compete for that allocation much the same way that the failing IXPMM competed to get the allocation initially.

commitments for the Eligible Index Option, are equal to those of Members that are not currently a market maker on the Exchange. After an IXPMM has purchased a trading license, the IXPMM has the ability to terminate its obligations as an IXPMM in an index option if the IXPMM is unable to meet its obligations, provided the IXPMM gives at least 60 days prior written notice to the Exchange of such termination. In the event the Exchange is unable to re-allocate the IXPMM's index option product within the notice period and the index option product is singly listed on ISE, then the IXPMM shall continue to fulfill its obligations in that product until all open interest has been closed.

Proposed ISE Rule 2013(f) relates specifically to IXCMMs and states that there shall be an unlimited number of IXCMM trading licenses available for purchase by Members who are not currently PMMs or CMMs. PMMs and CMMs who want to be an IXCMM may request and will be given an IXCMM trading license without having to pay any additional fee. By virtue of their status as market makers in the Exchange's primary market, PMMs and CMMs are deemed qualified to serve as a market maker in an Eligible Index Option. Additionally, all IXCMM trading licenses shall be for a term of one year. An IXCMM who is not currently a PMM or a CMM shall be subject to a fee established by the Exchange. The Exchange may sell IXCMM trading licenses at any time during a calendar year. IXCMM trading licenses sold during a calendar year shall be prorated to reflect the number of trading days in the year. Finally, all IXCMM trading licenses shall expire at the end of the calendar year in which they are issued but will be renewed, upon request by PMMs and CMMs, for subsequent years on an annual basis. An IXCMM, however, may terminate its trading license prior to its scheduled expiration by providing at least 10 days prior written notice to the Exchange of such termination.

The Exchange believes that the procedures under which market maker trading licenses will be made available are calculated to comply with the requirements of Section 6(b)(2) of the Exchange Act regarding fair access to the facilities of a registered exchange. The sealed bid auction, by which IXPMM trading licenses will be sold, requires potential bidders to provide the Exchange with market quality commitments along with a bid. The Exchange believes that this added measure of qualification will enable the Exchange to sell these market maker trading licenses in an objective manner without solely awarding a trading license to the highest bidder.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) [13] of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5) [14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system in a manner consistent with the protection of investors and the public interest. In particular, the Exchange believes the proposed rule change will attract additional market makers in low-volume index options to the Exchange because the costs associated with becoming an index options market maker will be much lower than those associated with becoming a PMM or CMM thus providing for open access to market makers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate 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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods.

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2011–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2011–04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2011–04 and should be submitted on or before February 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1982 Filed 1–28–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63762; File No. SR–CBOE–2010–109]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Notice of Proposed Rule Change Regarding Rule 4.20—Anti-Money Laundering Compliance Program

January 25, 2011.

I. Introduction

On December 2, 2010, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend CBOE Rule 4.20 to require all Trading Permit Holders or TPH organizations to conduct independent testing during the first calendar year of becoming a Trading Permit Holder or TPH organization. The proposed rule change was published for comment in the **Federal Register** on December 22, 2010.[3] The Commission did not receive any comments on the proposal. This order approves the proposed change.

II. Background

CBOE proposed to amend CBOE Rule 4.20, *Anti-Money Laundering Compliance Program,* to require all Trading Permit Holders or TPH organizations to conduct independent testing during the first calendar year of becoming a Trading Permit Holder or TPH organization. CBOE Rule 4.20 generally requires annual (on a calendar-year basis) independent testing for compliance. However, if the Trading Permit Holder or TPH organization does not execute transactions for customers or otherwise hold customer accounts, or does not act as an introducing broker with respect to customer accounts (*e.g.,* engages solely in proprietary trading or conducts business only with other broker-dealers), such "independent testing" is required every two years (on a calendar-year basis). The Exchange believes that it is prudent to amend this rule to require that all Trading Permit Holders or TPH organizations conduct testing during the first calendar year of the Trading Permit Holder's or TPH organization's existence to ensure anti-money laundering compliance is in place and established at the outset of the Trading Permit Holder's or TPH organization's existence, even if they would thereafter conduct such testing every two years.

CBOE Interpretations and Policies .01 continues to provide that all Trading Permit Holders should undertake more frequent testing than required by Rule 4.20 if circumstances warrant (*e.g.,* should the business mix of the Trading Permit Holder or TPH organization materially change, in the event of a merger or acquisition, in light of a systemic weakness uncovered via testing of the anti-money laundering program, or in response to any other "red flags").[4]

As explained in the Notice, the Exchange believes that the proposed rule change is consistent with Section 6(b)[5] of the Act and the rules and regulations thereunder, in general, and furthers the objectives of Section 6(b)(5),[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

CBOE 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.

III. Discussion of Comment Letters

The Commission did not receive any comment letters regarding the proposed rule change.

IV. Commission Findings

The Commission has carefully reviewed the proposed rule change 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.[7] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5), of the Act,[8] which, among other things, requires that CBOE 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.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–CBOE–2010–109), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1983 Filed 1–28–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63763; File No. SR–CBOE–2011–005]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Short Sell Order Handling

January 25, 2011.

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 January 14, 2011, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities and Exchange Act Release No. 63559 (December 16, 2010), 75 FR 80560 (December 22, 2010) ("Notice")

[4] *See* Securities Exchange Act Release No. 57044 (December 27, 2007), 73 FR 2 (January 3, 2008) (SR–CBOE–2007–130).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 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).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend CBOE Stock Exchange, LLC's ("CBSX," the CBOE's stock trading facility) rules to describe the manner in which the CBSX System [5] will handle short sell orders for openings and reopenings in relation to Rule 201 of Regulation SHO.[6] The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 201 of Regulation SHO under the Act [7] sets forth a short sale-related circuit breaker that, if triggered, will impose a restriction on the prices at which NMS stocks [8] may be sold short. In anticipation of the upcoming February 28, 2011 compliance date for Rule 201,[9] the Exchange is proposing to amend CBSX's rules to describe the manner in which the CBSX System will handle short sell orders during opening rotations when a circuit breaker is triggered under Rule 201 of Regulation SHO.[10]

In particular, the Exchange is proposing to amend Interpretation and Policy .02 to its Rule 51.8, *Types of Orders Handled,* to provide that, if a short sale-related circuit breaker is triggered under Regulation SHO, orders marked "short" that are received by the CBSX System *after* the time a circuit breaker is triggered but *prior* to the opening of trading or reopening of trading following a halt, suspension or pause in the NMS stock will be cancelled/rejected.[11] Consistent with the existing text of the rule and a proposed clarifying amendment to that text, (1) short sell orders that are resting in the CBSX Book [12] at the time a circuit breaker is triggered will be permitted to continue resting and/or execute,[13] and (2) short sell orders that are received by the CBSX System *after* the time a circuit breaker is triggered *and while the NMS stock is open for trading on CBSX* that are (A) priced above the National Best Bid will be permitted to rest and/or execute or (B) priced at or below the National Best Bid will be rejected/cancelled.[14]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[15] in general, and, in particular, furthers the objectives of Section 6(b)(5) of the Act,[16] which requires that an exchange have rules that are designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest. In particular, the Exchange believes the proposed change will provide clarity on the short sell order handling procedures that the CBSX System will apply for openings and reopenings when a short sale-related circuit breaker is triggered under Rule 201 of Regulation SHO.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18]

At any time within 60 days of the filing of such 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

[5] The "CBSX System" means the electronic system which performs the functions set out in the CBSX rules including controlling, monitoring, and recording trading by CBSX Traders through CBSX Workstations and trading between CBSX Traders. *See* Rule 50.1(a). A "CBSX Trader" means an individual who or organization which has the right to trade on CBSX. *See* Rules 50.1(f) and 50.3. A "CBSX Workstation" means a computer connected to CBSX for the purposes of trading pursuant to the CBSX rules. *See* Rule 50.1(d).

[6] 17 CFR 242.201. *See* Securities Exchange Act Release Nos. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010) and 63247 (November 4, 2010), 75 FR 68702 (November 9, 2010). In connection with the adoption of Rule 201, Rule 200(g) of Regulation SHO, 17 CFR 242.200(g), was amended to include a "short exempt" marking requirement. The amendments to Rule 201 and Rule 200(g) have a compliance date of February 28, 2011.

[7] *Id.*

[8] 17 CFR 242.201(a)(1).

[9] *See* Securities Exchange Act Release No. 63247, note 6, *supra,* which extended the compliance date for Rule 201, 17 CFR 242.201 and Rule 200(g), 17 CFR 242.200(g), from November 10, 2010 to February 28, 2011.

[10] Opening and reopening rotations are conducted pursuant to Rule 52.2, *Opening Procedures.* Rule 52.2 provides that the CBSX System shall automatically open each security at the price that provides the highest matched quantity of order volume. Subsequent to any such opening prints, or immediately if there are no pre-opening orders in a security, the CBSX System shall disseminate regular quotations.

[11] *See* proposed paragraph (a)(3) of Rule 51.8.02.

[12] The "CBSX Book" means all unexecuted orders currently held by the CBSX System. *See* Rule 50.1(c).

[13] Short sell orders that are resting in the CBSX Book at the time a circuit breaker is triggered by definition are priced above the National Best Bid at the time of initial display and therefore will be permitted to continue resting and/or execute intra-day and during any opening/reopening rotations that occur while a circuit breaker is in effect. 17 CFR 242.201(b)(1).

[14] *See* existing paragraphs (a)(1) through (2) of Rule 51.8.02 and proposed changes to clarify that subparagraph (2) (which is also numbered as item (2) in the description above) applies to short sale orders received *while the NMS stock is open for trading on CBSX.*

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

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–CBOE–2011–005 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–CBOE–2011–005. 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 CBOE. 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–CBOE–2011–005 and should be submitted on or before February 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1984 Filed 1–28–11; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63764; File No. SR–MSRB–2010–17]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change Consisting of Amendments to Rule A–3, on Membership on the Board

January 25, 2011.

I. Introduction

On November 30, 2010, the Municipal Securities Rulemaking Board ("MSRB" or "Board"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule consisting of amendments to Rule A–3, on membership on the Board, in order to establish a Nominating Committee in compliance with MSRB transitional Rule A–3(i). The proposed rule change was published for comment in the **Federal Register** on December 17, 2010.[3] The Commission received no comment letters about the proposed rule change.[4] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The purpose of the proposed rule change is to make changes to MSRB Rule A–3(c) as are necessary and appropriate prior to the creation of the Nominating Committee of the MSRB.

On September 30, 2010, the SEC approved MSRB Rule A–3(i), a transitional rule for MSRB fiscal year 2011 intended to implement the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010) (the "Dodd-Frank Act").[5] The transitional rule provides that on or after October 1, 2010, and prior to the formation of the Nominating Committee for purposes of nominating Board members for fiscal year 2012, the Board will amend the provisions of Rule A–3(c) to (a) reflect the composition of the Board as provided under the Dodd-Frank Act, (b) assure that the Nominating Committee will be composed of a majority of public members and will have fair representation of broker-dealers, bank dealers, and municipal advisors, and (c) reflect such other considerations consistent with the provisions of Section 15B of the Exchange Act and the Dodd-Frank Act as the Board deems appropriate. The proposed rule change is intended to amend Rule A–3(c) to comply with the requirements of transitional Rule A–3(i), as approved by the SEC.

Consistent with Rule A–3(i), the Nominating Committee (hereinafter, "Nominating and Governance Committee") would consist of eleven members, six of whom would be public members and five of whom would be industry members. The Chair of the Committee would be a public member. Establishing an eleven member committee would allow for fair representation of regulated entities by reserving five positions for brokers, dealers, municipal securities dealers and municipal advisors.

Each constituency identified in the Dodd-Frank Act would be guaranteed a minimum of one seat on the Nominating and Governance Committee but the level of each constituency would be capped to avoid overweighting of any one over the others. These ranges of membership are as follows:

- Six public members consisting of (a) at least one, but no more than three, representative of institutional or retail investors; (b) at least one, but no more than three, representative of municipal entities; (c) at least one, but no more than three, members of the public with knowledge of or experience in the municipal industry and not representative of investors or municipal entities;[6] and
- Five regulated members, consisting of (a) at least one, but no more than two, representative of broker-dealers; (b) at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 63533 (December 13, 2010), 75 FR 79061 (December 17, 2010) (the "Commission's Notice").

[4] On January 13, 2011, Commissioner Aguilar, along with Michael E. Coe, Counsel to the Commissioner, met with representatives of the National Association of Independent Public Finance Advisors to discuss the proposed rule change among other matters. *See* Memorandum from Michael E. Coe, dated January 13, 2011.

[5] *See* Exchange Act Release No. 63025 (September 30, 2010), 75 FR 61806 (October 6, 2010).

[6] In order to ensure balance on the committee and reflect the breadth of public representatives on the Board, the proposal would require one to three committee members be selected from Board members who are not representative of municipal entities or investors.

least one, but no more than two, representative of bank dealers; and (c) at least one, but no more than two, representative of non-dealer municipal advisors.

The Board believes this formulation is consistent with the Dodd-Frank Act and Rule A–3(i) in that it provides for a majority of public members on the Committee and fair representation of regulated entities. The MSRB also believes it is important that the Chair of the Nominating and Governance Committee be a public member, both as a governance best practice and in recognition of the majority of public members on the Board, as mandated by the Dodd-Frank Act.

A more complete description of the proposal is contained in the Commission's Notice.[7]

III. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB[8] and, in particular, the requirements of Section 15B(b)(2)(B) of the Exchange Act[9] and the rules and regulations thereunder. Section 15B(b)(2)(B) of the Exchange Act provides that the MSRB's rules shall:

> Establish fair procedures for the nomination and election of members of the Board and assure fair representation in such nominations and elections of public representatives, broker dealer representatives, bank representatives, and advisor representatives.

The Commission believes that the proposed rule change is consistent with the Exchange Act as amended by the Dodd-Frank Act, in that it would provide for the creation of an MSRB Nominating and Governance Committee that reflects the composition of the Board as provided under the Dodd-Frank Act and would help assure that the Nominating and Governance Committee would be composed of a majority of public members and have fair representation of broker-dealers, bank dealers, and municipal advisors, consistent with MSRB Rule A–3(i) as approved by the SEC.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[10] that the proposed rule change (SR–MSRB–2010–17), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1985 Filed 1–28–11; 8:45 am]

BILLING CODE 8011–01–P

[7] *See supra* note 3.

[8] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78o–4(b)(2)(B).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63766; File No. SR–BATS–2011–002]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Proposed Rule Change To Amend BATS Rules in Connection With the Implementation of Amendments to Regulation SHO

January 25, 2011.

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 January 14, 2011, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend BATS Rules 11.9, 11.13 and 11.19 to make certain changes consistent with the upcoming implementation of amendments to Regulation SHO.[3]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 26, 2010, the Commission adopted amendments to Regulation SHO under the Act in the form of Rule 201,[4] pursuant to which, among other things, short sale orders in covered securities[5] generally cannot be executed or displayed by a trading center[6] such as BATS at a price that is at or below the current national best bid (''NBB'') when a short sale circuit breaker is in effect for the covered security (the ''short sale price test restriction'').[7] In anticipation of the upcoming February 28, 2011 compliance date for Rule 201, the Exchange is proposing to amend certain BATS rules to describe the manner in which the System[8] will handle short

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 242.200(g); 17 CFR 242.201.

[4] *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). In connection with the adoption of Rule 201, Rule 200(g) of Regulation SHO was also amended to include a ''short exempt'' marking requirement. The amendments to Rule 201 and Rule 200(g) have a compliance date of February 28, 2011. *See* Securities Exchange Act Release No. 63247 (Nov. 4, 2010), 75 FR 68702 (Nov. 9, 2010). *See also* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO.

[5] Rule 201(a)(1) defines the term ''covered security'' to mean any ''NMS stock'' as defined under Rule 600(b)(47) of Regulation NMS. Rule 600(b)(47) of Regulation NMS defines an ''NMS stock'' as ''any NMS security other than an option.'' Rule 600(b)(46) of Regulation NMS defines an ''NMS security'' 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 242.201(a)(1); 17 CFR 242.600(b)(46); and 17 CFR 242.600(b)(47).

[6] Rule 201(a)(9) states that the term ''trading center'' shall have the same meaning as in Rule 600(b)(78) of Regulation NMS. Rule 600(b)(78) defines a ''trading center'' as ''a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.'' 17 CFR 242.600(b)(78).

[7] 17 CFR 242.201(b)(1). *See also* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 2.1 and 2.2 (concerning the duration of a short sale price test restriction).

[8] The ''System'' is defined in BATS Rule 1.5(aa) as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.''

sell orders when a short sale price test restriction is triggered under Rule 201 of Regulation SHO. These changes include establishing a definition for "short sale price sliding," which is a new form of price sliding the Exchange proposes to offer when the amendments to Regulation SHO become operative, modifying certain BATS rules regarding order execution and routing when a short sale price test restriction is in effect, and modifying BATS rules related to order marking requirements. Additionally, the Exchange proposes to modify the definition of the current "displayed price sliding process" offered by BATS.

In order to comply with the short sale price test restriction of Regulation SHO, as amended, the Exchange proposes to offer short sale price sliding, which will be defined in BATS Rule 11.9(g). As a default, the Exchange will subject a User's [9] orders to the short sale price sliding unless they affirmatively choose to opt-out of the process. As proposed, when a User opts out of the price sliding process, any short sale order that could not be executed or displayed due to a short sale price test restriction would be rejected or cancelled by the Exchange upon entry or while resting on the order book, respectively. When a User's order is subject to the price sliding process, as proposed, orders subject to short sale price sliding that, at the time of entry, could not be executed or displayed due to a short sale price test restriction will be repriced by the System at one minimum price variation above the current NBB to comply with Rule 201(b)(1)(i).[10] An order subject to short sale price sliding will not be readjusted downward even if it could be displayed at a lower price without violation of Rule 201 of Regulation SHO. In the event the NBB changes such that the price of a non-displayed order subject to short sale price sliding would lock or cross the NBB, the order will receive a new timestamp, and will be repriced by the System at one minimum price variation above the current NBB, again in compliance with Rule 201(b)(1)(i).[11]

As proposed, neither orders marked "short exempt" nor orders displayed by the System at a price above the then current NBB at the time of initial display when a short sale price test restriction is in effect for a covered security will be subject to short sale price sliding. Certain displayed short sale orders will not be repriced by the System after entry because under Rule 201(b)(1)(iii)(A) a trading center's policies and procedures must be reasonably designed to permit the execution of short sale orders of covered securities that were displayed at a price above the current NBB at the time of initial display. "Short exempt" orders will not be repriced by the System, but instead, the Exchange will execute, display and/or route such orders without regard to the NBB or any short sale price test restriction in effect under Regulation SHO, as described below.

The Exchange currently offers a process called "displayed price sliding process," as defined in current Rule 11.9(c)(4), which re-prices and/or displays orders at permissible prices when such orders would lock or cross Protected Quotations [12] in a manner inconsistent with Rule 610(d) of Regulation NMS.[13] The Exchange proposes to rename the "displayed price sliding process" as "NMS price sliding," to be included in new paragraph (g) of Rule 11.9, and to define the "price sliding process" as inclusive of both NMS price sliding and short sale price sliding.[14] Also, consistent with the changes described above, the Exchange proposes to replace the term "displayed price sliding process" throughout its equity trading rules with the term "price sliding process." [15] As is true for displayed price sliding today and short sale price sliding as proposed, if a User chooses to opt-out of the price sliding process, the order will not be subject to NMS price sliding, and thus, the Exchange will cancel back their orders when display or execution of such orders contradict the provisions of Regulation NMS.

The Exchange also proposes a substantive change to NMS price sliding (today known as the displayed price sliding process). Under current System behavior, the Exchange cancels all non-displayed orders when the national best bid or offer ("NBBO") changes such that the non-displayed order would cross a Protected Quotation, regardless of whether the order is subject to the displayed price sliding process. Under the proposed amendment, instead of cancelling such orders, unless a User has opted out of the price sliding process, the Exchange proposes to allow a resting non-displayed order to receive a new timestamp and be repriced at the locking price in the event that the NBBO changes such that the order would cross a Protected Quotation.

The Exchange also proposes to amend its Rule 11.13 to make clear that it will execute, display and route an order consistent with Rule 201 of Regulation SHO, and that if it cannot do so, orders will be cancelled back to the applicable Exchange User. In addition, the Exchange proposes to make clear that it will not route orders away from the Exchange that are marked "short" if a short sale price test restriction is in effect. Instead, such orders, if immediate-or-cancel ("IOC") or market orders, will be cancelled, and if limit orders, will be posted to the BATS Book,[16] subject to the price sliding process.

Finally, current Rule 11.19 requires Exchange Users to identify short sale orders as "short" when entered into the Exchange's System. The Exchange proposes to add the term "short exempt" to Rule 11.19 because pursuant to amended Rule 200(g) of Regulation SHO, a broker-dealer can mark a short sale order as either "short" or "short exempt." [17] The Exchange also proposes to make clear in Rule 11.19 that if an order it received is marked "short exempt," the Exchange will execute, display and/or route the order without regard to the NBB or any short sale price test restriction in effect under Regulation SHO.[18] The Exchange also proposes to make clear, as it does in Rule 11.9(d)(1) with respect to intermarket sweep orders, that it relies on a Member's [19] marking of an order, in this case the "short exempt" marking, when handling such order. Accordingly,

[9] A "User" is defined in BATS Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

[10] Any execution or display will also need to be in compliance with applicable rules regarding minimum pricing increments. 17 CFR 242.612.

[11] *See* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A No. 4.1 (concerning un-displayed orders).

[12] As defined in BATS Rule 1.5(t), the term "Protected Quotation" means a quotation that is a Protected Bid or Protected Offer. In turn, a "Protected Bid" or "Protected Offer" shall mean a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association.

[13] 17 CFR 242.610(d).

[14] The Exchange acknowledges that potential differences can exist between Protected Bids, as defined above (*see supra* note 12), and the NBB, upon which the requirements of Regulation SHO, as amended, are based.

[15] The rules of BATS Exchange Options Market ("BATS Options") also contain references to the displayed price sliding process. The Exchange is not proposing to modify its displayed price sliding process for BATS Options at this time.

[16] As defined in BATS Rule 1.5(e).

[17] 17 CFR 242.200(g). Rule 200(g)(2) provides that a sale order shall be marked "short exempt" only if the provisions of paragraphs (c) or (d) of Rule 201 of Regulation SHO are met. *See also* Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 5.4 and 5.5.

[18] 17 CFR 242.201(b)(1)(iii)(B).

[19] A "Member" is defined in BATS Rule 1.5(n) as any registered broker or dealer that has been admitted to membership in the Exchange.

proposed Rule 11.19 states that it is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation SHO relating to marking of orders as "short exempt." [20]

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[21] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[22] because it would promote just and equitable principles of trade, and, in general, protect investors and the public interest. The Exchange believes that the proposed changes will provide clarity on the short sale order handling procedures employed by the Exchange and certain obligations of Members when sending short sale orders to the Exchange consistent with Regulation SHO, as amended. The Exchange also believes that the proposed short sale price sliding functionality and amendments to the existing displayed price sliding process will assist Users in executing or displaying their orders consistent with Regulation SHO and Regulation NMS, especially under fast moving conditions where the NBBO is quickly updating. In addition, as is currently the case, the amended price sliding process is optional to Users. Specifically, Users can choose to opt-out of the price sliding process, and if they choose to do so, the Exchange will cancel back their orders when such orders contradict the provisions of Regulation SHO or Regulation NMS.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[20] 17 CFR 242.200(g)(2). *See also* 17 CFR 242.201(c); 17 CFR 242.201(d).

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

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 up to 90 days (i) as the Commission may designate 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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BATS–2011–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BATS–2011–002. 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 changes 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. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2011–002 and should be submitted on or before February 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1986 Filed 1–28–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63767; File No. SR–BYX–2011–002]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Proposed Rule Change To Amend BYX Rules in Connection With the Implementation of Amendments to Regulation SHO

January 25, 2011.

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 January 14, 2011, BATS Y-Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend BYX Rules 11.9, 11.13 and 11.19 to make certain changes consistent with the upcoming implementation of amendments to Regulation SHO.[3]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 242.200(g); 17 CFR 242.201.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 26, 2010, the Commission adopted amendments to Regulation SHO under the Act in the form of Rule 201,[4] pursuant to which, among other things, short sale orders in covered securities [5] generally cannot be executed or displayed by a trading center [6] such as BYX at a price that is at or below the current national best bid ("NBB") when a short sale circuit breaker is in effect for the covered security (the "short sale price test restriction").[7] In anticipation of the upcoming February 28, 2011 compliance date for Rule 201, the Exchange is proposing to amend certain BYX rules to describe the manner in which the System [8] will handle short sell orders when a short sale price test restriction is triggered under Rule 201 of Regulation SHO. These changes include establishing a definition for "short sale price sliding," which is a new form of price sliding the Exchange proposes to offer when the amendments to Regulation SHO become operative, modifying certain BYX rules regarding order execution and routing when a short sale price test restriction is in effect, and modifying BYX rules related to order marking requirements. Additionally, the Exchange proposes to modify the definition of the current "displayed price sliding process" offered by BYX.

In order to comply with the short sale price test restriction of Regulation SHO, as amended, the Exchange proposes to offer short sale price sliding, which will be defined in BYX Rule 11.9(g). As a default, the Exchange will subject a User's [9] orders to the short sale price sliding unless they affirmatively choose to opt-out of the process. As proposed, when a User opts out of the price sliding process, any short sale order that could not be executed or displayed due to a short sale price test restriction would be rejected or cancelled by the Exchange upon entry or while resting on the order book, respectively. When a User's order is subject to the price sliding process, as proposed, orders subject to short sale price sliding that, at the time of entry, could not be executed or displayed due to a short sale price test restriction will be repriced by the System at one minimum price variation above the current NBB to comply with Rule 201(b)(1)(i).[10] An order subject to short sale price sliding will not be readjusted downward even if it could be displayed at a lower price without violation of Rule 201 of Regulation SHO. In the event the NBB changes such that the price of a non-displayed order subject to short sale price sliding would lock or cross the NBB, the order will receive a new timestamp, and will be repriced by the System at one minimum price variation above the current NBB, again in compliance with Rule 201(b)(1)(i).[11]

As proposed, neither orders marked "short exempt" nor orders displayed by the System at a price above the then current NBB at the time of initial display when a short sale price test restriction is in effect for a covered security will be subject to short sale price sliding. Certain displayed short sale orders will not be repriced by the System after entry because under Rule 201(b)(1)(iii)(A) a trading center's policies and procedures must be reasonably designed to permit the execution of short sale orders of covered securities that were displayed at a price above the current NBB at the time of initial display. "Short exempt" orders will not be repriced by the System, but instead, the Exchange will execute, display and/or route such orders without regard to the NBB or any short sale price test restriction in effect under Regulation SHO, as described below.

The Exchange currently offers a process called "displayed price sliding process," as defined in current Rule 11.9(c)(4), which re-prices and/or displays orders at permissible prices when such orders would lock or cross Protected Quotations [12] in a manner inconsistent with Rule 610(d) of Regulation NMS.[13] The Exchange proposes to rename the "displayed price sliding process" as "NMS price sliding," to be included in new paragraph (g) of Rule 11.9, and to define the "price sliding process" as inclusive of both NMS price sliding and short sale price sliding.[14] Also, consistent with the changes described above, the Exchange proposes to replace the term "displayed price sliding process" throughout its trading rules with the term "price sliding process." As is true for displayed price sliding today and short sale price sliding as proposed, if a User chooses to opt-out of the price sliding process, the order will not be subject to NMS price sliding, and thus, the Exchange will

[4] *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). In connection with the adoption of Rule 201, Rule 200(g) of Regulation SHO was also amended to include a "short exempt" marking requirement. The amendments to Rule 201 and Rule 200(g) have a compliance date of February 28, 2011. *See* Securities Exchange Act Release No. 63247 (Nov. 4, 2010), 75 FR 68702 (Nov. 9, 2010). *See also* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO.

[5] Rule 201(a)(1) defines the term "covered security" to mean any "NMS stock" as defined under Rule 600(b)(47) of Regulation NMS. Rule 600(b)(47) of Regulation NMS defines an "NMS stock" as "any NMS security other than an option." Rule 600(b)(46) of Regulation NMS defines an "NMS security" 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 242.201(a)(1); 17 CFR 242.600(b)(46); and 17 CFR 242.600(b)(47).

[6] Rule 201(a)(9) states that the term "trading center" shall have the same meaning as in Rule 600(b)(78) of Regulation NMS. Rule 600(b)(78) defines a "trading center" as "a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent." 17 CFR 242.600(b)(78).

[7] 17 CFR 242.201(b)(1). *See also* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 2.1 and 2.2 (concerning the duration of a short sale price test restriction).

[8] The "System" is defined in BYX Rule 1.5(aa) as "the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away."

[9] A "User" is defined in BYX Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

[10] Any execution or display will also need to be in compliance with applicable rules regarding minimum pricing increments. 17 CFR 242.612.

[11] *See* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A No. 4.1 (concerning un-displayed orders).

[12] As defined in BYX Rule 1.5(t), the term "Protected Quotation" means a quotation that is a Protected Bid or Protected Offer. In turn, a "Protected Bid" or "Protected Offer" shall mean a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association.

[13] 17 CFR 242.610(d).

[14] The Exchange acknowledges that potential differences can exist between Protected Bids, as defined above (*see supra* note 12), and the NBB, upon which the requirements of Regulation SHO, as amended, are based.

cancel back their orders when display or execution of such orders contradict the provisions of Regulation NMS.

The Exchange also proposes a substantive change to NMS price sliding (today known as the displayed price sliding process). Under current System behavior, the Exchange cancels all non-displayed orders when the national best bid or offer ("NBBO") changes such that the non-displayed order would cross a Protected Quotation, regardless of whether the order is subject to the displayed price sliding process. Under the proposed amendment, instead of cancelling such orders, unless a User has opted out of the price sliding process, the Exchange proposes to allow a resting non-displayed order to receive a new timestamp and be repriced at the locking price in the event that the NBBO changes such that the order would cross a Protected Quotation.

The Exchange also proposes to amend its Rule 11.13 to make clear that it will execute, display and route an order consistent with Rule 201 of Regulation SHO, and that if it cannot do so, orders will be cancelled back to the applicable Exchange User. In addition, the Exchange proposes to make clear that it will not route orders away from the Exchange that are marked "short" if a short sale price test restriction is in effect. Instead, such orders, if immediate-or-cancel ("IOC") or market orders, will be cancelled, and if limit orders, will be posted to the BATS Book,[15] subject to the price sliding process.

Finally, current Rule 11.19 requires Exchange Users to identify short sale orders as "short" when entered into the Exchange's System. The Exchange proposes to add the term "short exempt" to Rule 11.19 because pursuant to amended Rule 200(g) of Regulation SHO, a broker-dealer can mark a short sale order as either "short" or "short exempt."[16] The Exchange also proposes to make clear in Rule 11.19 that if an order it received is marked "short exempt," the Exchange will execute, display and/or route the order without regard to the NBB or any short sale price test restriction in effect under Regulation SHO.[17] The Exchange also proposes to make clear, as it does in Rule 11.9(d)(1) with respect to intermarket sweep orders, that it relies on a Member's [18] marking of an order, in this case the "short exempt" marking, when handling such order. Accordingly, proposed Rule 11.19 states that it is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation SHO relating to marking of orders as "short exempt." [19]

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[20] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[21] because it would promote just and equitable principles of trade, and, in general, protect investors and the public interest. The Exchange believes that the proposed changes will provide clarity on the short sale order handling procedures employed by the Exchange and certain obligations of Members when sending short sale orders to the Exchange consistent with Regulation SHO, as amended. The Exchange also believes that the proposed short sale price sliding functionality and amendments to the existing displayed price sliding process will assist Users in executing or displaying their orders consistent with Regulation SHO and Regulation NMS, especially under fast moving conditions where the NBBO is quickly updating. In addition, as is currently the case, the amended price sliding process is optional to Users. Specifically, Users can choose to opt-out of the price sliding process, and if they choose to do so, the Exchange will cancel back their orders when such orders contradict the provisions of Regulation SHO or Regulation NMS.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate 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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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–BYX–2011–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BYX–2011–002. 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 changes between the Commission and any person, other than

[15] As defined in BYX Rule 1.5(e).

[16] 17 CFR 242.200(g). Rule 200(g)(2) provides that a sale order shall be marked "short exempt" only if the provisions of paragraphs (c) or (d) of Rule 201 of Regulation SHO are met. *See also* Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 5.4 and 5.5.

[17] 17 CFR 242. 201(b)(1)(iii)(B).

[18] A "Member" is defined in BYX Rule 1.5(n) as any registered broker or dealer that has been admitted to membership in the Exchange.

[19] 17 CFR 242.200(g)(2). *See also* 17 CFR 242.201(c); 17 CFR 242.201(d).

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

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. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BYX–2011–002 and should be submitted on or before February 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1987 Filed 1–28–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63769; File No. SR–BX–2011–003]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Extending the Pilot Period To Receive Inbound Routes of Orders From Nasdaq Execution Services

January 25, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 19, 2011, NASDAQ OMX BX, Inc. ("BX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by BX. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

BX submits this proposed rule change to extend the pilot period of BX's prior approval to receive inbound routes of equities orders from Nasdaq Execution Services, LLC ("NES") through June 15, 2011.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, BX 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. BX 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

Currently, NES is the approved outbound routing facility of the NASDAQ Stock Market LLC ("NASDAQ") for cash equities, providing outbound routing from NASDAQ to other market centers.[4] BX also has been previously approved to receive inbound routes of equities orders by NES in its capacity as an order routing facility of NASDAQ on a pilot basis.[5] The Exchange hereby seeks to extend a previously approved pilot period for such inbound routing (with the attendant obligations and conditions) for an additional 6 months from the date of this filing through June 15, 2011.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(5) of the Act,[8] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the proposed rule change will allow the Exchange to continue receiving inbound routes of equities orders from NES acting in its capacity as a facility of Nasdaq, in a manner consistent with prior approvals and established protections. The Exchange believes that extending the previously approved pilot period for six months is of sufficient length to permit both the Exchange and the Commission to assess the impact of the Exchange's authority to receive direct inbound routes of equities orders via NES (including the attendant obligations and conditions).

B. Self-Regulatory Organization's Statement on Burden on Competition

BX 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.

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[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release Nos. 50311 (September 3, 2004), 69 FR 54818 (September 10, 2004) (Order Granting Application for a Temporary Conditional Exemption Pursuant To Section 36(a) of the Exchange Act by the National Association of Securities Dealers, Inc. Relating to the Acquisition of an ECN by The Nasdaq Stock Market, Inc.) and 52902 (December 7, 2005), 70 FR 73810 (December 13, 2005) (SR–NASD–2005–128) (Order Approving a Proposed Rule Change To Establish Rules Governing the Operation of the INET System). *See also* SR–NASDAQ–2011–004 (January 14, 2011); Securities Exchange Act Release Nos. 63083 (October 13, 2010), 75 FR 64370 (October 19, 2010) (SR–NASDAQ–2010–127); 62736 (August 17, 2010), 75 FR 51861 (August 23, 2010) (SR–NASDAQ–2010–100); 61682 (March 10, 2010), 75 FR 12592 (March 16, 2010) (SR–NASDAQ–2010–030); 61460 (February 1, 2010), 75 FR 6077 (February 5, 2010) (SR–NASDAQ–2010–018); 60039 (June 3, 2009), 74 FR 27365 (June 9, 2009) (SR–NASDAQ–2009–050); 59875 (May 6, 2009), 74 FR 22794 (May 14, 2009) (SR–NASDAQ–2009–043); 59807 (April 21, 2009), 74 FR 19251 (April 28, 2009) (SR–NASDAQ–2009–036); 59153 (December 23, 2008), 73 FR 80485 (December 31, 2008) (SR–NASDAQ–2008–098); 58752 (October 8, 2008), 73 FR 61181 (October 15, 2008) (SR–NASDAQ–2008–079); 58135 (July 10, 2008), 73 FR 40898 (July 16, 2008) (SR–NASDAQ–2008–061); 58069 (June 30, 2008), 73 FR 39360 (July 9, 2008) (SR–NASDAQ–2008–054); 56708 (October 26, 2007), 72 FR 61925 (November 1, 2007) (SR–NASDAQ–2007–078); 56867 (November 29, 2007), 72 FR 69263 (December 7, 2007) (SR–NASDAQ–2007–065); 55335 (February 23, 2007), 72 FR 9369 (March 1, 2007) (SR–NASDAQ–2007–005); 54613 (October 17, 2006), 71 FR 62325 (October 24, 2006) (SR–NASDAQ 2006–043); 54271 (August 3, 2006), 71 FR 45876 (August 10, 2006) (SR–NASDAQ–2006–027); and 54155 (July 14, 2006), 71 FR 41291 (July 20, 2006) (SR–NASDAQ–2006–001).

[5] *See* Securities Exchange Act Release Nos. 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BX–2008–048); 61271 (December 31, 2009), 75 FR 1102 (January 8, 2010) (SR–BX–2009–085); 61782 (March 25, 2010), 75 FR 16534 (April 1, 2010) (SR–BX–2010–021); 62528 (July 19, 2010), 75 FR 43210 (July 23, 2010) (SR–BX–2010–048).

[6] During this pilot period, the Exchange will file a separate proposal with the Commission seeking permanent approval of the BX and NES Routing Relationship.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) [9] of the Act and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[11] However, Rule 19b–4(f)(6)(iii) [12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. BX has requested that the Commission waive the 30-day operative delay. BX notes that the proposal will allow the Exchange to continue receiving inbound routes of equities orders from NES, in a manner consistent with prior approvals and established protections, while also permitting the Exchange and the Commission to assess the impact of the pilot.[13] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot period to be extended without undue delay through June 15, 2011. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BX–2011–003 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–BX–2011–003. 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 principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BX–2011–003 and should be submitted on or before February 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1988 Filed 1–28–11; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission is waiving this five-day pre-filing requirement.

[12] *Id.*

[13] *See supra* Section II.A.2.

[14] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–26367]

Motor Carrier Safety Advisory Committee; Request for Nominations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Request for Nominations to the Motor Carrier Safety Advisory Committee (MCSAC).

SUMMARY: The FMCSA solicits nominations for interested persons to serve on the MCSAC. The MCSAC is composed of FMCSA stakeholders from the safety enforcement, industry, labor, and safety sectors and is charged with providing advice and recommendations to the FMCSA Administrator on Federal motor carrier safety programs.

DATES: Nominations for the MCSAC must be received on or before March 2, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, MCSAC Liaison, FMCSA, at 202–385–2395 or via e-mail at *Shannon.Watson@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, August 10, 2005) required the Secretary of Transportation to establish the MCSAC. The Committee provides advice and recommendations to the Administrator of FMCSA on the needs, objectives, plans, approaches, content, and accomplishments of motor carrier safety programs and motor carrier safety regulations under its charter (*http://mcsac/about.htm*). The Committee may be comprised of not more than 20 members appointed by the Administrator for up to 2-year terms. Members are selected from among individuals who are not employees of FMCSA and who are specially qualified to serve on the Committee based on their education, training, or experience. Currently, the members include representatives of the motor carrier

industry, shipping industry, safety advocates, labor, and safety enforcement officials. Representatives of a single enumerated interest group may not constitute a majority of the Committee members. The Administrator designates a chairman of the Committee from among the members.

Committee members must not be officers or employees of the Federal Government and serve without pay. The Administrator may allow a member, when attending meetings of the Committee or a subcommittee, reimbursement of expenses authorized under Section 5703 of Title 5, United States Code and the Federal Travel Regulation, 41 CFR part 301, relating to per diem, travel, and transportation.

The President's Memorandum of June 18, 2010, concerning lobbyists on Agency boards and commissions (75 FR 35995, 6/23/10) directed the heads of Executive departments and agencies "not to make any new appointments or reappointments of federally registered lobbyists to advisory committees and other boards and commissions." Pursuant to the President's directive, FMCSA will not consider for appointment to the MCSAC any individual who is subject to the registration and reporting requirements of the Lobbying Disclosure Act (2 U.S.C. 1605).

The Designated Federal Officer anticipates calling Committee meetings approximately four times each year. Meetings are open to the general public, except as provided under the Federal Advisory Committee Act (FACA) (5 U.S.C. App.). Notice of each meeting is published in the **Federal Register** at least 15 calendar days prior to the date of the meeting.

II. Request for Nominations

The FMCSA seeks nominations for membership to the MCSAC from among its stakeholder groups for representatives with specialized experience, education, or training in commercial motor vehicle safety issues. The Agency is required under FACA to appoint members of diverse views and interests to ensure the committee is balanced with appropriate consideration of background. All Committee members must be able to attend at least three to four meetings each year in person or by teleconference. Interested persons should have a commitment to transportation safety, knowledge of transportation issues, experience on panels that deal with transportation safety, and a record of collaboration and professional experience in commercial motor vehicle safety issues.

On-line applications will be accepted for positions on the MCSAC. Applications may be obtained from the MCSAC Web site at *http://mcsac.fmcsa.dot.gov/,* completed on-line, and e-mailed to Shannon L. Watson, MCSAC liaison, at *Shannon.Watson@dot.gov.* The Web site contains additional information on the MCSAC, including reports, meeting minutes, and membership information.

Nominations must be received on or before March 2, 2011.

Issued on: January 21, 2011.

Anne S. Ferro,

Administrator.

[FR Doc. 2011–2104 Filed 1–28–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0385]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 24 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision standard. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective January 31, 2011. The exemptions expire on January 31, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202)–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

Background

On December 14, 2010, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (75 FR 77942). That notice listed 24 applicants' case histories. The 24 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 24 applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or

without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 24 exemption applicants listed in this notice are in this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, complete loss of vision, retinal detachment, macular degeneration, aphakia, corneal scarring, traumatic neuropathy, optic neuropathy, macular scarring, displaced pupil, and prosthesis. In most cases, their eye conditions were not recently developed. 17 of the applicants were either born with their vision impairments or have had them since childhood. The 7 individuals who sustained their vision conditions as adults have had them for periods ranging from 9 to 45 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. While possessing a valid CDL or non-CDL, these 24 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3½ to 50 years. In the past 3 years, 6 of the drivers were involved in crashes or convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the December 14, 2010 notice (75 FR 77942).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (*See* 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (*See* Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 24 applicants, four of the applicants were convicted for a moving violation and three of the applicants were involved in a crash. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate

commerce. Consequently, FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 24 applicants listed in the notice of December 14, 2010 (75 FR 77942).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 24 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and discussed below.

The Pennsylvania Department of Transportation stated that it was in favor of granting a Federal vision exemption to Bobby Sawyers.

Conclusion

Based upon its evaluation of the 24 exemption applications, FMCSA exempts, Gary S. Alvarez, Wayne D. Bost, James M. Brasher, Marcus L. Conner, Joseph L. Dahlman, Brett K. Hasty, Fredrick A. Irby, Matthew B. Lairamore, Garry D. Layton, Boynton L. Manuel, Anthony W. Miller, Wesley G. Moore, Rocky Moorhead, Gary J. Peterson, Bernard J. Phillips, Michael J. Roberts, Alvaro F. Rodriguez, Bobby W. Sawyers, Lynn R. Schraeder, John R. Shaver, Myron A. Smith, Ricky L. Watts, Cameron R. Whitford, and Olen L. Williams, Jr. from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: January 26, 2011.

Larry W. Minor,

Associate Administrator, Office of Policy.

[FR Doc. 2011–2091 Filed 1–28–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

TIGGER and Clean Fuels Grant Program Funds

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: TIGGER and Clean Fuels Grant Program Announcement of Project Selections.

SUMMARY: The U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the selection of projects funded in support of the Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) program and Clean Fuels Grant program which is enhanced with Section 5309 Bus and Bus Facilities program funds. This funding supports the U.S. Department of Transportation's environmental sustainability efforts, which were announced in FTA's notice of funding availability (NOFA) on April 13, 2010. The TIGGER program makes funds available for capital investments that will reduce the energy consumption or greenhouse gas emissions of public transportation systems. The Clean Fuels Grant program makes funds available to assist nonattainment and maintenance areas in achieving or maintaining the National Ambient Air Quality Standards for ozone and carbon monoxide and supports emerging clean fuel and advanced propulsion technologies for transit buses and markets for those technologies.

FOR FURTHER INFORMATION CONTACT: Successful applicants should contact the appropriate FTA Regional office (Appendix) for specific information regarding applying for the funds or proposal specific questions. For general program information on TIGGER, contact Walter Kulyk, Office of Mobility Innovation, (202) 366–4995, *e-mail: walter.kulyk@dot.gov.* For general program information on the Clean Fuels Grant program, contact Vanessa Williams, Office of Program Management, at (202) 366–4818, *e-mail: vanessa.williams@dot.gov.*

SUPPLEMENTARY INFORMATION: A total of $75 million was available for FTA's TIGGER program and $81 million for the Clean Fuels Grant program. In response to the NOFA, FTA received a total of 274 proposals requesting over $1.4 billion in program funds. The project proposals were evaluated based on the criteria detailed in the April 13, 2010 Notice of Funding Availability. Projects funded with Clean Fuels Grant and Bus program funds are included in Table 1. Projects funded with the TIGGER program funds are included in Table 2. Grantees selected for competitive discretionary funding should work with their FTA regional office to finalize the application in FTA's Transportation Electronic Award Management (TEAM) system, so that funds can be obligated expeditiously. Funds must be used for the purposes specified in the competitive application. Clean Fuels and Bus projects can be funded at up to 83 percent Federal share for eligible vehicle purchases. The 83 percent share is a blended figure representing 80 percent of the vehicle and 90 percent of the vehicle-related equipment to be acquired in compliance with the Clean Air Act. The 83 percent share does not apply to facilities, for which the costs are more variable. The eligibility of facility-related cost element at the 90 percent share will be reviewed for eligibility of the higher Federal share on a case-by-case basis as part of the grant application process. The FY 2010 Appropriations Act allows a 90 percent Federal share for total cost of a biodiesel bus and 90 percent Federal share for the net capital cost of factory installed hybrid electric propulsion systems and any equipment related to such a system. TIGGER projects can be funded at up to 100 percent Federal share. A discretionary project identification number has been assigned to each project for tracking purposes and must be used in the TEAM application. Selected projects have pre-award

authority as of November 4, 2010. Post-award reporting requirements include submission of the Financial Federal Report and Milestone reports in TEAM as appropriate (see FTA.C.5010.1D). Recipients of TIGGER funds must report on an annual basis: (1) Actual annual energy consumed within the project scope attributable to the investment for the energy consumption projects; (2) actual greenhouse gas emissions within the project scope attributable to the investment for greenhouse gas reduction projects; and, (3) actual annual reductions or increase in operating costs to the investment for all projects.

The grantee must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out the project supported by the FTA grant. The Clean Fuels Grant and Bus program funds allocated in this announcement must be obligated in a grant by September 30, 2013. The TIGGER funds allocated in this announcement must be obligated by September 30, 2012.

Issued in Washington, DC, this 26th day of January, 2011.

Peter Rogoff,

Administrator.

Appendix

FTA Regional and Metropolitan Offices

Mary E. Mello, Regional Administrator, Region 1—Boston, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, Tel. 617–494–2055. States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.	Robert C. Patrick, Regional Administrator, Region 6—Ft. Worth, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, Tel. 817–978–0550. States served: Arkansas, Louisiana, Oklahoma, New Mexico and Texas.
Brigid Hynes-Cherin, Regional Administrator, Region 2—New York, One Bowling Green, Room 429, New York, NY 10004–1415, Tel. 212–668–2170. States served: New Jersey, New York ..... New York Metropolitan Office, Region 2—New York, One Bowling Green, Room 428, New York, NY 10004–1415, Tel. 212–668–2202.	Mokhtee Ahmad, Regional Administrator, Region 7—Kansas City, MO, 901 Locust Street, Room 404, Kansas City, MO 64106, Tel. 816–329–3920. States served: Iowa, Kansas, Missouri, and Nebraska.
Letitia Thompson, Regional Administrator, Region 3—Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7100. States served: Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and District of Columbia. Philadelphia Metropolitan Office, Region 3—Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7070. Washington, D.C. Metropolitan Office, 1990 K Street, NW., Room 510, Washington, DC 20006, Tel. 202–219–3562.	Terry Rosapep, Regional Administrator, Region 8—Denver, 12300 West Dakota Ave., Suite 310, Lakewood, CO 80228–2583, Tel. 720–963–3300. States served: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
Yvette Taylor, Regional Administrator, Region 4—Atlanta, 230 Peachtreet Street, NW., Suite 800, Atlanta, GA 30303, Tel. 404–865–5600. States served: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands.	Leslie T. Rogers, Regional Administrator, Region 9—San Francisco, 201 Mission Street, Room 1650, San Francisco, CA 94105–1926, Tel. 415–744–3133. States served: American Samoa, Arizona, California, Guam, Hawaii, Nevada, and the Northern Mariana Islands. Los Angeles Metropolitan Office, Region 9—Los Angeles, 888 S. Figueroa Street, Suite 1850, Los Angeles, CA 90017–1850, Tel. 213–202–3952.
Marisol Simon, Regional Administrator, Region 5—Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789. States served: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. Chicago Metropolitan Office, Region 5—Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789.	Rick Krochalis, Regional Administrator, Region 10—Seattle, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002, Tel. 206–220–7954. States served: Alaska, Idaho, Oregon, and Washington.

BILLING CODE 5001–P

Table I

CLEAN FUELS AND BUS AND BUS FACILITIES PROJECT SELECTIONS

State	Project ID	Recipient	Project Description	Allocation
AZ	D2009-CLNF-001	City of Tucson	Hybrid Buses	$5,000,000
AZ	D2009-CLNF-002	Navajo Transit System	Electric Buses	$2,000,000
AZ	D2009-CLNF-003	City of Phoenix	Hybrid Drive Systems For New Buses	$3,710,235
CA	D2009-CLNF-004	Anaheim Transportation Network	CNG Buses	$1,700,500
CA	D2009-CLNF-005	City of Fresno	Electric Buses/Recharge Station	$1,896,600
CA	D2009-CLNF-006	City of Los Angeles	CNG Fueling Facility	$3,001,810
CA	D2009-CLNF-007	San Diego Metropolitan Transit System	CNG Fueling Station Upgrades	$1,564,522
CA	D2009-CLNF-008	City of Visalia	Hybrid Buses/CNG Trolleys	$3,187,200
CT	D2009-CLNF-009	Connecticut Department of Transportation	Hybrid Buses	$2,300,000
DE	D2009-CLNF-010	Delaware Transit Corporation	Hybrid Bus Replacement	$3,706,780
FL	D2010-CLNF-001	Jacksonville Transportation Authority	Hybrid Bus Replacement	$4,000,000
GA	D2010-CLNF-002	Metropolitan Atlanta Rapid Transit Authority	Retrofit Of Buses With Lithium-ion Batteries	$840,000
IA	D2010-BUSP-08001	City of Ames	Purchase Of Bio-Diesel Articulated Buses	$1,256,940
IA	D2010-BUSP-08002	City of Dubuque	Clean Fuel/Hybrid Vehicles	$1,500,000
IL	D2010-CLNF-003	Illinois Department of Transportation	Hybrid Buses	$5,000,000
IN	D2010-CLNF-004	Fort Wayne Public Transportation Corp	Hybrid Buses	$2,000,000
KY	D2010-CLNF-005	Transit Authority of River City	Hybrid Bus Program	$3,975,740
MD	D2010-CLNF-006	Maryland Department of Transportation	Diesel Bus Engine Replacements	$1,365,504
MI	D2010-CLNF-007	Ann Arbor Transportation Authority	Hybrid Buses	$1,697,350
MI	D2009-CLNF-011	Blue Water Area Transportation Commission	CNG Compressor Skid Replacement	$432,000
MI	D2009-CLNF-012	Blue Water Area Transportation Commission	Portable CNG Refueling Stations	$891,000
MO	D2010-CLNF-008	Bi-State Development Agency of the Missouri-Illinois Metropolitan District	Replacement Buses	$4,000,000
NC	D2009-CLNF-013	City of Charlotte	Paratransit Buses	$421,580
NY	D2010-CLNF-009	New York Metropolitan Transportation Authority	CNG Fueling Facility	$5,810,000
OH	D2010-CLNF-010	Greater Dayton Regional Transit Authority	Hybrid Buses	$1,909,000
OH	D2010-CLNF-011	Southwest Ohio Regional Transit Authority	Hybrid Buses	$2,334,492
OK	D2010-BUSP-08003	Metropolitan Tulsa Transit Authority	CNG Fueling Station	$2,500,000
OR	D2010-CLNF-012	Lane Transit District	Hybrid Buses	$3,320,275
PA	D2010-CLNF-013	County of Lackawanna Transit System	Hybrid Buses	$2,500,000
SC	D2010-BUSP-08004	Pee Dee Regional Transportation Authority	Hybrid Buses	$3,200,000
TN	D2009-CLNF-015 ($55,773) and D2010-CLNF-014 ($635,967)	First TN Human Resource Agency	Biofuel Vehicles For Paratransit	$691,740
TX	D2010-CLNF-015	Galveston (Island Transit)	Clean Diesel Buses	$1,514,750
TX	D2010-CLNF-016	Metropolitan Transit Authority of Harris County	Hybrid Buses	$2,232,817
UT	D2010-CLNF-017	Utah Transit Authority (UTA)	Hybrid Buses/Equipment	$2,000,000
WA	D2010-CLNF-018	King County	Hybrid Buses	$6,056,100
WA	D2010-CLNF-019	Stillaguamish Tribe of Indians	Hybrid Vehicles	$200,860
			Total	$89,717,795

Table II

TIGGER II PROJECT SELECTIONS

State	Project ID	Recipient	Project Description	Allocation
AK	D2010-GGER-001	Alaska Railroad Corporation	Locomotive upgrades to reduce diesel emissions	$1,035,000
CA	D2010-GGER-002	Alameda-Contra Costa Transit District	Advancing heavy-duty fuel cell technology towards commercial viability	$6,000,000
CA	D2010-GGER-003	Mendocino Transit Authority	To reduce energy consumption and emissions by using solar energy.	$470,000
CA	D2010-GGER-004	Foothill Transit	Fast-Charge Electric Transit Bus Project, Line 291	$10,170,000
CO	D2010-GGER-005	State of Colorado	A fast-close garage door will cut natural gas use while LED lights save additional energy	$73,936
FL	D2010-GGER-006	City of Tallahassee	Deployment of zero emission electric buses at StarMetro in Tallahassee	$5,241,003
HI	D2010-GGER-007	City & County of Honolulu Department of Transportation Services	Honolulu will acquire turbine-electric buses to use as circulator buses	$5,061,000
IL	D2010-GGER-008	Illinois Department of Transportation (IDOT)	A model use of hybrid paratransit buses for Illinois	$144,000
IL	D2010-GGER-009	Chicago Transit Authority	CTA will purchase all electric battery-powered buses	$2,210,490
IL	D2010-GGER-010	Illinois Department of Transportation (IDOT)	Modifying locomotives to include an automatic shut-down/start-up system to reduce emissions	$341,694
KY	D2010-GGER-011	Transit Authority of River City	Energy efficiency improvements to historic Union Station	$2,658,600
MA	D2010-GGER-012	Montachusett Regional Transit Authority	Implements a Transit Energy Management Model for renewable resources	$1,687,500
MD	D2010-GGER-013	Maryland Department of Transportation	Introduce clean and efficient electric buses on Howard Transit	$3,777,826
MI	D2010-GGER-014	Suburban Mobility Authority for Regional Transportation	SMART will collaborate to develop light-weight, fuel efficient vehicles	$2,000,000
MN	D2010-GGER-015	Metropolitan Council (Metro Transit)	This project will reduce Metro Transit's bus and building energy usage.	$1,200,000
MN	D2010-GGER-016	Metropolitan Council/Metro Transit	Project reduces greenhouse gas emissions via geothermal heating versus gas combustion	$1,200,000
NC	D2010-GGER-017	City of Charlotte - Charlotte Area Transit System (CATS)	Adds solar power technology to reduce energy use, costs, and prepare for electric drive fleet	$1,000,000
NJ	D2010-GGER-018	NJ TRANSIT	NJ TRANSIT to install energy efficient electric rail switch heaters	$2,484,766
NV	D2010-GGER-019	Regional Transportation Commission of Washoe County	Use of zero emission buses on a downtown circulator route in Reno	$4,650,523

Table II

TIGGER II PROJECT SELECTIONS

State	Project ID	Recipient	Project Description	Allocation
NY	D2010-GGER-020	New York State Metropolitan Transportation Authority	Incorporates wayside energy storage into the New York City subway system	$4,000,000
OH	D2010-GGER-021	Southwest Ohio Regional Transit Authority	Facility improvements for energy conservation and emissions reduction	$776,418
OR	D2010-GGER-022	Tri-County Metropolitan Transportation District of Oregon	Install energy storage units to capture approximately 100% of the braking power on light rail vehicles.	$4,200,000
PA	D2010-GGER-023	PennDOT Bureau of Public Transportation	To reduce greenhouse gas emissions by improving transit vehicle efficiency	$5,000,000
RI	D2010-GGER-024	Rhode Island Public Transit Authority	To reduce energy consumption through installation of solar technologies	$1,200,000
WA	D2010-GGER-025	King County Department of Transportation	Acquire an all electric bus to test viability in operating environment	$4,761,900
WA	D2010-GGER-026	Seattle Department of Transportation	Meet high energy efficiency standards while maintaining historic character of King Street Station	$2,555,344
WV	D2010-GGER-027	Monongalia County Urban Mass Transit Authority d.b.a. Mountain Line Transit Authority	Design and installation of a solar power station	$1,100,000
			Total	$75,000,000

[FR Doc. 2011–2107 Filed 1–28–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. RR 999 (Amendment No. 5)]

Released Rates of Motor Common Carriers of Household Goods

AGENCY: Surface Transportation Board.

ACTION: Notice, request for comments.

SUMMARY: The Surface Transportation Board seeks written public comments and evidence on the average per-pound replacement value for household goods that are lost or damaged while in the care of a moving company.

DATES: Comments are due on or before March 15, 2011.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's website at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies referring to Docket No. RR 999 (Amendment No. 5) to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION, CONTACT: Julia Farr (202) 245–0359. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Board issued a decision in this proceeding on January 21, 2011. In that decision, the Board, following notice and comment, adopted certain changes concerning the responsibility of interstate moving companies to pay for damage to or loss of customers' household goods and required the moving companies to amend particular documents they provide to consumers. The decision is available on the Board's Web site at *http://www.stb.dot.gov.* The Board seeks comment on one aspect of that decision: The calculation of replacement value of household goods when the consumer elects to have the moving company assume liability for the replacement value of the consumer's goods but neglects to write in the total value for the shipment.

Unless otherwise agreed to, a moving company is liable for the cost to replace lost or damaged goods, up to a total value stated by the consumer. For instance, if the consumer stated that the shipment had a value of $200,000, and the entire shipment were destroyed, the moving company would be liable for a $200,000. However, if a consumer does not indicate a total value for the shipment, the Board's decision would require the moving company to be liable for the greater of (1) $6,000 or (2) $6.00 per pound of the lost or destroyed item(s). The $6.00-per-pound figure is meant to represent the replacement value of an average shipment of household goods. The Board seeks comments and evidence concerning this figure, particularly whether some other figure would more closely represent the average per-pound value of household goods in an interstate move. Any interested person may submit comments or evidence. If no evidence or comments are received on this issue, the Board's decision establishing the $6.00-per-pound limit will become effective on April 1, 2011.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: January 26, 2011.

By the Board, Chairman Elliott, Vice Chairman Nottingham, and Commissioner Mulvey.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–2019 Filed 1–28–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Publication of FY 2010 Service Contract Inventory

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of publication of Fiscal Year 2010 Service Contract Inventory.

SUMMARY: The Department of the Treasury Fiscal Year (FY) 2010 Service Contract Inventory is available to the public at *http://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-the-Procurement-Executive.aspx* under Key Topics. The inventory lists all service contract actions over $25,000 awarded in FY 2010 and funded by Treasury, to include contract actions made on the Department's behalf by other agencies. Contract actions awarded by the Department on another agency's behalf with the other agency's funding are excluded.

FOR FURTHER INFORMATION CONTACT: Cathy Higginbotham, Office of the Procurement Executive, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, at (202) 622–6585 or *ootpe@do.treas.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, Public Law (Pub. L.) 111–117, agencies required to submit an inventory in accordance with the Federal Activities Inventory Reform Act of 1998 (Pub. L. 105–270; 31 U.S.C. 501 note), other than the Department of Defense, shall also prepare an annual service contract inventory. Treasury submitted its inventory to the Office of Management and Budget (OMB) on December 20, 2010.

Analysis of inventory data will be used to assist the Department in determining if contract labor is being used in an appropriate and effective manner, if the mix of federal employees and contractors in the Department is effectively balanced, if contract performance is satisfactory, and what, if any, actions should be taken to correct or mitigate any issues identified. A report of analyses conducted and resulting actions taken will be submitted to OMB by December 30, 2011.

Alastair Fitzpayne,

Executive Secretary.

[FR Doc. 2011–2116 Filed 1–28–11; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

United Western Bank Denver, Colorado; Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Federal Deposit Insurance Corporation as sole Receiver for United Western Bank, Denver, Colorado, (OTS No. 06679) on January 21, 2011.

Dated: January 24, 2011.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison.

[FR Doc. 2011–1864 Filed 1–28–11; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property at the Charlie Norwood VA Medical Center (VAMC) in Augusta, GA

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Intent to Enter into an Enhanced-Use Lease.

SUMMARY: The Secretary of VA intends to enter into an EUL on an 11.5-acre parcel of land at the Charlie Norwood VAMC. The selected lessee will finance, design, develop, renovate, manage, maintain and operate the EUL development. As consideration for the lease, the lessee will be required to renovate, operate, and maintain a transitional and permanent housing facility; provide preference and priority placement for homeless Veterans and Veterans at risk of homelessness; and provide a supportive services program that guides resident Veterans toward attaining long-term self-sufficiency.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: January 24, 2011.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

[FR Doc. 2011–2003 Filed 1–28–11; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 76 Monday,
No. 20 January 31, 2011

Part II

Readers Aid

Cumulative List of Public Laws
111th Congress, Second Session

CUMULATIVE LIST OF PUBLIC LAWS

This is the cumulative list of public laws for the 111th Congress, Second Session. This will be the last cumulative list of public laws to appear in the **FEDERAL REGISTER**.

Past and future cumulative lists (1993–2009) are and will be available online at *http://www.archives.gov/federal-register/laws/past/index.html.* Comments may be addressed to the Director, Office of the Federal Register, Washington, DC 20408 or send e-mail to info@nara.fedreg.gov.

The text of laws may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at *http://www.gpoacess.gov/plaws/index.html.* Some laws may not yet be available online or for purchase.

Public Law	Title	Approved	124 Stat.
111–126	To accelerate the income tax benefits for charitable cash contributions for the relief of victims of the earthquake in Haiti.	Jan. 22, 2010	3
111–127*	Emergency Aid to American Survivors of the Haiti Earthquake Act	Jan. 27, 2010	4
111–136*	To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.	Jan. 29, 2010	6
111–138	To provide that claims of the United States to certain documents relating to Franklin Delano Roosevelt shall be treated as waived and relinquished in certain circumstances.	Feb. 1, 2010	7
111–139	Increasing the statutory limit on the public debt	Feb. 12, 2010	8
111–140	Nuclear Forensics and Attribution Act	Feb. 16, 2010	31
111–141	To extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004 until February 28, 2011.	Feb. 27, 2010	37
111–142	Social Security Disability Applicants' Access to Professional Representation Act of 2010	Feb. 27, 2010	38
111–143	Criminal History Background Checks Pilot Extension Act of 2009	Mar. 1, 2010	41
111–144	Temporary Extension Act of 2010	Mar. 2, 2010	42
111–145	United States Capitol Police Administrative Technical Corrections Act of 2009	Mar. 4, 2010	49
111–146	Trademark Technical and Conforming Amendment Act of 2010	Mar. 17, 2010	66
111–147	Hiring Incentives to Restore Employment Act	Mar. 18, 2010	71
111–148	Patient Protection and Affordable Care Act	Mar. 23, 2010	119
111–149	To amend the North American Wetlands Conservation Act to establish requirements regarding payment of the non-Federal share of the costs of wetlands conservation projects in Canada that are funded under that Act, and for other purposes.	Mar. 25, 2010	1025
111–150	To permit the use of previously appropriated funds to extend the Small Business Loan Guarantee Program, and for other purposes.	Mar. 26, 2010	1026
111–151	Satellite Television Extension Act of 2010	Mar. 26, 2010	1027
111–152	Health Care and Education Reconciliation Act of 2010	Mar. 30, 2010	1029
111–153	Federal Aviation Administration Extension Act of 2010	Mar. 31, 2010	1084
111–154	Prevent All Cigarette Trafficking Act of 2009	Mar. 31, 2010	1087
111–155	Prevent Deceptive Census Look Alike Mailings Act	Apr. 7, 2010	1112
111–156	Recognizing and honoring the Blinded Veterans Association on its 65th anniversary of representing blinded veterans and their families.	Apr. 7, 2010	1114
111–157	Continuing Extension Act of 2010	Apr. 15, 2010	1116
111–158	Haiti Debt Relief and Earthquake Recovery Act of 2010	Apr. 26, 2010	1121
111–159	TRICARE Affirmation Act	Apr. 26, 2010	1123
111–160	Granting the consent and approval of Congress to amendments made by the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.	Apr. 26, 2010	1124
111–161	Airport and Airway Extension Act of 2010	Apr. 30, 2010	1126
111–162	To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.	Apr. 30, 2010	1129
111–163	Caregivers and Veterans Omnibus Health Services Act of 2010	May 5, 2010	1130
111–164	To designate the Department of Veterans Affairs blind rehabilitation center in Long Beach, California, as the ''Major Charles Robert Soltes, Jr., O.D. Department of Veterans Affairs Blind Rehabilitation Center''.	May 7, 2010	1184
111–165	To provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2011.	May 14, 2010	1185
111–166	Daniel Pearl Freedom of the Press Act of 2009	May 17, 2010	1186
111–167	Blue Ridge Parkway and Town of Blowing Rock Land Exchange Act of 2009	May 24, 2010	1188
111–168	To provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909.	May 24, 2010	1190
111–169	To provide for an extension of the legislative authority of the Adams Memorial Foundation to establish a commemorative work in honor of former President John Adams and his legacy, and for other purposes.	May 24, 2010	1192
111–170	To amend title 39, United States Code, to clarify the instances in which the term ''census'' may appear on mailable matter.	May 24, 2010	1193
111–171	Haiti Economic Lift Program Act of 2010	May 24, 2010	1194
111–172	Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009	May 24, 2010	1209
111–173	To clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage.	May 27, 2010	1215
111–174	Federal Judiciary Administrative Improvements Act of 2010	May 27, 2010	1216
111–175	Satellite Television Extension and Localism Act of 2010	May 27, 2010	1218
111–176	To designate the United States Department of the Interior Building in Washington, District of Columbia, as the ''Stewart Lee Udall Department of the Interior Building''.	June 8, 2010	1259
111–177	Extending Immunities to the Office of the High Representative in Bosnia and Herzegovina and the International Civilian Office in Kosovo Act of 2010.	June 8, 2010	1260

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111–178	Special Agent Samuel Hicks Families of Fallen Heroes Act	June 9, 2010	1262
111–179	To designate the facility of the United States Postal Service located at 1210 West Main Street in Riverhead, New York, as the ''Private First Class Garfield M. Langhorn Post Office Building''.	June 9, 2010	1264
111–180	To designate the facility of the United States Postal Service located at 109 Main Street in Swifton, Arkansas, as the ''George Kell Post Office''.	June 9, 2010	1265
111–181	To designate the facility of the United States Postal Service located at 101 West Highway 64 Bypass in Roper, North Carolina, as the ''E.V. Wilkins Post Office''.	June 9, 2010	1266
111–182	To designate the facility of the United States Postal Service located at 43 Maple Avenue in Shrewsbury, Massachusetts, as the ''Ann Marie Blute Post Office''.	June 9, 2010	1267
111–183	To designate the facility of the United States Postal Service located at 9727 Antioch Road in Overland Park, Kansas, as the ''Congresswoman Jan Meyers Post Office Building''.	June 9, 2010	1268
111–184	To designate the facility of the United States Postal Service located at 7464 Highway 503 in Hickory, Mississippi, as the ''Sergeant Matthew L. Ingram Post Office''.	June 9, 2010	1269
111–185	To designate the facility of the United States Postal Service located at 45300 Portola Avenue in Palm Desert, California, as the ''Roy Wilson Post Office''.	June 9, 2010	1270
111–186	To designate the facility of the United States Postal Service located at 930 39th Avenue in Greeley, Colorado, as the ''W.D. Farr Post Office Building''.	June 9, 2010	1271
111–187	To designate the facility of the United States Postal Service located at 2–116th Street in North Troy, New York, as the ''Martin G. 'Marty' Mahar Post Office''.	June 9, 2010	1272
111–188	To designate the facility of the United States Postal Service located at 119 Station Road in Cheyney, Pennsylvania, as the ''Captain Luther H. Smith, U.S. Army Air Forces Post Office''.	June 9, 2010	1273
111–189	To designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the ''Sergeant Christopher R. Hrbek Post Office Building''.	June 9, 2010	1274
111–190	To amend the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such Act, and for other purposes.	June 9, 2010	1275
111–191	To amend the Oil Pollution Act of 1990 to authorize advances from Oil Spill Liability Trust Fund for the Deepwater Horizon oil spill.	June 15, 2010	1278
111–192	Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010	June 25, 2010	1280
111–193	To designate the facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the ''Roy Rondeno, Sr. Post Office Building''.	June 28, 2010	1308
111–194	To provide for the reconsideration and revision of the proposed constitution of the United States Virgin Islands to correct provisions inconsistent with the Constitution and Federal law.	June 30, 2010	1309
111–195	Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010	July 1, 2010	1312
111–196	National Flood Insurance Program Extension Act of 2010	July 2, 2010	1352
111–197	Airport and Airway Extension Act of 2010, Part II	July 2, 2010	1353
111–198	Homebuyer Assistance and Improvement Act of 2010	July 2, 2010	1356
111–199	Formaldehyde Standards for Composite Wood Products Act	July 7, 2010	1359
111–200	Congressional Award Program Reauthorization Act of 2009	July 7, 2010	1368
111–201	Recognizing the 60th anniversary of the outbreak of the Korean War and reaffirming the United States-Korea alliance.	July 7, 2010	1371
111–202	To permanently authorize Radio Free Asia, and for other purposes	July 13, 2010	1373
111–203	Dodd-Frank Wall Street Reform and Consumer Protection Act	July 21, 2010	1376
111–204	Improper Payments Elimination and Recovery Act of 2010	July 22, 2010	2224
111–205	Unemployment Compensation Extension Act of 2010	July 22, 2010	2236
111–206	Shasta-Trinity National Forest Administrative Jurisdiction Transfer Act	July 27, 2010	2240
111–207	Cruise Vessel Security and Safety Act of 2010	July 27, 2010	2243
111–208	To designate the facility of the United States Postal Service located at 1981 Cleveland Avenue in Columbus, Ohio, as the ''Clarence D. Lumpkin Post Office''.	July 27, 2010	2253
111–209	To amend the effective date of the gift card provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009.	July 27, 2010	2254
111–210	Approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.	July 27, 2010	2256
111–211	To protect Indian arts and crafts through the improvement of applicable criminal proceedings, and for other purposes.	July 29, 2010	2258
111–212	Supplemental Appropriations Act, 2010	July 29, 2010	2302
111–213	Independent Living Centers Technical Adjustment Act	July 29, 2010	2343
111–214	To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.	July 30, 2010	2346
111–215	To modify the date on which the Administrator of the Environmental Protection Agency and applicable States may require permits for discharges from certain vessels.	July 30, 2010	2347
111–216	Airline Safety and Federal Aviation Administration Extension Act of 2010	Aug. 1, 2010	2348
111–217	To designate the facility of the United States Postal Service located at 1343 West Irving Park Road in Chicago, Illinois, as the ''Steve Goodman Post Office Building''.	Aug. 3, 2010	2369
111–218	To designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the ''Zachary Smith Post Office Building''.	Aug. 3, 2010	2370
111–219	To designate the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the ''Michael C. Rothberg Post Office''.	Aug. 3, 2010	2371
111–220	Fair Sentencing Act of 2010	Aug. 3, 2010	2372
111–221	National September 11 Memorial & Museum Commemorative Medal Act of 2010	Aug. 6, 2010	2376
111–222	To amend the National Law Enforcement Museum Act to extend the termination date	Aug. 6, 2010	2379
111–223	Securing the Protection of our Enduring and Established Constitutional Heritage Act	Aug. 10, 2010	2380
111–224	United States Patent and Trademark Office Supplemental Appropriations Act, 2010	Aug. 10, 2010	2385
111–225	Cell Phone Contraband Act of 2010	Aug. 10, 2010	2387
111–226	To modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.	Aug. 10, 2010	2389
111–227	United States Manufacturing Enhancement Act of 2010	Aug. 11, 2010	2409
111–228	General and Special Risk Insurance Funds Availability Act of 2010	Aug. 11, 2010	2482

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111–229	To increase the flexibility of the Secretary of Housing and Urban Development with respect to the amount of premiums charged for FHA single family housing mortgage insurance, and for other purposes.	Aug. 11, 2010	2483
111–230	Making emergency supplemental appropriations for border security for the fiscal year ending September 30, 2010, and for other purposes.	Aug. 13, 2010	2485
111–231	To authorize the Secretary of Agriculture to terminate certain easements held by the Secretary on land owned by the Village of Caseyville, Illinois, and to terminate associated contractual arrangements with the Village.	Aug. 16, 2010	2489
111–232	Star-Spangled Banner Commemorative Coin Act	Aug. 16, 2010	2490
111–233	Agricultural Credit Act of 2010	Aug. 16, 2010	2493
111–234	To designate the annex building under construction for the Elbert P. Tuttle United States Court of Appeals Building in Atlanta, Georgia, as the ''John C. Godbold Federal Building''.	Aug. 16, 2010	2494
111–235	To designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the ''President Ronald W. Reagan Post Office Building''.	Aug. 16, 2010	2495
111–236	To designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the ''Paula Hawkins Post Office Building''.	Aug. 16, 2010	2496
111–237	Firearms Excise Tax Improvement Act of 2010	Aug. 16, 2010	2497
111–238	To amend the National Defense Authorization Act for Fiscal Year 2010 to extend the authority of the Secretary of the Navy to enter into multiyear contracts for F/A–18E, F/A–18F, and EA–18G aircraft.	Sept. 27, 2010	2500
111–239	Mandatory Price Reporting Act of 2010	Sept. 27, 2010	2501
111–240	Small Business Jobs Act of 2010	Sept. 27, 2010	2504
111–241	Multinational Species Conservation Funds Semipostal Stamp Act of 2010	Sept. 30, 2010	2605
111–242	Continuing Appropriations Act, 2011	Sept. 30, 2010	2607
111–243	To designate the federally occupied building located at 1220 Echelon Parkway in Jackson, Mississippi, as the ''James Chaney, Andrew Goodman, Michael Schwerner, and Roy K. Moore Federal Building''.	Sept. 30, 2010	2617
111–244	To clarify the availability of existing funds for political status education in the Territory of Guam, and for other purposes.	Sept. 30, 2010	2618
111–245	First Responder Anti-Terrorism Training Resources Act	Sept. 30, 2010	2620
111–246	To enable State homes to furnish nursing home care to parents any of whose children died while serving in the Armed Forces.	Sept. 30, 2010	2622
111–247	Veterans' Compensation Cost-of-Living Adjustment Act of 2010	Sept. 30, 2010	2623
111–248	To improve the operation of certain facilities and programs of the House of Representatives, and for other purposes.	Sept. 30, 2010	2625
111–249	Airport and Airway Extension Act of 2010, Part III	Sept. 30, 2010	2627
111–250	National Flood Insurance Program Reextension Act of 2010	Sept. 30, 2010	2630
111–251	To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.	Sept. 30, 2010	2631
111–252	To allow certain U.S. Customs and Border Protection employees who serve under an overseas limited appointment for at least 2 years, and whose service is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive service.	Oct. 5, 2010	2632
111–253	To award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.	Oct. 5, 2010	2635
111–254	To grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.	Oct. 5, 2010	2637
111–255	Improving Access to Clinical Trials Act of 2009	Oct. 5, 2010	2640
111–256	Rosa's Law	Oct. 5, 2010	2643
111–257	To amend the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to provide for certain disclosures under section 552 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), and for other purposes.	Oct. 5, 2010	2646
111–258	Reducing Over-Classification Act	Oct. 7, 2010	2648
111–259	Intelligence Authorization Act for Fiscal Year 2010	Oct. 7, 2010	2654
111–260	Twenty-First Century Communications and Video Accessibility Act of 2010	Oct. 8, 2010	2751
111–261	To authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.	Oct. 8, 2010	2777
111–262	5-Star Generals Commemorative Coin Act	Oct. 8, 2010	2780
111–263	Federal Supply Schedules Usage Act of 2010	Oct. 8, 2010	2787
111–264	Stem Cell Therapeutic and Research Reauthorization Act of 2010	Oct. 8, 2010	2789
111–265	To make technical corrections in the Twenty-First Century Communications and Video Accessibility Act of 2010 and the amendments made by that Act.	Oct. 8, 2010	2795
111–266	Security Cooperation Act of 2010	Oct. 8, 2010	2797
111–267	National Aeronautics and Space Administration Authorization Act of 2010	Oct. 11, 2010	2805
111–268	Combat Methamphetamine Enhancement Act of 2010	Oct. 12, 2010	2847
111–269	Indian Veterans Housing Opportunity Act of 2010	Oct. 12, 2010	2850
111–270	To provide for an extension of the legislative authority of the Vietnam Veterans Memorial Fund, Inc. to establish a Vietnam Veterans Memorial visitor center, and for other purposes.	Oct. 12, 2010	2851
111–271	Redundancy Elimination and Enhanced Performance for Preparedness Grants Act	Oct. 12, 2010	2852
111–272	Law Enforcement Officers Safety Act Improvements Act of 2010	Oct. 12, 2010	2855
111–273	Secure and Responsible Drug Disposal Act of 2010	Oct. 12, 2010	2858
111–274	Plain Writing Act of 2010	Oct. 13, 2010	2861
111–275	Veterans' Benefits Act of 2010	Oct. 13, 2010	2864
111–276	To designate the facility of the United States Postal Service located at 4285 Payne Avenue in San Jose, California, as the ''Anthony J. Cortese Post Office Building''.	Oct. 13, 2010	2899
111–277	To designate the facility of the United States Postal Service located at 100 Orndorf Drive in Brighton, Michigan, as the ''Joyce Rogers Post Office Building''.	Oct. 13, 2010	2900
111–278	To designate the facility of the United States Postal Service located at 13301 Smith Road in Cleveland, Ohio, as the ''David John Donafee Post Office Building''.	Oct. 13, 2010	2901

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111–279	To designate the facility of the United States Postal Service located at 3894 Crenshaw Boulevard in Los Angeles, California, as the ''Tom Bradley Post Office Building''.	Oct. 13, 2010	2902
111–280	WIPA and PABSS Extension Act of 2010	Oct. 13, 2010	2903
111–281	Coast Guard Authorization Act of 2010	Oct. 15, 2010	2905
111–282	United States Secret Service Uniformed Division Modernization Act of 2010	Oct. 15, 2010	3033
111–283	Pre-Election Presidential Transition Act of 2010	Oct. 15, 2010	3045
111–284	Mount Stevens and Ted Stevens Icefield Designation Act	Oct. 18, 2010	3050
111–285	To extend the deadline for Social Services Block Grant expenditures of supplemental funds appropriated following disasters occurring in 2008.	Nov. 24, 2010	3054
111–286	The Physician Payment and Therapy Relief Act of 2010	Nov. 30, 2010	3056
111–287	International Adoption Simplification Act	Nov. 30, 2010	3058
111–288	To designate the facility of the United States Postal Service located at 100 Broadway in Lynbrook, New York, as the ''Navy Corpsman Jeffrey L. Wiener Post Office Building''.	Nov. 30, 2010	3061
111–289	Appointing the day for the convening of the first session of the One Hundred Twelfth Congress.	Nov. 30, 2010	3062
111–290	Making further continuing appropriations for fiscal year 2011, and for other purposes	Dec. 4, 2010	3063
111–291	Claims Resolution Act of 2010	Dec. 8, 2010	3064
111–292	Telework Enhancement Act of 2010	Dec. 9, 2010	3165
111–293	Help Haitian Adoptees Immediately to Integrate Act of 2010	Dec. 9, 2010	3175
111–294	Animal Crush Video Prohibition Act of 2010	Dec. 9, 2010	3177
111–295	Copyright Cleanup, Clarification, and Corrections Act of 2010	Dec. 9, 2010	3180
111–296	Healthy, Hunger-Free Kids Act of 2010	Dec. 13, 2010	3183
111–297	To designate the Federal building located at 100 North Palafox Street in Pensacola, Florida, as the ''Winston E. Arnow Federal Building''.	Dec. 14, 2010	3267
111–298	To designate the Federal building and United States courthouse located at 515 9th Street in Rapid City, South Dakota, as the ''Andrew W. Bogue Federal Building and United States Courthouse''.	Dec. 14, 2010	3268
111–299	To designate the building occupied by the Government Printing Office located at 31451 East United Avenue in Pueblo, Colorado, as the ''Frank Evans Government Printing Office Building''.	Dec. 14, 2010	3269
111–300	To designate the facility of the United States Postal Service located at 2 Government Center in Fall River, Massachusetts, as the ''Sergeant Robert Barrett Post Office Building''.	Dec. 14, 2010	3270
111–301	To designate the Federal building located at 6401 Security Boulevard in Baltimore, Maryland, commonly known as the Social Security Administration Operations Building, as the ''Robert M. Ball Federal Building''.	Dec. 14, 2010	3271
111–302	Coin Modernization, Oversight, and Continuity Act of 2010	Dec. 14, 2010	3272
111–303	American Eagle Palladium Bullion Coin Act of 2010	Dec. 14, 2010	3275
111–304	To designate the facility of the United States Postal Service located at 1351 2nd Street in Napa, California, as the ''Tom Kongsgaard Post Office Building''.	Dec. 14, 2010	3278
111–305	To designate the facility of the United States Postal Service located at 337 West Clark Street in Eureka, California, as the ''Sam Sacco Post Office Building''.	Dec. 14, 2010	3279
111–306	To require the accreditation of English language training programs, and for other purposes	Dec. 14, 2010	3280
111–307	Asian Carp Prevention and Control Act	Dec. 14, 2010	3282
111–308	Federal Buildings Personnel Training Act of 2010	Dec. 14, 2010	3283
111–309	Medicare and Medicaid Extenders Act of 2010	Dec. 15, 2010	3285
111–310	To designate the facility of the United States Postal Service located at 2 Massachusetts Avenue, NE, in Washington, D.C., as the ''Dorothy I. Height Post Office''.	Dec. 15, 2010	3293
111–311	Commercial Advertisement Loudness Mitigation Act	Dec. 15, 2010	3294
111–312	Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010	Dec. 17, 2010	3296
111–313	Truth in Fur Labeling Act of 2010	Dec. 18, 2010	3326
111–314	To enact certain laws relating to national and commercial space programs as title 51, United States Code, ''National and Commercial Space Programs''.	Dec. 18, 2010	3328
111–315	To amend the Water Resources Development Act of 2000 to extend and modify the program allowing the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the evaluation of permits, and for other purposes.	Dec. 18, 2010	3450
111–316	To improve certain administrative operations of the Office of the Architect of the Capitol, and for other purposes.	Dec. 18, 2010	3452
111–317	Making further continuing appropriations for fiscal year 2011, and for other purposes	Dec. 18, 2010	3454
111–318	Social Security Number Protection Act of 2010	Dec. 18, 2010	3455
111–319	Red Flag Program Clarification Act of 2010	Dec. 18, 2010	3457
111–320	CAPTA Reauthorization Act of 2010	Dec. 20, 2010	3459
111–321	Don't Ask, Don't Tell Repeal Act of 2010	Dec. 22, 2010	3515
111–322	Continuing Appropriations and Surface Transportation Extensions Act, 2011	Dec. 22, 2010	3518
111–323	Hoh Indian Tribe Safe Homelands Act	Dec. 22, 2010	3532
111–324	To reauthorize and enhance Johanna's Law to increase public awareness and knowledge with respect to gynecologic cancers.	Dec. 22, 2010	3536
111–325	Regulated Investment Company Modernization Act of 2010	Dec. 22, 2010	3537
111–326	To designate the airport traffic control tower located at Spokane International Airport in Spokane, Washington, as the ''Ray Daves Airport Traffic Control Tower''.	Dec. 22, 2010	3556
111–327	Bankruptcy Technical Corrections Act of 2010	Dec. 22, 2010	3557
111–328	Kingman and Heritage Islands Act of 2010	Dec. 22, 2010	3564
111–329	Airport and Airway Extension Act of 2010, Part IV	Dec. 22, 2010	3566
111–330	To make technical corrections to provisions of law enacted by the Coast Guard Authorization Act of 2010..	Dec. 22, 2010	3569
111–331	Truth in Caller ID Act of 2009	Dec. 22, 2010	3572
111–332	National Foundation on Fitness, Sports, and Nutrition Establishment Act	Dec. 22, 2010	3576
111–333	Longfellow House-Washington's Headquarters National Historic Site Designation Act	Dec. 22, 2010	3581
111–334	To amend the Act of August 9, 1955, to authorize the Coquille Indian Tribe, the Confederated Tribes of Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to obtain 99-year lease authority for trust land.	Dec. 22, 2010	3582
111–335	Longline Catcher Processor Subsector Single Fishery Cooperative Act	Dec. 22, 2010	3583

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111–336	To amend the Act of August 9, 1955, to modify a provision relating to leases involving certain Indian tribes.	Dec. 22, 2010	3587
111–337	Early Hearing Detection and Intervention Act of 2010	Dec. 22, 2010	3588
111–338	Formerly Owned Resources for Veterans to Express Thanks for Service Act of 2010	Dec. 22, 2010	3590
111–339	To require reports on the management of Arlington National Cemetery	Dec. 22, 2010	3591
111–340	Museum and Library Services Act of 2010	Dec. 22, 2010	3594
111–341	Criminal History Background Checks Pilot Extension Act of 2010	Dec. 22, 2010	3606
111–342	Preserving Foreign Criminal Assets for Forfeiture Act of 2010	Dec. 22, 2010	3607
111–343	To require the Federal Deposit Insurance Corporation to fully insure Interest on Lawyers Trust Accounts.	Dec. 29, 2010	3609
111–344	Omnibus Trade Act of 2010	Dec. 29, 2010	3611
111–345	Restore Online Shoppers' Confidence Act	Dec. 29, 2010	3618
111–346	Helping Heroes Keep Their Homes Act of 2010	Dec. 29, 2010	3622
111–347	James Zadroga 9/11 Health and Compensation Act of 2010	Jan. 2, 2011	3623
111–348	To amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.	Jan. 4, 2011	3668
111–349	To establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.	Jan. 4, 2011	3674
111–350	To enact certain laws relating to public contracts as title 41, United States Code, ''Public Contracts''.	Jan. 4, 2011	3677
111–351	Predisaster Hazard Mitigation Act of 2010	Jan. 4, 2011	3863
111–352	GPRA Modernization Act of 2010	Jan. 4, 2011	3866
111–353	FDA Food Safety Modernization Act	Jan. 4, 2011	3885
111–354	Indian Pueblo Cultural Center Clarification Act	Jan. 4, 2011	3974
111–355	To designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the ''Emil Bolas Post Office''.	Jan. 4, 2011	3975
111–356	Northern Border Counternarcotics Strategy Act of 2010	Jan. 4, 2011	3976
111–357	National Wildlife Refuge Volunteer Improvement Act of 2010	Jan. 4, 2011	3979
111–358	America COMPETES Reauthorization Act of 2010	Jan. 4, 2011	3982
111–359	To designate the facility of the United States Postal Service located at 331 1st Street in Carlstadt, New Jersey, as the ''Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building''.	Jan. 4, 2011	4050
111–360	To exclude an external power supply for certain security or life safety alarms and surveillance system components from the application of certain energy efficiency standards under the Energy Policy and Conservation Act.	Jan. 4, 2011	4051
111–361	To designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the ''George C. Marshall Post Office''.	Jan. 4, 2011	4053
111–362	To designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the ''James M. 'Jimmy' Stewart Post Office Building''.	Jan. 4, 2011	4054
111–363	To designate the Little River Branch facility of the United States Postal Service located at 140 NE 84th Street in Miami, Florida, as the ''Jesse J. McCrary, Jr. Post Office''.	Jan. 4, 2011	4055
111–364	Diesel Emissions Reduction Act of 2010	Jan. 4, 2011	4056
111–365	To designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the ''Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building''.	Jan. 4, 2011	4062
111–366	To amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees	Jan. 4, 2011	4063
111–367	To designate the facility of the United States Postal Service located at 5003 Westfields Boulevard in Centreville, Virginia, as the ''Colonel George Juskalian Post Office Building''.	Jan. 4, 2011	4066
111–368	To designate the facility of the United States Postal Service located at 111 North 6th Street in St. Louis, Missouri, as the ''Earl Wilson, Jr. Post Office''.	Jan. 4, 2011	4067
111–369	Access to Criminal History Records for State Sentencing Commissions Act of 2010	Jan. 4, 2011	4068
111–370	To direct the Administrator of General Services to convey a parcel of real property in Houston, Texas, to the Military Museum of Texas, and for other purposes.	Jan. 4, 2011	4069
111–371	Local Community Radio Act of 2010	Jan. 4, 2011	4072
111–372	Section 202 Supportive Housing for the Elderly Act of 2010	Jan. 4, 2011	4077
111–373	Pedestrian Safety Enhancement Act of 2010	Jan. 4, 2011	4086
111–374	Frank Melville Supportive Housing Investment Act of 2010	Jan. 4, 2011	4089
111–375	National Alzheimer's Project Act	Jan. 4, 2011	4100
111–376	Anti-Border Corruption Act of 2010	Jan. 4, 2011	4104
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Part III

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Antitrust Division

United States, et al. v. Comcast Corp., et al.; Proposed Final Judgment and Competitive Impact Statement; Notice

DEPARTMENT OF JUSTICE

Antitrust Division

United States, et al. v. Comcast Corp., et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment, Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America, et al.* v. *Comcast Corp., et al.,* Civil Action No. 1:11-cv-00106. On January 18, 2011, the United States filed a Complaint alleging that the proposed joint venture between Comcast Corp. and General Electric Co., which would give Comcast control over NBC Universal, Inc., would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed simultaneously with the Complaint, requires the defendants to license the joint venture's content to online video programming distributors under certain conditions, relinquish its management rights in Hulu, LLC, and subject itself to Open Internet and anti-retaliation provisions, along with other requirements.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street, NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481); on the Department of Justice's Web site at *http://www.usdoj.gov/atr;* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within sixty (60) days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Nancy Goodman, Chief, Telecommunications & Media Enforcement Section, Antitrust Division, Department of Justice, 450 Fifth Street, NW., Suite 7000, Washington, DC 20530 (telephone: 202–514–5621).

Patricia A. Brink,
Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, United States Department of Justice, Antitrust Division, 450 Fifth Street, NW., Suite 7000, Washington, DC 20530; State of California, Office of the Attorney General, CSB No. 184162, 300 South Spring Street, Suite 1702, Los Angeles, CA 90013; State of Florida, Antitrust Division, PL–01, The Capitol, Tallahassee, FL 32399–1050; State of Missouri, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65109; State of Texas, Office of the Attorney General, 300 W. 15th Street, 7th Floor, Austin, TX 78701; and State of Washington, Office of the Attorney General of Washington, 800 Fifth Avenue, Suite 2000, Seattle, WA 98104–3188, Plaintiffs, v. *Comcast Corp., 1 Comcast Center, Philadelphia, PA 19103; General Electric Co., 3135 Easton Turnpike, Fairfield, CT 06828; and NBC Universal, Inc., 30 Rockefeller Plaza, New York, NY 10112,* Defendants.

Case: 1:11–cv–00106.
Assigned to: Leon, Richard J.
Assign. Date: 1/18/2011.
Description: Antitrust.

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, and the States of California, Florida, Missouri, Texas, and Washington, acting under the direction of their respective Attorneys General or other authorized officials (''Plaintiff States'') (collectively, ''Plaintiffs''), bring this civil action pursuant to the antitrust laws of the United States to permanently enjoin a proposed joint venture (''JV'') and related transactions between Comcast Corporation (''Comcast'') and General Electric Company (''GE'') that would allow Comcast, the largest cable company in the United States, to control some of the most popular video programming among consumers, including the NBC Television Network (''NBC broadcast network'') and the cable networks of NBC Universal, Inc. (''NBCU''). If the JV proceeds, tens of millions of U.S. consumers will pay higher prices for video programming distribution services, receive lower-quality services, and enjoy fewer benefits from innovation. To prevent this harm, the United States and the Plaintiff States allege as follows:

I. Introduction and Background

1. This case is about how, when, from whom, and at what price the vast majority of American consumers will receive and view television and movie content. Increasingly, consumers are demanding new ways of viewing their favorite television shows and movies at times convenient to them and on devices of their own choosing. Consumers also are demanding alternatives to high monthly prices charged by cable providers, such as Comcast, for hundreds of channels of programming that many of them neither desire nor watch.

2. Today, consumers buy video programming services only from the distributors serving their local areas. Incumbent cable companies continue to serve a majority of customers, offering services consisting of multiple channels of linear or scheduled programming. Beginning in the mid-1990s, cable companies first faced competition from the direct broadcast satellite (''DBS'') providers. More recently, firms that traditionally offered only voice telephony services—the telephone companies or ''telcos,'' such as AT&T and Verizon—have emerged as competitors. The video programming offerings of these competitors are similar to the cable incumbents' programming packages, and their increased competition has pushed cable companies to offer new features, including additional channels, digital transmission, video-on-demand (''VOD'') offerings, and high-definition (''HD'') picture quality.

3. Most recently, online video programming distributors (''OVDs'') have begun to provide professional video programming to consumers over the Internet. This programming can be viewed at any time, on a variety of devices, wherever the consumer has high-speed access to the Internet. Cable companies, DBS providers, and telcos have responded to this entry with further innovation, including expanding their VOD offerings and allowing their subscribers to view programming over the Internet under certain conditions.

4. Through the JV, Comcast seeks to gain control of NBCU's programming, a potent tool that would allow it to disadvantage its traditional video programming distribution competitors, such as cable, DBS, and the telcos, and curb nascent OVD competition by denying access to, or raising the cost of, this important content. If Comcast is allowed to exercise control over this vital programming, innovation in the market for video programming distribution will be diminished, and consumers will pay higher prices for programming and face fewer choices.

5. Attractive content is vital to video programming distribution. Today, consumers subscribe to traditional video programming distributors in order to view their favorite programs (scheduled

or on demand), discover new shows and networks, view live sports and news, and watch old and newly available movies. Distributors compete for viewers by marketing the rich array of programming and other features available on their services. This marketing often promotes programming that is exclusive to the distributor or highlights the distributor's rivals' lack of specific programming or features.

6. NBCU content, especially the NBC broadcast network, is important to consumers and video programming distributors' ability to attract and retain customers. Programming is often at the center of disputes between subscription video programming distributors and broadcast and cable network owners. The public outcry when certain programming is unavailable, even temporarily, underscores the damage that can occur when a video distributor loses access to valuable programming. The JV will give Comcast control over access to valuable content, and the terms on which its rivals can purchase it, including the possibility of denying them the programming entirely.

7. NBCU content is especially important to OVDs. NBCU has been an industry leader in making its content available over the Internet. If OVDs cannot gain access to NBCU content, their ability to develop into stronger video programming distribution competitors will be impeded.

8. Comcast itself recognizes the importance of the NBC broadcast network, which it describes as an ''American icon.'' NBC broadcasts such highly rated programming as the Olympics, *Sunday Night Football, NBC Nightly News, The Office, 30 Rock,* and *The Today Show.* NBCU also owns other important programming, including the USA Network, the number-one-rated cable channel; CNBC, the leading cable financial news network; other top-rated cable networks, such as Bravo and SyFy; and The Weather Channel, in which it holds a significant stake and has management rights.

9. Comcast faces little video programming distribution competition in many of the areas it serves. Entry into traditional video programming distribution is expensive, and new entry is unlikely in most areas. OVDs' Internet-based offerings are likely the best hope for additional video programming distribution competition in Comcast's cable franchise areas.

10. Thus, the United States and the Plaintiff States ask this Court to enjoin the proposed JV permanently.

II. Jurisdiction and Venue

11. The United States brings this action under Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, to prevent and restrain Comcast, GE, and NBCU from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

12. The Plaintiff States, by and through their respective Attorneys General and other authorized officials, bring this action under Section 16 of the Clayton Act, 15 U.S.C. 26, to prevent and restrain Comcast, GE, and NBCU from violating Section 7 of the Clayton Act, 15 U.S.C. 18. The Plaintiff States bring this action in their sovereign capacities and as *parens patriae* on behalf of the citizens, general welfare, and economy of each of the Plaintiff States.

13. In addition to distributing video programming, Comcast owns programming. Comcast and NBCU sell programming to distributors in the flow of interstate commerce. Comcast's and NBCU's activities in selling programming to distributors, as well as Comcast's activities in distributing video programming to consumers, substantially affect interstate commerce and commerce in each of the Plaintiff States. The Court has subject-matter jurisdiction over this action and these defendants pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

14. Venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1391(b)(1) and (c). Defendants Comcast, GE, and NBCU transact business and are found within the District of Columbia. Comcast, GE, and NBCU have submitted to personal jurisdiction in this District.

III. Defendants and the Proposed Joint Venture

15. Comcast is a Pennsylvania corporation headquartered in Philadelphia, Pennsylvania. It is the largest video programming distributor in the nation, with approximately 23 million video subscribers. Comcast is also the largest high-speed Internet provider, with over 16 million subscribers for this service. Comcast wholly owns national cable programming networks, including E! Entertainment, G4, Golf, Style, and Versus, and has partial interests in Current Media, MLB Network, NHL Network, PBS KIDS Sprout, Retirement Living Television, and TV One. In addition, Comcast has controlling interests in the following regional sports networks (''RSNs''): Comcast SportsNet (''CSN'') Bay Area, CSN California, CSN Mid-Atlantic, CSN New England, CSN Northwest, CSN Philadelphia, CSN Southeast, and CSN Southwest; and partial interests in three other RSNs: CSN Chicago, SportsNet New York, and The Mtn. Comcast also owns digital properties such as DailyCandy.com, Fandango.com, and Fancast, its online video Web site. In 2009, Comcast reported total revenues of $36 billion. Over 94 percent of Comcast's revenues, or $34 billion, were derived from its cable business, including $19 billion from video services, $8 billion from high-speed Internet services, and $1.4 billion from local advertising on Comcast's cable systems. In contrast, Comcast's cable programming networks earned only about $1.5 billion in revenues from advertising and fees collected from video programming distributors.

16. GE is a New York corporation with its principal place of business in Fairfield, Connecticut. GE is a global infrastructure, finance, and media company. GE owns 88 percent of NBCU, a Delaware corporation, with its headquarters in New York, New York. NBCU is principally involved in the production, packaging, and marketing of news, sports, and entertainment programming. NBCU wholly owns the NBC and Telemundo broadcast networks, as well as ten local NBC owned and operated television stations (''O&Os''), 16 Telemundo O&Os, and one independent Spanish-language television station. Seven of the NBC O&Os are located in areas in which Comcast has incumbent cable systems—Chicago, Hartford/New Haven, Miami, New York, Philadelphia, San Francisco, and Washington, DC. In addition, NBCU wholly owns national cable programming networks—Bravo, Chiller, CNBC, CNBC World, MSNBC, mun2, Oxygen, Sleuth, SyFy, and the USA Network—and partially owns A&E Television Networks (including the Biography, History, and Lifetime cable networks), The Weather Channel, and ShopNBC.

17. NBCU also owns Universal Pictures, Focus Films, and Universal Studios, which produce films for theatrical and digital video disk (''DVD'') release, as well as content for NBCU's and other companies' broadcast and cable programming networks. NBCU produces approximately three-quarters of the original, primetime programming shown on the NBC broadcast network and the USA cable network—NBCU's two highest-rated networks. In addition to its programming-related assets, NBCU owns several theme parks and digital properties, such as iVillage.com. Finally, NBCU is a founding partner and

32 percent owner of Hulu, LLC, an OVD. In 2009, NBCU had total revenues of $15.4 billion.

18. On December 3, 2009, Comcast, GE, NBCU, and Navy, LLC (''Newco''), a Delaware corporation, entered into a Master Agreement, whereby Comcast agreed to pay $6.5 billion in cash to GE, and Comcast and GE each agreed to contribute certain assets to the JV to be called Newco. Specifically, GE agreed to contribute all of the assets of NBCU, including its interest in Hulu and the 12 percent interest in NBCU it does not currently own but has agreed to purchase from Vivendi SA. Comcast agreed to contribute all its cable programming assets, including its national networks as well as its RSNs, and some digital properties, but not its cable systems or its online video Web site, Fancast. As a result of the content contributions and cash payment by Comcast, Comcast will own 51 percent of the JV, and GE will retain a 49 percent interest. The JV will be managed by a separate board of directors initially consisting of three Comcast-designated directors and two GE-designated directors. Board decisions will be made by majority vote.

19. Comcast is precluded from transferring its interest in the JV for a four-year period, and GE is prohibited from transferring its interest for three and one-half years. Thereafter, either party may sell its respective interest in the JV, subject to Comcast's right to purchase at fair market value any interest that GE proposes to sell. Additionally, three and one-half years after closing, GE will have the right to require the JV to redeem 50 percent of GE's interest; after seven years, GE will have the right to require the JV to redeem all of its remaining interest. If GE elects to exercise its first right of redemption, Comcast will have the contemporaneous right to purchase the remainder of GE's ownership interest once a purchase price is determined. If GE does not exercise its first redemption right, Comcast will have the right to buy 50 percent of GE's initial ownership interest five years after closing and all of GE's remaining ownership interest eight years after closing. It is expected that Comcast ultimately will own 100 percent of the JV.

IV. The Professional Video Programming Industry

20. The professional video programming industry has had three different levels: Content production, content aggregation or networks, and distribution.

A. Content Production

21. Television production studios produce television shows and license that content to broadcast and cable networks. Content producers typically retain the rights to license their content for syndication (*e.g.,* licensing of series to networks or television stations after the initial run of the programming) as well as for DVD distribution and VOD or pay-per-view (''PPV'') services. In addition to first-run rights (*i.e.,* the rights to premiere the content), content producers such as NBCU also license the syndication rights to their own programming to broadcast and cable networks. For example, *House* is produced by NBCU, licensed for its first run on the FOX broadcast network, and then rerun on the USA Network, a cable network owned by NBCU. These content licenses often include ancillary rights to related content (*e.g.,* short segments of programming or clips, extras such as cast interviews, camera angles, and alternative feeds), as well as the right to offer some programming on demand (both online and through traditional cable, satellite, and telco distribution methods).

22. A content owner controls which entity receives its programming and when, through a process known as ''windowing.'' Historically, the first television release window was reserved for broadcast on one of the four major broadcast networks (ABC, CBS, NBC, and FOX), followed by broadcast syndication, and, ultimately, cable syndication. Over the past couple of years, however, content owners have created new windows and begun to allow their content to be distributed over the Internet on either a catch-up (*e.g.,* next day) or syndicated (*e.g.,* next season) basis.

23. In addition to producing content for television and cable networks, NBCU produces and distributes first-run movies through Universal Pictures, Universal Studios, and Focus Films. Typically, these movies are distributed to theaters before being released on DVD, then licensed to VOD/PPV providers, then to premium cable channels (*e.g.,* Home Box Office (''HBO'')), then to regular cable channels, and finally to broadcast networks. As they have with television distribution, over the past several years content owners have experimented with different windows for distributing films over the Internet.

B. Programming Networks

24. Networks aggregate content to provide a 24-hour-per-day service that is attractive to consumers. The most popular networks, by far, are the four broadcast networks. The first cable network was HBO, which launched in the early 1970s. Since then, cable networks have grown in popularity and number. As of the end of 2009, there were an estimated 600 national, plus another 100 regional, cable programming networks. More than 100 of these networks were also available in HD.

1. Broadcast Networks

25. Owners of broadcast network programming or broadcasters (*e.g.,* NBCU) license their broadcast networks (*e.g.,* NBC, Telemundo) either to third-party television stations affiliated with that network (''network affiliates''), or to their owned and operated television stations or O&Os. The network affiliates and O&Os distribute the broadcast network feeds over the air to the public and, importantly, retransmit them to professional video programming distributors such as cable companies and DBS providers, which in turn distribute the feeds to their subscribers.

26. The Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''), Public Law 102–385, 106 Stat. 1460 (1992), gave broadcast television stations, whether network affiliates or O&Os, the option to demand ''retransmission consent,'' a process through which a distributor negotiates with the station for the right to carry the station's programming for agreed-upon terms. Alternatively, stations can elect ''must carry'' status, which involves a process through which the station can demand to be carried without compensation. Stations affiliated with the four major broadcast networks, including the O&Os, all have elected retransmission consent. Historically, these stations negotiated for non-monetary reimbursement (*e.g.,* carriage of new cable channels) in exchange for retransmission consent. Today, most broadcast stations seek fees based on the number of subscribers to the cable, DBS, or telco service distributing their content. Less popular broadcast networks generally have elected must carry status, although recently they also have begun to negotiate retransmission payments.

27. In the past, NBCU has negotiated the retransmission rights only for its O&Os, but it has expressed interest in and made efforts to obtain the rights from its NBC broadcast network affiliates to negotiate retransmission consent agreements on their behalf. NBCU could also seek to renegotiate its agreements with its affiliates to obtain a share of any retransmission consent fees the affiliates are able to command.

2. Cable Networks

28. In addition to the broadcast networks, programmers produce cable networks and sell them to video programming distributors. Most cable networks are based on a dual revenue-stream business model. They derive roughly half their revenues from licensing fees paid by distributors and the other half from advertising fees. The revenue split varies depending on several factors, including the type of programming (*e.g.,* financial news or general entertainment) and whether the program is established or newly launched.

29. Generally, an owner of a cable network receives a monthly per-subscriber fee that may vary based upon the popularity or ratings of a network's programming, the volume of subscribers served by the distributor, the packages in which the programming is included, the percentage of the distributor's subscribers receiving the programming, and other factors. In addition to the right to carry the network, a distributor of the cable network often receives two to three minutes of advertising time per hour on the network that it can sell to local businesses (*e.g.,* car dealers). A distributor may also receive marketing payments or discounts to encourage greater penetration of its potential consumers. In the case of a completely new cable network, a programmer may pay a distributor to carry the network or offer other discounts.

30. Over time, some video programming distributors, such as Comcast and Cablevision Corp., have purchased or launched their own cable networks. Vertical integration between content and distribution was a reason for the passage of Section 19 of the 1992 Cable Act, 47 U.S.C. 548. Pursuant to the Act, Congress directed the Federal Communications Commission (''FCC'') to promulgate rules that place restrictions on how cable programmers affiliated with a cable company can deal with unaffiliated distributors. These ''program access rules'' apply to a cable company that owns a cable network, and prohibit both the cable company and the network from engaging in unfair acts or practices, including (1) Entering into exclusive agreements for the cable network; (2) selling the cable network to the cable company's competitors on discriminatory terms and conditions; and (3) unduly influencing the cable network in deciding whom, and on what terms and conditions, to sell its programming. 47 CFR 76.1001–76.1002. The prohibition on exclusivity sunsets in October 2012, unless extended by the FCC after a rulemaking proceeding. The program access rules do not apply to online distribution or to retransmission of broadcast station content.

C. Professional Video Programming Distribution

31. Video programming distributors acquire the rights to transmit professional, full-length broadcast and cable programming networks or individual programs or movies, aggregate the content, and distribute it to their subscribers or users.

1. Multichannel Video Programming Distributors (''MVPDs'')

32. Traditional video programming distributors offer hundreds of channels of professional video programming to residential customers for a fee. They include incumbent cable companies, DBS providers, cable overbuilders, also known as broadband service providers or ''BSPs'' (*e.g.,* RCN), and telcos. These distributors are often collectively referred to as MVPDs (''multichannel video programming distributors''). In response to increasing consumer demand to record and view video content at different times, many MVPDs offer services such as digital video recorders (''DVRs'') that allow consumers to record programming and view it later, and VOD services that allow viewers to view broadcast or cable network programming or movies on demand at times of their choosing.

2. Online Video Programming Distributors (''OVDs'')

33. OVDs offer numerous choices for on-demand professional (as opposed to user-generated, *e.g.,* typical YouTube videos), full-length (as opposed to clips) video programming over the Internet, whether streamed to Internet-connected televisions or other devices, or downloaded for later viewing. Currently, OVDs employ several business models, including free advertiser-supported streaming (*e.g.,* Hulu), á la carte downloads or electronic sell-through (''EST'') (*e.g.,* Apple iTunes, Amazon), subscription streaming models (*e.g.,* Hulu Plus, Netflix), per-program rentals (*e.g.,* Apple iTunes, Vudu), and hybrid hardware/subscription models (*e.g.,* Tivo, Apple TV/iTunes).

34. Consumer desire for on-demand viewing and increased broadband speeds that have greatly improved the quality of the viewing experience have led to distribution of more professional content by OVDs. Online video viewing has grown enormously in the last several years and is expected to increase. Today, some consumers regard OVDs as acceptable substitutes for at least a portion of their traditional video programming distribution services. These consumers buy smaller content packages from traditional distributors, decline to take certain premium channels, or purchase fewer VOD offerings, and instead watch that content online, a practice known as ''cord-shaving.'' A smaller but growing number of MVPD customers also are ''cutting the cable cord'' completely in favor of OVDs. These trends indicate the growing significance of competition between OVDs and MVPDs.

35. OVD services, individually or collectively, are likely to continue to develop into better substitutes for MVPD video services. Evolving consumer demand, improving technology (*e.g.,* higher Internet access speeds, better compression to improve picture quality, improved digital rights management to fight piracy), and advertisers' increasing willingness to place their ads on the Internet, likely will make OVDs stronger competitors to MVPDs for greater numbers of existing and new viewers.

36. Comcast and other MVPDs recognize the impact of OVDs. Their documents consistently portray the emergence of OVDs as a significant competitive threat. MVPDs, including Comcast, have responded by improving existing services and developing new, innovative services for their customers. For example, MVPDs have improved user interfaces and video search functionality, offered more VOD programming, and begun to offer programming online.

37. GE, through its ownership of NBCU, is a content producer and an owner of broadcast and cable channels. Comcast is primarily a distributor of video programming, although it owns some cable networks. Through the proposed JV, Comcast will control assets that produce and aggregate some of the most significant video content. Comcast also will continue to own the nation's largest distributor of video programming to residential customers.

V. Relevant Market

38. The relevant product market affected by this transaction is the timely distribution of professional, full-length video programming to residential customers (''video programming distribution''). Both MVPDs and OVDs are participants in this market. Video programming distribution is characterized by the aggregation of professionally produced content, consisting of entire episodes of shows and movies, rather than short clips. This content includes live programming, sports, and general entertainment

programming from a mixture of broadcast and cable networks, as well as from movie studios. Video programming distributors typically offer various packages of content (*e.g.,* basic, expanded basic, digital), quality levels (*e.g.,* standard-definition, HD, 3D), and business models (*e.g.,* free ad-supported, subscription). Video programming can be viewed immediately by consumers, whether on demand or as scheduled (*i.e.,* in a cable network's linear stream).

39. A variety of companies distribute video programming—cable, DBS, overbuilder, telco, and online. Cable has remained the dominant distributor even as other companies have entered video programming distribution. In the mid-1990s, DirecTV and DISH Network began offering hundreds of channels using small satellite dishes. Around the same time, firms known as ''overbuilders'' began building their own wireline networks, primarily in urban areas, to compete with the incumbent cable operator and offer video, high-speed Internet, and voice telephony services—the ''triple-play.'' More recently, Verizon and AT&T entered the market with their own networks and also offer the triple-play. Competition from these video programming distributors has provoked incumbent cable operators across the country to upgrade their systems and thereby offer substantially more video programming channels, as well as the triple-play. Now, OVDs are introducing new and innovative business models and services to inject even more competition into the video programming distribution market.

40. Historically, over-the-air (''OTA'') distribution of broadcast network content has not served as a significant competitive constraint on MVPDs because of the limited number of channels offered. In addition, OTA distribution likely will not expand in the future, as no new broadcast networks are likely to be licensed for distribution. This diminishes the possibility that OTA could increase its content package substantially to compete with MVPDs. Thus, OTA is unlikely to become a significant video programming distributor. By contrast, OVDs, though they may offer more limited viewing options than MVPDs currently, are expanding rapidly and have the potential to provide increased and more innovative viewing options in the future.

41. Consumers purchasing video programming distribution services select from among those distributors that can offer such services directly to their home. The DBS operators, DirecTV and DISH, can reach almost any customer in the continental United States who has an unobstructed line of sight to their satellites. OVDs are available to any consumer with a high-speed Internet service sufficient to receive video of an acceptable quality. However, wireline cable distributors such as Comcast and Verizon generally must obtain a franchise from local, municipal, or state authorities in order to construct and operate a wireline network in a specific area, and then build lines only to homes in that area. A consumer cannot purchase video programming distribution services from a wireline distributor operating outside its area because that firm does not have the facilities to reach the consumer's home. Thus, although the set of video programming distributors able to offer service to individual consumers' residences generally is the same within each local community, that set differs from one local community to another and can vary even within a local community.

42. For ease of analysis, it is useful to aggregate consumers who face the same competitive choices in video programming distribution by, for example, aggregating customers in a county or other jurisdiction served by the same group of distributors. The United States thus comprises numerous local geographic markets for video programming distribution, each consisting of a community whose residents face the same competitive choices. In the vast majority of local markets, customers can choose from among the local cable incumbent and the two DBS operators. Approximately 38 percent of consumers can also buy video services from a telco, and a much smaller percentage live in areas where overbuilders provide service. OVDs are emerging as another viable option for consumers who have access to high-speed Internet services. OVDs rely on other companies' high-speed Internet services to deliver content to consumers.

43. The geographic markets relevant to this transaction are the numerous local markets throughout the United States where Comcast is the incumbent cable operator, covering over 50 million U.S. television households (about 45 percent nationwide), and where Comcast will be able to withhold NBCU programming from, or raise the programming costs to, its rival distributors, both MVPDs and OVDs. Because these competitors serve areas outside Comcast's cable footprint, other local markets served by these rival distributors may be affected, with the competitive effects of the transaction potentially extending to all Americans.

44. A hypothetical monopolist of video programming distribution in any of these geographic areas could profitably raise prices by a small but not insignificant, non-transitory amount. While consumers naturally look for other options in response to higher prices, the number of consumers that would likely find these other options to be adequate substitutes is insufficient to make the higher prices unprofitable for the hypothetical monopolist. Thus, video programming distribution in any of these geographic areas is a well-defined antitrust market and is susceptible to the exercise of market power.

VI. Market Concentration

45. The incumbent cable companies often dominate any particular market with market shares within their franchise areas well above 50 percent. For example, Comcast has the market shares of 64 percent in Philadelphia, 62 percent in Chicago, 60 percent in Miami, and 58 percent in San Francisco (based on MVPD subscribers). Combined, the DBS providers account for approximately 31 percent of total video programming distribution subscribers nationwide, although their shares vary and may be lower in any particular local market. AT&T and Verizon have had great success and achieved penetration (*i.e.,* the percentage of households to which a provider's service is available that actually buys its service) as high as 40 percent in the selected communities they have entered, although they currently have limited expansion plans. Overbuilders serve only about one percent of U.S. television households nationwide.

46. Today, OVDs have a *de minimis* share of the video programming distribution market in any geographic area. OVD services are available to any consumer who purchases a broadband connection. However, established distributors, such as Comcast, view OVDs as a growing competitive threat and have taken steps to respond to that threat. OVDs' current market shares, therefore, greatly understate both their future and current competitive significance in terms of the influence they are having on traditional video programming distributors' investment decisions to expand offerings and embrace Internet distribution themselves.

VII. Anticompetitive Effects

47. Today, Comcast competes with DBS, overbuilder, and telco competitors by upgrading its existing services (*e.g.,* improving its network, expanding its

VOD and HD offerings), and through promotional and other forms of price discounts. In particular, Comcast strives to provide a service that it can promote as better than its rivals' services in terms of variety of programming choices, higher-quality services, and unique features (*e.g.,* unique programming or ease of use). Consumers benefit from this competition by receiving better quality services and, in some cases, lower prices. This competition has also fostered innovation, including the development of digital transmission, HD and 3D programming, and the introduction of DVRs and VOD offerings.

48. The proposed JV would allow Comcast to limit competition from MVPD competitors and from the growing threat of OVDs. The JV would give Comcast control over NBCU content that is important to its competitors. Comcast has long recognized that by withholding certain content from competitors, it can gain additional cable subscribers and limit the growth of emerging competition. Comcast has refused to license one of its RSNs, CSN Philadelphia, to DirecTV or DISH. As a result, DirecTV's and DISH's market shares in Philadelphia are much lower than in other areas where they have access to RSN programming.

49. Control of NBCU programming will give Comcast an even greater ability to disadvantage its competitors. Carriage of NBCU programming, including the NBC broadcast network, is important for video programming distributors to compete effectively. Out of hundreds of networks, the NBC broadcast network consistently is ranked among the top four in consumer interest surveys. It receives high Nielsen ratings, which distributors and advertisers use as a proxy for a network's value. The importance of the NBC broadcast network to a distributor is underscored by the fact that NBCU has recently negotiated significant retransmission fees with certain distributors that when combined with its advertising revenues, rival the most valuable cable network programming. Economic studies show that distributors that lose important broadcast content for any significant period of time suffer substantial customer losses to their competitors.

50. NBCU's cable networks also are important to consumers and therefore to video programming distributors. USA Network has been the highest-rated cable network the past four years. CNBC is by far the highest-rated financial news cable network, and Bravo and SyFy are top-rated cable networks for their particular demographics. NBCU's cable networks are widely distributed and command high fees.

51. As a result of the JV, Comcast will gain control over the NBC O&Os in local television markets where Comcast is the dominant video programming distributor. The JV will give Comcast the ability to raise the fees for retransmission consent for the NBC O&Os or effectively deny this programming entirely to certain video programming distribution competitors. In addition, Comcast may be able to gain the right to negotiate on behalf of its broadcast network affiliate stations or the ability to influence the affiliates' negotiations with its distribution competitors. In either case, these distributors would be less effective competitors to Comcast. Comcast also will control NBCU's cable networks and film content, increasing the ability of the JV to obtain higher fees for that programming. The JV will have less incentive to distribute NBCU programming to Comcast's video distribution rivals than a stand-alone NBCU. Faced with weakened competition, Comcast can charge consumers more and will have less incentive to innovate.

52. The impact of the JV on emerging competition from the OVDs is extremely troubling given the nascent stage of OVDs' development and the potential of these distributors to significantly increase competition through the introduction of new and innovative features, packaging, pricing, and delivery methods. NBCU has been one of the content providers most willing to support OVDs and experiment with different methods of online distribution. It was a founding partner in Hulu, the largest OVD today, and prior to the announcement of the transaction entered into several contracts with OVDs, such as Apple iTunes, Amazon, and Netflix.

53. Comcast and other MVPDs have significant concerns over emerging competition by OVDs. To the extent that consumers, now or in the future, view OVDs as substitutes for traditional video programming distributors, they will be able to challenge Comcast's dominant position as a video programming distributor. Comcast has taken several steps to keep its customers from cord-shaving or cord-cutting in favor of OVDs. These efforts include launching its own online video portal (Fancast), improving its VOD library and online interactive interface (in order to compete with, *e.g.,* Netflix and Amazon), and deploying its ''authenticated'' online, on-demand service. Consumers have benefited from Comcast's competitive responses and, absent the JV, would benefit from increased competition from OVDs.

54. Comcast has an incentive to encumber, through its control of the JV, the development of nascent distribution technologies and the business models that underlie them by denying OVDs access to NBCU content or substantially increasing the cost of obtaining such content. As a result, Comcast will face less competitive pressure to innovate, and the future evolution of OVDs will likely be muted. Comcast's incentives and ability to raise the cost of or deny NBCU programming to its distribution rivals, especially OVDs, will lessen competition in video programming distribution.

VIII. Absence of Countervailing Factors

A. Entry

55. Entry or expansion of traditional video programming distributors on a widespread scale or entry of programming networks comparable to NBCU's will not be timely, likely, or sufficient to reverse the competitive harm that would likely result from the proposed JV. OVDs are less likely to develop into significant competitors if denied access to NBCU content.

B. Efficiencies

56. The proposed JV will not generate verifiable, merger-specific efficiencies sufficient to reverse the competitive harm of the proposed JV.

IX. Violations Alleged

Violation of Section 7 of the Clayton Act by Each Defendant

57. The United States and the Plaintiff States hereby incorporate paragraphs 1 through 56.

58. Pursuant to a Master Agreement dated December 3, 2009, Comcast, GE, and NBCU intend to form a joint venture.

59. The effect of the proposed JV and Comcast's acquisition of 51 percent of it would be to lessen competition substantially in interstate trade and commerce in numerous geographic markets for video programming distribution, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18, and Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1, 2.

60. This proposed JV threatens loss or damage to the general welfare and economies of each of the Plaintiff States, and to the citizens of each of the Plaintiff States. The Plaintiff States and their citizens will be subject to a continuing and substantial threat of irreparable injury to the general welfare and economy, and to competition, in their respective jurisdictions unless the

Defendants are enjoined from carrying out this transaction, or from entering into or carrying out any agreement, understanding, or plan by which Comcast would acquire control over NBCU or any of its assets.

61. The proposed JV will likely have the following effects, among others:

a. Competition in the development, provision, and sale of video programming distribution services in each of the relevant geographic markets will likely be eliminated or substantially lessened;

b. Prices for video programming distribution services will likely increase to levels above those that would prevail absent the JV; and

c. Innovation and quality of video programming distribution services will likely decrease to levels below those that would prevail absent the JV.

X. Requested Relief

62. The United States and the Plaintiff States request that:

a. The proposed JV be adjudged to violate Section 7 of the Clayton Act, 15 U.S.C. 18;

b. Comcast, GE, NBCU, and Newco be permanently enjoined from carrying out the proposed JV and related transactions; carrying out any other agreement, understanding, or plan by which Comcast would acquire control over NBCU or any of its assets; or merging;

c. The United States and the Plaintiff States be awarded their costs of this action;

d. The Plaintiff States be awarded their reasonable attorneys' fees; and

e. The United States and the Plaintiff States receive such other and further relief as the case requires and the Court deems just and proper.

Dated: January 18, 2011

Respectfully submitted,

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United States District Court for the District of Columbia

United States of America, State of California, State of Florida, State of Missouri, State of Texas, and State of Washington, Plaintiffs, v. *Comcast Corp., General Electric Co., and NBC Universal, Inc.,* Defendants.

Case: 1:11–cv–00106.
Assigned To: Leon, Richard J.
Assign. Date: 1/18/2011.
Description: Antitrust.

Competitive Impact Statement

The United States of America ("United States"), acting under the direction of the Attorney General of the United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment (attached hereto as Exhibit A) submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On December 3, 2009, Comcast Corporation ("Comcast"), General Electric Company ("GE"), NBC Universal, Inc. ("NBCU"), and Navy, LLC ("Newco"), announced plans to form a new Joint Venture ("JV") to which Comcast and GE will contribute broadcast and cable network assets. As a result of the transaction, Comcast—the nation's largest cable company—will have majority control of a JV holding highly valued video programming needed by Comcast's video distribution rivals to compete effectively.

The United States filed a civil antitrust Complaint on January 18, 2011, seeking to enjoin the proposed transaction because its likely effect

would be to lessen competition substantially in the market for timely distribution of professional, full-length video programming to residential customers (''video programming distribution'') in major portions of the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The transaction would allow Comcast to disadvantage its traditional competitors (direct broadcast satellite (''DBS'') and telephone companies (''telcos'') that provide video services), as well as competing emerging online video distributors (''OVDs''). This loss of current and future competition likely would result in lower-quality services, fewer choices, and higher prices for consumers, as well as reduced investment and less innovation in this dynamic industry.

On January 18, 2011, the Federal Communications Commission (''FCC'') adopted a Memorandum Opinion and Order relating to the foregoing transaction.[1] The FCC's Order approved the transaction subject to certain conditions.

Under the proposed Final Judgment filed by the United States Department of Justice simultaneously with this Competitive Impact Statement and explained more fully below, Defendants will be required, among other things, to license the JV's programming to Comcast's emerging OVD competitors in certain circumstances. When Defendants and OVDs cannot reach agreement on the terms and conditions of the license, the aggrieved OVD may apply to the Department for permission to submit its dispute to commercial arbitration under the proposed Final Judgment. The FCC Order contains a similar provision. For so long as commercial arbitration is available for the resolution of such disputes in a timely manner under the FCC's rules and orders, the Department will ordinarily defer to the FCC's commercial arbitration process to resolve such disputes. However, the Department reserves the right, in its sole discretion, to permit arbitration under the proposed Final Judgment to advance the Final Judgment's competitive objectives. In addition, the Department may seek relief from the Court to address violations of any provisions of the proposed Final Judgment. The proposed Final Judgment also contains provisions to prevent Defendants from interfering with an OVD's ability to obtain content or deliver its services over the Internet.

The proposed Final Judgment will provide a prompt, certain, and effective remedy for consumers by diminishing Comcast's ability to use the JV's programming to harm competition. The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment, and to punish and remedy violations thereof.

II. Description of Events Giving Rise to the Alleged Violation

A. Defendants, the Proposed Transaction, and the Department's Investigation

1. Comcast

Comcast is a Pennsylvania corporation headquartered in Philadelphia, Pennsylvania. It is the largest cable company in the nation, with approximately 23 million video subscribers. Comcast is also the largest Internet service provider (''ISP''), with over 16 million subscribers. Comcast also wholly owns national cable programming networks, including E! Entertainment, G4, Golf, Style, and Versus, and has partial ownership interests in Current Media, MLB Network, NHL Network, PBS KIDS Sprout, Retirement Living Television, and TV One. In addition, Comcast has controlling and partial interests in regional sports networks (''RSNs'').[2] Comcast also owns digital properties such as DailyCandy.com, Fandango.com, and Fancast, its online video Web site. In 2009, Comcast reported total revenues of $36 billion. Over 94 percent of Comcast's revenues, or $34 billion, were derived from its cable business, including $19 billion from video services, $8 billion from high-speed Internet services, and $1.4 billion from local advertising on Comcast's cable systems. In contrast, Comcast's cable programming networks earned only about $1.5 billion in revenues from advertising and fees collected from video programming distributors.

2. GE and NBCU

GE is a New York corporation with its principal place of business in Fairfield, Connecticut. GE is a global infrastructure, finance, and media company. GE owns 88 percent of NBCU, a Delaware corporation, headquartered in New York, New York. NBCU is principally involved in the production, packaging, and marketing of news, sports, and entertainment programming.

NBCU wholly owns the NBC and Telemundo broadcast networks, as well as ten local NBC owned and operated television stations (''O&Os''), 16 Telemundo O&Os, and one independent Spanish language television station. In addition, NBCU wholly owns national cable programming networks—Bravo, Chiller, CNBC, CNBC World, MSNBC, mun2, Oxygen, Sleuth, SyFy, and USA Network—and partially owns A&E Television Networks (including the Biography, History, and Lifetime cable networks), The Weather Channel, and ShopNBC.

NBCU also owns Universal Pictures, Focus Films, and Universal Studios, which produce films for theatrical and digital video disk (''DVD'') release, as well as content for NBCU's and other companies' broadcast and cable programming networks. NBCU produces approximately three-quarters of the original primetime programming shown on the NBC broadcast network and the USA cable network, NBCU's two highest-rated networks. In addition to its programming assets, NBCU owns several theme parks and digital assets, such as iVillage.com. In 2009, NBCU had total revenues of $15.4 billion.

NBCU also is a founding partner and 32 percent owner of Hulu, LLC, currently one of the most successful OVDs. Hulu is a joint venture between NBCU, News Corp., The Walt Disney Company, and a private equity investor. Each of the media partners has representation on the Hulu Board, possesses management rights, and licenses content for Hulu to deliver over the Internet.

3. The Proposed Transaction

On December 3, 2009, Comcast, GE, NBCU, and Newco, entered into a Master Agreement (''Agreement''), whereby Comcast agreed to pay $6.5 billion in cash to GE, and Comcast and GE each agreed to contribute certain assets to the JV. Specifically, GE agreed to contribute all of the assets of NBCU, including its interest in Hulu, and the 12 percent interest in NBCU that GE does not own but has agreed to purchase

[1] Memorandum Opinion and Order, *In re Applications of Comcast Corp., General Electric Co. and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licensees,* FCC MB Docket No. 10–56 (adopted Jan. 18, 2011). Under the Communications Act, the FCC has jurisdiction to determine whether mergers involving the transfer of a telecommunications license are in the ''public interest, convenience, and necessity.'' 47 U.S.C. 310(d).

[2] Comcast owns Comcast SportsNet (''CSN'') Bay Area, CSN California, CSN Mid-Atlantic, CSN New England, CSN Northwest, CSN Philadelphia, CSN Southeast, and CSN Southwest, and holds partial ownership interests in CSN Chicago, SportsNet New York, and The Mtn.

from Vivendi SA. Comcast agreed to contribute all its cable programming assets, including its national programming networks, its RSNs, and some digital properties, but not its cable systems or its Internet video service, Fancast. As a result of the content contributions and cash payment by Comcast, Comcast will own 51 percent of the JV, and GE will retain a 49 percent interest. The JV will be managed by a separate Board of Directors consisting initially of three Comcast-designated directors and two GE-designated directors. Board decisions will be made by majority vote.

The Agreement precludes Comcast from transferring its interest in the JV for a four-year period, and prohibits GE from transferring its interest for three and one-half years. Thereafter, either party may sell its respective interest in the JV, subject to Comcast's right to purchase at fair market value any interest that GE proposes to sell. Additionally, three and one-half years after closing, GE will have the right to require the JV to redeem 50 percent of GE's interest and, after seven years, GE will have the right to require the JV to redeem all of its remaining interest. If GE elects to exercise its first right of redemption, Comcast will have the contemporaneous right to purchase the remainder of GE's ownership interest once a purchase price is determined. If GE does not exercise its first redemption right, Comcast will have the right to buy 50 percent of GE's initial ownership interest five years after closing and all of GE's remaining ownership interest eight years after closing. It is expected that Comcast ultimately will own 100 percent of the JV.

4. The Department's Investigation

The Department opened an investigation soon after the JV was announced and conducted a thorough and comprehensive review of the video programming distribution industry and the potential implications of the transaction. The Department interviewed more than 125 companies and individuals involved in the industry, obtained testimony from Defendants' officers, required Defendants to provide the Department with responses to numerous questions, reviewed over one million business documents from Defendants' officers and employees, obtained and reviewed tens of thousands of third-party documents, obtained and extensively analyzed large volumes of industry financial and economic data, consulted with industry and economic experts, organized product demonstrations, and conducted independent industry research. The Department also consulted extensively with the FCC to ensure that the agencies conducted their reviews in a coordinated and complementary fashion and created remedies that were both comprehensive and consistent.

B. The Video Programming Industry

NBCU and Comcast are participants in the video programming industry, in which content is produced and distributed to viewers through their television sets or, increasingly, through Internet-connected devices. Historically, the video programming industry has had three different levels: content production, content aggregation or networks, and distribution.

1. Content Production

Television production studios produce television shows and coordinate how, when, and where their content is licensed in order to maximize revenues. They usually license to broadcast and cable networks the right to show a program first (*i.e.,* the first-run rights). Content producers also license their content for subsequent ''windows'' such as syndication (*e.g.,* licensing series to broadcast and cable networks after the first run of the programming), as well as for DVD distribution, video on demand (''VOD''), and pay per view (''PPV'') services. For example, the television show *House* is produced by NBCU, licensed for its first run on the FOX broadcast network and then rerun on the USA Network, a cable network owned by NBCU. These content licenses often include ancillary rights such as the right to offer some programming on demand.

Historically, first-run licenses were reserved for one of the four major broadcast networks (ABC, CBS, NBC, and FOX), followed by broadcast syndication and, ultimately, cable syndication. Over the past several years, however, content owners have begun to license their content for first run on cable networks and distribution over the Internet on either a catch-up (*e.g.,* next day) or syndicated (*e.g.,* next season) basis.

In addition to producing content for television and cable networks, NBCU produces and distributes first-run movies through Universal Pictures, Universal Studios, and Focus Films. Typically, producers distribute movies to theaters before releasing them on DVD, then license them to VOD/PPV providers, then to premium cable channels (*e.g.,* Home Box Office (''HBO'')), then to regular cable channels, and finally to broadcast networks. As with television distribution, studios have experimented with different windows for film distribution over the past several years.

2. Programming Networks

Networks aggregate content to provide a 24-hour service that is attractive to consumers. The most popular networks, by far, are the four broadcast networks.[3] However, cable networks have grown in popularity and number, and at the end of 2009 there were an estimated 600 national, plus another 100 regional, cable programming networks.

a. Broadcast Networks

Owners of broadcast network programming or broadcasters like NBCU license their broadcast networks either to third-party television stations affiliated with that network (''network affiliates''), or to their owned and operated television stations (''O&Os''). The network affiliates and O&Os distribute the broadcast network feeds over the air (''OTA'') to the public and also retransmit them to video programming distributors, such as cable companies and DBS providers, which in turn distribute the feeds to their subscribers.

Under the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''), Public Law 102–385, 106 Stat. 1460 (1992), broadcast television stations, whether network affiliates or O&Os, may elect to obtain ''retransmission consent'' from a programming distributor, in which case a distributor negotiates with a station for the right to carry the station's programming for agreed-upon terms. Alternatively, stations may elect ''must carry'' status and demand carriage but without compensation. Stations affiliated with the four major broadcast networks and the networks' O&Os have elected retransmission consent. Historically, these stations negotiated for non-monetary compensation (*e.g.,* carriage of new cable channels owned by the broadcaster) in exchange for retransmission consent. Today, most broadcast stations seek retransmission consent fees based on the number of subscribers to the cable, DBS, or telco service distributing their content.[4] Less

[3] The four largest broadcast networks attract 8 to 12 million viewers each, whereas the most popular cable networks typically attract approximately 2 million viewers each. SNL Kagan, *Economics of Basic Cable Networks* 43 (2009); The Nielsen Company, *Snapshot of Television Use in the U.S.* 2 (Sept. 2010), *http://blog.nielsen.com/nielsenwire/wp-content/uploads/2010/09/Nielsen-State-of-TV-09232010.pdf.*

[4] In the past, NBCU negotiated the retransmission rights only for its O&Os, but recently it has made efforts to obtain the rights from its network affiliates to negotiate retransmission consent agreements on

popular broadcast networks generally elect must carry status, although recently they also have begun to negotiate retransmission payments. Despite these retransmission payments, broadcast stations earn the majority of their revenues from local advertising sales. The broadcast networks earn most of their revenues from national advertising sales.

b. Cable Networks

Popular cable networks include ESPN, USA, MTV, CNN, and Bravo. Cable networks typically derive roughly one half of their revenues from licensing fees paid by video programming distributors and the other half from advertising fees. Generally, a distributor pays an owner of cable networks a monthly per-subscriber fee that may vary based upon the number of subscribers served by the distributor, the programming packages in which the program is included, the percentage of the distributor's subscribers receiving the programming, and other factors. Typically, the popularity or ratings of a network's programming affects the ability of a content owner to negotiate higher license fees. In addition to the right to carry the network, a distributor of the cable network often receives two to three minutes of advertising time per hour on the network for sale to local businesses (*e.g.,* car dealers). A distributor also may receive marketing payments or discounts to encourage wider distribution of the programming. In the case of a completely new cable network, a programmer may pay a distributor to carry the network or offer other discounts.

3. Video Programming Distribution

Video programming distributors acquire the rights to transmit professional (as opposed to user-generated videos such as those typically seen on YouTube), full-length (as opposed to clips) broadcast and cable programming networks or individual programs or movies, aggregate the content, and distribute it to their subscribers or users. This content includes live programming, sports, and general entertainment programming from a variety of broadcast and cable networks and from movie studios, and can be viewed either on demand or as scheduled in a broadcast or cable network's linear stream. Video programming distributors offer various packages of content (*e.g.,* basic, expanded basic, digital) with different quality levels (*e.g.,* standard definition, HD, 3D), and employ different business models (*e.g.,* ad-supported, subscription).

a. Multichannel Video Programming Distributors

Traditional video programming distributors include incumbent cable companies, DBS providers, cable overbuilders, also known as broadband service providers (''BSPs,'' such as RCN), and telcos. These distributors are referred to as multichannel video programming distributors (''MVPDs''), and typically offer hundreds of channels of professional video programming to residential customers for a fee.

b. Online Video Programming Distributors

OVDs are relatively recent entrants into the video programming distribution market. They deliver a variety of on-demand professional, full-length video programming over the Internet, whether streamed to Internet-connected televisions or other devices, or downloaded for later viewing. Hulu, Netflix, Amazon, and Apple are examples of OVDs, although the content delivered and business model used varies greatly among them.

Unlike MVPDs, OVDs do not own distribution facilities and are dependent upon ISPs for the delivery of their content to viewers. Therefore, the future growth of OVDs depends, in part, on how quickly ISPs expand and upgrade their broadband facilities and the preservation of their incentives to innovate and invest.[5] The higher the bandwidth available from the ISP, the greater the speed and the better the quality of the picture delivered to an OVD's users.

ISPs' management and pricing of broadband services may also affect OVDs. In particular, OVDs would be harmed competitively if ISPs that are also MVPDs (*e.g.,* cable companies, telcos) were to impair or delay the delivery of video because OVDs pose a threat to those MVPDs' traditional video programming distribution businesses. Because Comcast is the country's largest ISP, an inherent conflict exists between Comcast's provision of broadband services to its customers, who may use this service to view video programming provided by OVDs, and its desire to continue to sell them MVPD services.

Growth of OVDs also will depend, in part, on their ability to acquire programming from content producers. Some cable companies, such as Comcast and Cablevision Corp., have purchased or launched their own cable networks. This vertical integration of content and distribution was one reason for the passage of Section 19 of the 1992 Cable Act, 47 U.S.C. 548. Pursuant to the Act, Congress directed the FCC to promulgate rules that place restrictions on how cable programmers affiliated with a cable company deal with unaffiliated distributors. These ''program access rules'' were designed to prevent vertically integrated cable companies from refusing to provide popular programming to their competitors. The rules prohibit both the cable company and a cable network owned by it from engaging in unfair acts and practices, including: (1) Entering into exclusive agreements to distribute the cable network; (2) selling the cable network to the cable company's competitors on discriminatory terms and conditions; and (3) unduly influencing the cable network in deciding to whom, and on what terms and conditions, to sell its programming.[6] The FCC program access rules do not apply to online distribution or to retransmission of broadcast station content.

C. The Market for Video Programming Distribution in the United States

The relevant product market affected by this transaction is the market for timely distribution of professional, full-length video programming to residential customers (''video programming distribution''). Professionally produced content is video programming that is created or produced by media and entertainment companies using professional equipment, talent, and production crews, and for which those companies hold or maintain distribution and syndication rights. Video programming distribution is characterized by the aggregation of professionally produced content consisting of entire episodes of shows and movies, rather than short clips. The market for video programming distribution includes both MVPDs and OVDs.

1. Traditional Video Programming Distribution

Cable companies first began operating in the 1940s and initially were granted exclusive franchises to serve local communities. Although they now face competition, the incumbent cable companies continue to serve a dominant

their behalf. NBCU also may seek to renegotiate its agreements with its affiliates to obtain a share of any retransmission consent fees the affiliates are able to command.

[5] *See* discussion *infra* Section II.C.2.b.

[6] 47 CFR 76.1001–76.1002. The prohibition on exclusivity sunsets in October 2012, unless extended by the FCC pursuant to a rulemaking. *Id.* § 76.1002(c)(6).

share of subscribers in most areas. In the mid-1990s, DirecTV and DISH Network began to offer competing services using small satellite dishes installed on consumers' homes. Around the same time, cable overbuilders began building their own wireline networks in order to compete with the incumbent cable operator and offer video, high-speed Internet, and telephony services—the ''triple-play.'' More recently, Verizon and AT&T entered the market with their own video distribution services, also offering the triple-play. Competition from these video programming distributors encouraged incumbent cable operators across the country to upgrade their systems and offer many more video programming channels, as well as the triple-play. Further innovations have included digital video recorders (''DVRs'') that allow consumers to record programming and view it later, and VOD services that enable viewers to watch broadcast or cable network programming or movies on demand at the consumer's convenience for a limited time.

A consumer purchasing video programming distribution services selects from those distributors offering such services directly to that consumer's home. The DBS operators—DirecTV and DISH—can reach almost any consumer who lives in the continental United States and has an unobstructed line of sight to the DBS operators' satellites. However, wireline cable distributors, such as Comcast and Verizon, generally must obtain a franchise from local or state authorities to construct and operate a wireline network in a specific area, and can build lines only to the homes in that area. A consumer cannot purchase video programming distribution services from a wireline distributor operating outside its area because that firm does not have the facilities to reach the consumer's home. Consequently, although the set of video programming distributors able to offer service to individual consumers' residences generally is the same within each local community, that set differs from one local community to another and can even vary within a local community. The markets for video programming distribution therefore are local.

The geographic markets relevant to this transaction are the numerous local markets throughout the United States where Comcast is the incumbent cable operator and where Comcast through the JV will be able to withhold NBCU programming from, or raise programming costs to, Comcast's rival distributors. Comcast service areas cover 50 million U.S. television households or about 45 percent of households nationwide, with nearly half of those households (23 million) subscribing to at least one Comcast service. Competitive effects also may be felt in other areas because Comcast's competitors serve territories outside its cable footprint. If Comcast can disadvantage these rivals, for example by raising their costs, competition will be reduced everywhere these competitors provide service reflecting these higher costs. Thus, the potential anticompetitive effects of the transaction could extend to almost all Americans.

The incumbent cable companies often dominate any particular market and typically hold well over 50 percent market shares within their franchise areas. For example, Comcast has market shares of 64 percent in Philadelphia, 62 percent in Chicago, 60 percent in Miami, and 58 percent in San Francisco (based on MVPD subscribers). Combined, the DBS providers account for approximately 31 percent of video programming subscribers nationwide, although their shares vary and may be lower in any particular local market. Although AT&T and Verizon have had great success and achieved penetration (*i.e.,* the percentage of households to which a provider's service is available that actually buys its service) as high as 40 percent in the selected communities they have entered, they currently have limited expansion plans. Overbuilders serve an even smaller portion of the United States.

2. Competition From OVDs

OVDs are relatively recent entrants into the video programming distribution market. Their services are available to any consumer with high-speed Internet service sufficient to receive video of an acceptable quality. OVDs have increased substantially the amount of full-length professional content they distribute online. Viewership of video content distributed over the Internet has grown enormously and is expected to continue to grow. The number of adult Internet users who watch full-length television shows online is expected to increase from 41.1 million in 2008 to 72.2 million in 2011.[7] The total number of unique U.S. viewers of video who watch full-length television shows online grew 21 percent from 2008 to 2009.[8] OVD revenues also have increased dramatically. Revenue associated with video content delivered over the Internet to televisions is expected to grow from $2 billion in 2009 to over $17 billion in 2014.[9]

One reason for the dramatic growth of online distribution is the increased consumer interest in on-demand viewing, especially among younger viewers who have grown up with the Internet, and are accustomed to viewing video at a time and on a device of their choosing.[10] In response to competition by OVDs, MVPDs increasingly are offering more on-demand choices.

a. OVD Business Models and Participants

Recognizing the enormous potential of OVDs, dozens of companies are innovating and experimenting with products and services that either distribute online video programming or facilitate such distribution. New developments, products, and models are announced on almost a daily basis by companies seeking to satisfy consumer demand. A number of companies are committing significant resources to this industry.

OVDs provide content using a variety of different business models. Some offer content on an ad-supported basis pursuant to which consumers pay nothing. One firm using this model is Hulu, which aggregates primarily current-season broadcast content from NBC, FOX, ABC, and others. Hulu has experienced substantial growth since its launch in 2008, reaching 39 million unique viewers by February 2010.[11]

Netflix has pursued a different business model. It initially offered DVDs delivered by mail and then added unlimited streaming of a limited library of content over the Internet for a monthly subscription fee. Netflix has expanded its online library and introduced an Internet-only subscription service. Netflix content primarily consists of relatively recent movies, older movies, and past-season television shows. Netflix recently announced a deal with premium cable network EPIX for access to more movie

[7] *Reaching Online Video Viewers with Long-Form Content,* eMarketer.com (July 26, 2010), *http://www3.emarketer.com/Article.aspx?R=1007830.*

[8] *Id.*

[9] Robert Briel, *Faster growth for web-to-TV video,* Broadband TV News (Aug. 17, 2010), *http://www.broadbandtvnews.com/2010/08/17/faster-growth-for-web-to-tv-video.*

[10] *See* R. Thomas Umstead, *Younger Viewers Watching More TV on the Web,* Multichannel News (Apr. 12, 2010), *http://www.multichannel.com/article/451376–Younger_Viewers_Watching_More_Television_On_The_Web.php* (survey of more than 1,000 people shows 23 percent under the age of 25 watch most of their television online).

[11] Press Release, *comScore Releases February 2010 U.S. Online Video Rankings, Hulu Viewer Engagement Up 120 percent vs. Year Ago to 2.4 Hours of Video per Viewer in February* (Apr. 13, 2010), *http://www.comscore.com/Press_Events/Press_Releases/2010/4/comScore_February_2010_U.S._Online_Video_Rankings.*

content that it will distribute over the Internet.[12] Netflix also has grown substantially in the last several years, from 7.5 million subscribers at the end of 2007 to 16.9 million in the third quarter of 2010.[13]

Apple also is experimenting with different business models for video programming distribution. For several years it has offered content on an electronic sell-through (''EST'') basis through its Apple iTunes Store. Customers pay a per-transaction fee to buy television shows and movies and download them onto various electronic devices (*e.g.,* iPod). Apple recently announced a service that allows consumers to rent television content on a per-transaction basis (*e.g.,* $0.99 per show) and view it for a limited time. Other major companies are offering or planning to offer OVD services.[14]

b. The Impact of OVDs

Some of these OVD products and services undoubtedly will be viewed by consumers as closer substitutes for MVPD services than others. The extent to which an OVD service has the potential to become a better substitute for MVPD service will depend on a number of factors, such as the OVD's ability to obtain popular content, its ability to protect the licensed content from piracy, its financial strength, and its technical capabilities to deliver high-quality content. Moreover, as noted previously, OVDs' future competitive significance depends, in part, on robust broadband capacity. Accordingly, the competitive significance of OVDs is fostered by protecting broadband providers' economic incentives to upgrade and improve their broadband infrastructure, and obtain fair returns on that investment.

Today, some consumers regard OVDs as acceptable substitutes for at least a portion of their traditional video programming distribution services. These consumers buy smaller content packages from traditional distributors, decline to take certain premium channels, or purchase fewer VOD offerings, and instead watch that content online, a practice known as ''cord-shaving.'' A small but growing number of MVPD customers are also ''cutting the cable cord'' completely in favor of OVDs. These customers may rely on an individual OVD or may view video content from a number of OVDs (*e.g.,* Hulu ad-supported service, Netflix subscription service, Apple EST service) as a replacement for their MVPD service.

When measured by the number of customers who are cord-shaving or cord-cutting, OVDs currently have a *de minimis* share of the video programming distribution market. Their current market share, however, greatly understates their potential competitive significance in this market. Whether viewers buy individual or a combination of OVD services, OVDs are likely to continue to develop into better substitutes for MVPD video services. Evolving consumer demand, improving technology (*e.g.,* higher Internet access speeds, better compression technologies to improve picture quality, improved digital rights management to combat piracy), the increased choice of viewing devices, and advertisers' increasing willingness to place their ads on the Internet likely will make OVDs stronger competitors to MVPDs for an increasing number of viewers.[15]

The development of the video programming distribution market—and in particular the success of OVDs—may influence any future analysis of consolidation in this market. Such analysis would follow standard merger evaluation principles and consider not only the role of OVDs, but also factors such as the extent to which the merging firms' offerings are close substitutes and compete directly. In this case, Defendants' own assessments—as reflected in numerous internal documents and their executives' testimony—of the importance of OVDs and their potential to alter dramatically the existing competitive landscape are particularly important to determining the relevant product market.

c. Comcast's and Other MVPDs' Reactions to the Growth of OVDs

Comcast and other MVPDs recognize the threat posed to their video distribution business from the growth of OVDs. Many internal documents reflect Comcast's assessment that OVDs are growing quickly and pose a competitive threat to traditional forms of video programming distribution. In response to this threat, Comcast has taken significant steps to improve the quality of Fancast, its own Internet video service. Among other things, Comcast has attempted to obtain additional—and at times exclusive—content from programmers, and has made Fancast's user interface easier to navigate. Comcast also has increased the quality and quantity of the VOD content it offers as an adjunct to its traditional cable service.

In addition, Comcast has created and implemented an ''authentication'' system that enables its existing cable subscribers to view some video content over the Internet if the subscriber already pays for and receives the same content from Comcast through its traditional cable service. Internal documents expressly acknowledge that ''authentication'' is Comcast's and other MVPDs' attempt to counter the perceived threat posed by OVDs.

Comcast's and other MVPDs' reactions to the emergence of OVDs demonstrate that they view OVDs as a future competitive threat and are adjusting their investment decisions today in response to that threat. Because OVDs today affect MVPDs' decisions, they are appropriately treated as participants in the market. Market definition considers future substitution patterns, and the investment decisions of MVPDs are strong evidence of market participants' view of the increased likelihood of consumer substitution

[12] Netflix, Inc., Q3 10 Management's commentary and financial highlights, at 2 (Oct. 20, 2010), *available at http://files.shareholder.com/downloads/NFLX/1118542273x0x411049/157a4bc4-4cad-4d7b-9496-b59006d73344/Q310%20Management%27s%20commentary%20and%20%20highlights.pdf.*

[13] Netflix, Inc., Form 10–K at 32 (Feb. 22, 2010); Press Release, Netflix, Inc. Netflix Announces Q3 2010 Financial Results, at 1 (Oct 20, 2010), *available at http://files.shareholder.com/downloads/NFLX/1118542273x0x411037/5a757dd5-b423-40d7-bb60-3418356e582e/3Q10_Earnings_Release.pdf.*

[14] For example, Google recently launched GoogleTV, a device that enables viewers simultaneously to search the Internet and their MVPD service for content, and to switch back and forth on their televisions between content delivered over the Internet and content delivered by their MVPD. Press Release, Google, *Industry Leaders Announce Open Platform to Bring Web to TV* (May 20, 2010), *http://www.google.com/intl/en/press/pressrel/20100520_googletv.html.* Walmart recently acquired VUDU, an OVD service, and is making content available for EST and rental to VUDU-enabled devices. Press Release, *Walmart Announces Acquisition of Digital Entertainment Provider*, VUDU (Feb. 22, 2010), *http://www.walmartstores.com/pressroom/news/9661.aspx.* Amazon is reportedly developing an OVD service that allows Amazon service subscribers to stream television and movie content over the Internet. Nick Wingfield & Sam Schechner, *No Longer Tiny, Netflix Gets Respect—and Creates Fear,* Wall St. J. (Dec. 6, 2010), *http://online.wsj.com/article/SB10001424052748704493004576001781352962132.html.* Sears and Kmart recently announced the launch of an online video store, called Alphaline, which sells and rents movies and television shows. Paul Bond, *Sears, Kmart launch Alphaline online video store,Reuters* (Dec. 30, 2010), *http://www.reuters.com/article/idUSTRE6BT03C20101230.*

[15] Historically, OTA distribution of broadcast network content has not served as a significant competitive constraint on MVPDs because of the limited number of channels offered. In addition, OTA distribution likely will not expand in the future because no new broadcast networks are likely to be licensed for distribution. Thus, OTA is unlikely to become a more significant video programming distributor. By contrast, OVDs are expanding rapidly and have the potential to provide increased and more innovative viewing options in the future.

between MVPD and OVD services.[16] This effect on investment is significant and could be diminished or even lost altogether if Comcast, through the JV, acquires the ability to delay or deter the development of OVDs.

D. The Anticompetitive Effects of the Proposed Transaction

Antitrust law, including Section 7 of the Clayton Act, protects consumers from anticompetitive conduct, such as firms' acquisition of the ability to raise prices above levels that would prevail in a competitive market. It also ensures that firms do not acquire the ability to stifle innovation. Vertical mergers are those that occur between firms at different stages of the chain of production and distribution. Vertical mergers have the potential to harm competition by changing the merged firm's ability or incentives to deal with upstream or downstream rivals. For example, the merger may give the vertically integrated entity the ability to establish or protect market power in a downstream market by denying or raising the price of an input to downstream rivals that a stand-alone upstream firm otherwise would sell to those downstream firms. The merged firm may find it profitable to forego the benefits of dealing with its rivals in order to hobble them as competitors to its own downstream operations.

A merged firm can more readily harm competition when its rivals offer new products or technologies whose competitive potential is evolving. Nascent competitors may be relatively easy to quash. For example, denying an important input, such as a popular television show, to a nascent competitor with a small customer base is much less costly in terms of foregone revenues than denying that same show to a more established rival with a larger customer base. Even if a vertical merger only delays nascent competition, an increase in the duration of a firm's market power can result in significant competitive harm. The application and enforcement of antitrust law is appropriate in such situations because promoting innovation is one of its important goals.[17] The crucial role of innovation has led at least one noted commentator to argue that restraints on innovation ''very likely produce a far greater amount of economic harm than classical restraints on competition,'' and thus deserve special attention.[18] By quashing or delaying the progress of rivals that attempt to introduce new products and technologies, the merged firm could slow the pace of innovation in the market and thus harm consumers.[19]

1. The Importance of Access to NBCU Content

Generally, programmers want to distribute their content in multiple ways to maximize viewers' exposure to the content and the impact of any advertising revenues. Likewise, distributors must be able to license a sufficient quantity and quality of content to create a compelling video programming service. A distributor also must gain access to a sufficient variety of content from different sources. This ''aggregation'' of a variety of content is important to a distributor's ability to succeed.

NBCU content is extremely valuable to video programming distributors. NBC is one of the original three broadcast networks and has decades of history and brand name recognition. It carries general interest content that appeals to a wide variety of viewers. Surveys routinely rank the NBC network as one of the top four of all broadcast and cable networks. Similarly, NBCU's USA Network is highly valued and has been rated the top cable network for four of the past five years. Many of NBCU's other networks—Bravo, CNBC, MSNBC, SyFy—also are highly rated and valued by their audiences.

The proposed transaction would give Comcast, through the JV, control of an important portfolio of current and library content. The ratings of each NBCU network are based on the popularity of the particular slate of shows currently on that network and can increase or decrease significantly from one television season to the next based on the gain or loss of hit shows. NBCU also has the ability to switch programming from one network to another, or otherwise make popular content from one network available to another. Through the JV, Comcast would gain the ability to impair emerging OVD competition by withholding or raising the prices of individual NBCU shows, or of linear feeds of one or more NBCU cable or broadcast networks. It is reasonable to examine the competitive impact of withholding NBCU content in the aggregate, rather than analyzing the value of any individual show or network to a competitor, because an aggregate withholding strategy would have the greatest impact on Comcast's downstream rivals.

2. The Proposed Transaction Increases the JV's Incentive and Ability To Harm Competitors

a. Ability and Incentive To Harm Rival MVPDs

If the proposed transaction is approved, Comcast through the JV will gain control of NBCU's content, including a substantial amount of valuable broadcast and cable programming. Competing MVPDs will be forced to obtain licenses for NBCU content from their rival, Comcast. Unlike a stand-alone programmer, Comcast's pricing and distribution decisions will take into account the impact of those decisions on the competitiveness of rival MVPDs. As a result, Comcast will have a strong incentive to disadvantage its competitors by denying them access to valuable programming or raising their licensing fees above what a stand-alone NBCU would have found it profitable to charge.

A stand-alone programmer typically attempts to maximize the combined license fee and advertising revenues from its programming by making its content available in multiple ways. The JV would continue to value widespread distribution of NBCU content, but it also would likely consider how access to that content makes Comcast's MVPD rivals better competitors. This could lead the JV to withhold content

[16] *Cf.* U.S. Dep't of Justice & Fed. Trade Comm'n, *Horizontal Merger Guidelines* § 5.2 (Aug. 19, 2010), *available at http://www.justice.gov/atr/public/guidelines/hmg-2010.html* (''However, recent or ongoing changes in market conditions may indicate that the current market share of a particular firm either understates or overstates the firm's future competitive significance. The Agencies consider reasonably predictable effects or ongoing changes in market conditions when calculating and interpreting market share data.'').

[17] U.S. Dep't of Justice & Fed. Trade Comm'n, *Antitrust Guidelines for the Licensing of Intellectual Property* § 1 (Apr. 1995), *available at http://www.justice.gov/atr/atr/public/guidelines/0558.htm* (''The antitrust laws promote innovation and consumer welfare by prohibiting certain actions that may harm competition with respect to either existing or new ways of serving consumers.''); *see also* 19A Phillip E. Areeda et al., *Antitrust Law,* ¶ 1902a (2d ed. 2005) (''Our capitalist economic system places a very strong value on competition, not only to reduce costs but also to innovate new products and processes.'').

[18] Herbert Hovenkamp, *Restraints on Innovation,* 29 Cardozo L. Rev. 247, 253–54, 260 (2007) (''[N]o one doubts [the] basic conclusion that innovation and technological progress very likely contribute much more to economic growth than policy pressures that drive investment and output toward the competitive level.''); *see also* 4B Phillip E. Areeda et al., *Antitrust Law*, ¶ 407a (3d ed. 2007); Willow A. Sheremata, *Barriers to innovation: a monopoly, network externalities, and the speed of innovation,* 42 Antitrust Bull. 937, 938 (1997) (''[I]n the long run it is dynamic performance that counts.' The speed of innovation is important to social welfare.'' (quoting F.M. Scherer & David Ross, Industrial Market Structure & Economic Performance 613 (3d ed. 1990))).

[19] *See* Sheremata, *supra* note 18, at 944 (''When owners of current technology raise artificial barriers to entry of new technology, opportunities for innovation decline to the detriment of consumers.'').

altogether or, more likely, to insist on higher fees for the NBCU content from Comcast's MVPD competitors. Whether Comcast's rival MVPDs refuse to purchase the programming or agree to pay the higher fees, Comcast would benefit from weakening its MVPD rivals. Likewise, high licensing fees charged to other MVPDs and OVDs will also induce customers to switch to (or stay with) Comcast. These higher licensing fees will be reflected either in higher subscriber fees or, in the case of MVPDs building alternative cable distribution infrastructures, a smaller level of investment and, consequently, a smaller coverage area for the MVPD competing with Comcast. In either case, higher licensing fees will reduce pricing pressure on Comcast's MVPD business and increase its ability to raise prices to its subscribers.

By disadvantaging competitors in this manner, Comcast through the JV will cause some of its rivals' customers to seek an alternative MVPD provider. Many of these dissatisfied customers likely will become Comcast subscribers, making it profitable for Comcast and the JV to increase licensing fees above the stand-alone NBCU levels. Those increased fees likely will lead to higher prices for subscribers of other MVPDs and perhaps further migration by those subscribers to Comcast.

Licensing disputes in which a major broadcast network has pulled a network signal from an MVPD have resulted in the MVPD's loss of significant numbers of subscribers to its competitors. Through the formation of the JV, Comcast gains the rights to negotiate on behalf of the seven O&Os that operate in areas where it is the dominant cable company. It also becomes the owner of the NBC network, which may give it leverage to seek the rights to negotiate on behalf of NBCU's NBC network affiliate television stations, or at least the ability to influence affiliate negotiations, for retransmission consent rights in other areas of the United States. Comcast, through the JV, can withhold or raise the price of the NBC network to its rivals, thereby causing customers to shift away from the rival. Other NBCU programming also is important to consumers, and similar switching behavior could result if the JV were to withhold it from Comcast's rival MVPDs.

Comcast has engaged in such strategies in the past. For example, Comcast has withheld its RSN in Philadelphia in order to discriminate against, and thereby disadvantage, DBS providers against which Comcast competes in that city. The DBS providers' market shares are lower and Comcast's subscription fees are higher in Philadelphia than in comparable markets. This appears to have been a profitable strategy for Comcast because the overall benefit to its cable business of retaining subscribers seems to have outweighed the substantial losses associated with failing to earn licensing fees for the withheld RSN from DBS companies.

Post-transaction, Comcast's rival MVPDs would realize that, unlike the stand-alone NBCU, the JV will set higher licensing fees for NBCU that take into consideration Comcast's business profits. Some MVPDs might find it unprofitable to carry the programming at the prices the JV could command. Other MVPDs might agree to the JV's increased prices for the NBCU content given the likelihood that they would lose a large number of their subscribers if they did not carry the NBCU content.

Lowering the profitability of Comcast's MVPD rivals also would weaken the incentives of some existing and future entrants to build out their systems, especially in areas Comcast currently serves, weakening the competitive constraints faced by Comcast. This weakened state of competition would allow Comcast, in turn, to decrease its investments and innovation to improve its own offerings. Higher subscription fees for Comcast services or decreased investment in improving their quality are less likely to induce customer switching to Comcast's MVPD rivals where those rivals are unable to match its programming or prices. As a result, Comcast could reinforce and even increase its dominant market share of video programming distribution in all areas of the country in which it operates.

b. Incentive and Ability To Harm OVDs

Comcast, through the JV, also could discriminate against competing OVDs in similar ways, thereby diminishing the competitive threat posed by individual OVDs and impeding the development of OVDs, generally. The JV could charge OVDs higher content fees than the stand-alone NBCU would have charged, or impose different terms for NBCU content than Comcast negotiates for itself. The JV also could withhold NBCU content completely, thereby diminishing OVDs' ability to compete for video programming distribution customers, again to Comcast's benefit. Either situation could delay significantly the development of OVDs as a competitive alternative to traditional video programming distribution services.

Over the last several years, NBCU has been one of the content providers most willing to experiment with different methods of online distribution. It was a driving force behind the creation and success of Hulu, and is now a partner in, and major content contributor to, the recently launched Hulu Plus, a subscription version of Hulu. Prior to the JV announcement, NBCU entered into several contracts with OVDs to distribute its content online through Apple iTunes and Amazon, and on a subscription basis through Netflix. Allowing the JV to proceed removes NBCU content from the control of a company that supported the development of OVDs and places it in the control of a company that views OVDs as a serious competitive threat.

Finally, Comcast, through the JV, would gain control of NBCU's governance rights and 32 percent ownership interest in Hulu, a current and future competitor to Comcast's MVPD services. Hulu has achieved significant success since its launch in early 2008.

Each of the media partners in Hulu, including NBCU, contributes content to Hulu and holds three seats on Hulu's Board of Directors. Significantly, any important or strategic decisions by Hulu require the unanimous approval of all members of the Board. Comcast's acquisition of NBCU's interest in Hulu would give it the ability to hamper Hulu's strategic and competitive development by refusing to agree to major actions by Hulu, or by blocking Hulu's access to NBCU content.

3. How the Formation of the JV Changes Comcast's Incentives and Abilities

Post-transaction, the JV would gain increased bargaining leverage sufficient to negotiate higher prices or withhold NBCU content from Comcast's MVPD competitors. Comcast's rival distributors would have to pay the increased prices or not carry the programming. In either case, the MVPDs likely would be less effective competitors to Comcast, and Comcast would be able to delay or otherwise substantially impede the development of OVDs as alternatives to MVPDs.

All of these activities could have a substantial anticompetitive effect on consumers and the market. Because Comcast would face less competition from other video programming distributors, it would be less constrained in its pricing decisions and have a reduced incentive to innovate. As a result, consumers likely would be forced to pay higher prices to obtain their video content or receive fewer benefits of innovation. They also would have fewer choices in the types of content and providers to which they

would have access, and there would be lower levels of investment, less experimentation with new models of delivering content, and less diversity in the types and range of product offerings.

4. Entry Is Unlikely To Reverse the Anticompetitive Effects of the JV

Over the last decade, Comcast and other traditional video distributors benefited from an industry with limited competition and increasing prices,[20] in part because successful entry into the traditional video programming distribution business is difficult and requires an enormous investment to create a distribution infrastructure such as building out wireline facilities or obtaining spectrum and launching satellites. Accordingly, additional entry into wireline or DBS distribution is not likely in the foreseeable future.[21] Telcos have been willing to incur some of the enormous costs to modify their existing telephone infrastructure to distribute video, but only in certain areas, and they have recently indicated that further expansion will be limited for the foreseeable future.[22]

OVDs, therefore, represent the most likely prospect for successful competitive entry into the existing video programming distribution market. However, they face the difficulty of obtaining access to a sufficient amount of content to become viable distribution businesses. In addition, OVDs rely upon the infrastructure of others, including Comcast, to deliver service to their customers. After the JV is formed, Comcast will control some of the most significant content needed by OVDs to successfully position themselves as a replacement for traditional video distribution providers.

5. Any Efficiencies Arising From the Deal Are Negligible or Not Merger-Specific

The Department considers expected efficiencies in determining whether to challenge a vertical merger. The potential anticompetitive harms from a proposed transaction are balanced against the asserted efficiencies of the transaction. The evidence does not show substantial efficiencies from the transaction.

In particular, the JV is unlikely to achieve substantial savings from the elimination of double marginalization. Double marginalization occurs when two independent companies at different points in a product's supply chain each extract a profit margin above marginal cost. Because each firm in the supply chain treats the other firm's price (in lieu of its marginal cost) as a cost of producing the final good, each firm finds it profitable to produce a lower output than the firms would have produced had they accurately accounted for the social cost of producing the output. This ultimately results in a lower output (and a higher price to consumers) than would have occurred if the product had been produced by a combined firm. Despite a higher price, the lower output from double marginalization ultimately results in lower total profits for the entire supply chain.

Vertical mergers often are procompetitive because they enable the merged firm to properly account for costs when determining output and setting a final product price. The combined firm no longer treats the profit of the other firm as part of the cost of production. Because the combined firm faces lower marginal costs, it may find it profitable to expand output and reduce the final product price. Lower marginal costs may result in better service, greater product quality or innovation, or other improvements.

In certain industries, however, including the one at issue here, vertical mergers are far less likely to reduce or eliminate double marginalization. Documents, data, and testimony obtained from Defendants and third parties demonstrate that much, if not all, of any potential double marginalization is reduced, if not completely eliminated, through the course of contract negotiations between programmers and distributors over quantity and penetration discounts, tiering requirements, and other explicit and verifiable conditions.

Other efficiencies claimed by Comcast are not specific to this transaction or not verifiable, or both. It is unlikely that the efficiencies associated with this transaction would be sufficient to undo the competitive harm that otherwise would result from the JV.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment ensures that Comcast, through the JV, will not impede the development of emerging online video distribution competition by denying access to the JV's content to such competitors. The proposed Final Judgment also contains provisions that protect Comcast's traditional video distribution competitors. The proposed Final Judgment thereby protects consumers by eliminating the likely anticompetitive effects of the proposed transaction.

A. The Proposed Final Judgment Protects Emerging Online Video Competition

1. The Proposed Final Judgment Ensures That OVDs Have Access to the JV's Video Programming

The proposed Final Judgment requires the JV to license its broadcast, cable, and film content to OVDs on terms comparable to those in similar licensing arrangements with MVPDs or OVDs. It provides two options through which an OVD will be able to obtain the JV's content.

Under the first option, set forth in Section IV.A of the proposed Final Judgment, the JV must license linear feeds of video programming to any requesting OVD on terms that are economically equivalent to the terms on which the JV licenses that programming to MVPDs. Subject to some exceptions, the JV must make available to an OVD any channel or bundle of channels, and all quality levels and VOD rights, it provides to any MVPD with more than one million subscribers.

The terms of the JV's license with the OVD need not match precisely any existing license between the JV and the MVPD, but it must reasonably approximate, in the aggregate, an existing licensing agreement. That approximation must account for factors, such as advertising revenues and any technical and economic limitations of the OVD seeking a license.

The first option ensures that the JV will not be able to use its control of content to impede competitive pressure exerted on traditional forms of video programming distribution from OVDs that choose to offer linear channels and associated VOD content. The proposed Final Judgment uses Defendants' own contracts with MVPDs, including MVPDs that do not compete with

[20] *See, e.g.,* Report on Cable Industry Prices, *In re Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992,* 24 F.C.C.R. 259, ¶ 2 & chart 1 (rel. Jan. 16, 2009), *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-53A1.pdf* (data showing price of expanded basic service increased more than three times the consumer price index (CPI) between 1995 and 2008).

[21] Similarly, it is unlikely that an entrant would attempt to provide a traditional MVPD service with wireless technology, particularly given the difficulty in acquiring spectrum and the costs and risks of constructing such a system. *See generally* U.S. Dep't of Justice, *Ex Parte* Submission, *In re Economic Issues in Broadband Competition, A National Broadband Plan for our Future,* FCC GN Docket No. 09–51, at 8–11 (filed Jan. 4, 2010), available at *http://www.justice.gov/atr/public/comments/_.htm.*

[22] *See, e.g.,* Transcript, *Verizon at Credit Suisse Group Global Media and Communications Conference,* at 11 (Mar. 8, 2010), *available at http://investor.verizon.com/news/20100308/_:20100308_transcript.pdf.*

Comcast, as proxies for the content and terms the JV would be willing to provide to distributors if it did not have the incentive or ability to disadvantage them in order to maintain customers in or drive customers to Comcast's service.

Under the second option, set forth in Section IV.B, the proposed Final Judgment requires the JV to license to an OVD, broadcast, cable, or film content comparable in scope and quality to the content the OVD receives from one of the JV's programming peers. For example, if an OVD receives each episode of five primetime television series from CBS for display in a subscription VOD service within 48 hours of the original airing, the JV must provide the OVD a comparable set of NBC broadcast television programs, as measured by volume and economic value, for display during the same subscription VOD window. The requirement applies to all JV content, even non-NBCU content, in order to ensure that the JV cannot undermine the purposes of the proposed Final Judgment by shifting content from one network to another.

While the first option ensures that Comcast, through the JV, will not disadvantage OVD competitors in relation to MVPDs, the second option ensures that the programming licensed by the JV to OVDs will reflect the licensing trends of its peers as the industry evolves. Because the OVD industry is still developing, the contracts of the JV's peers also provide an appropriate benchmark for determining the terms and conditions under which content should be licensed to OVDs. The programming peers include the owners of the three major non-NBC broadcast networks (CBS, FOX, and ABC), the largest cable network groups (including News Corporation, Time Warner, Inc., Viacom, and The Walt Disney Company), and the six largest production studios (including News Corporation, Viacom, Sony Corporation of America, Time Warner Inc., and The Walt Disney Company).

If an OVD and the JV are unable to reach an agreement for carriage of the JV's programming under either of these options, an OVD may apply to the Department for permission to submit its dispute to commercial arbitration in accordance with Section VII of the proposed Final Judgment. The FCC Order requires the JV to license content on reasonable terms to OVDs and includes an arbitration mechanism for resolution of disputes over access to programming. The FCC is the expert communications industry agency, and the Department worked very closely with the FCC in designing effective relief in this case. For so long as commercial arbitration is available for resolution of disputes in a timely manner under the FCC's rules and orders, the Department will ordinarily defer to the FCC's commercial arbitration process to resolve such disputes. OVDs are nascent competitors, however, and consistent with the Department's competition law enforcement mandate, the Department reserves the right, in its sole discretion, to permit arbitration pursuant to Section VII to advance the competitive objectives of the proposed Final Judgment. Although the Department may seek enforcement of the Final Judgment through traditional judicial process, the arbitration process will help ensure that OVDs can obtain content from the JV at a competitive price, without involving the Department or the Court in expensive and time-consuming litigation.[23] To support the proposed Final Judgment's requirement that the JV license its programming to OVDs and assist the Department's oversight of this nascent competition, Comcast and NBCU are required, pursuant to Sections IV.M and IV.N, to maintain copies of agreements the JV has with any OVD as well as the identities of any OVD that has requested video programming from the JV.

2. The Proposed Final Judgment Prevents Comcast, Through the JV, From Adversely Affecting Hulu

Section IV.D of the proposed Final Judgment requires Defendants to relinquish their voting and other governance rights in Hulu, and Section IV.E prohibits them from receiving confidential or competitively sensitive information concerning Hulu. As noted above, Hulu is one of the most successful OVDs to date. Comcast has an incentive to prevent Hulu from becoming an even more attractive avenue for viewing video programming because Hulu would then exert increased competitive pressure on Comcast's cable business. If the proposed transaction were to be consummated without conditions, Defendants would hold seats on Hulu's Board of Directors and could exercise their voting and other governance rights to compromise strategic and competitive initiatives Hulu may wish to pursue. Requiring Defendants to relinquish their voting and governance rights in Hulu, and barring access to competitively sensitive information, will prevent Comcast, through the JV, from interfering with Hulu's competitive and strategic plans.

At the same time, NBCU should not be permitted to abandon its commitments to provide Hulu video programming under agreements currently in place and deny Hulu customers the value of the JV's content. Therefore, Section IV.G of the proposed Final Judgment requires the JV to continue to supply Hulu with content commensurate with the supply of content provided to Hulu by its other media owners.

3. The Proposed Final Judgment Prohibits Defendants From Discriminating Against, Retaliating Against, or Punishing Video Programmers and OVDs

The proposed Final Judgment protects the development of OVDs by prohibiting Defendants from engaging in certain conduct that would deter video programmers and OVDs from contracting with each other. Section V.A of the proposed Final Judgment prohibits Defendants from discriminating against, retaliating against, or punishing any content provider for providing programming to any OVD. Section V.A also prohibits Defendants from discriminating against, retaliating against, or punishing any OVD for obtaining video programming, for invoking any provisions of the proposed Final Judgment or any FCC rule or order, or for furnishing information to the Department concerning Defendants' compliance with the proposed Final Judgment.

4. The Proposed Final Judgment Prohibits Defendants From Limiting Distribution to OVDs Through Restrictive Licensing Practices

The proposed Final Judgment further protects the development of OVDs by preventing Comcast from using its influence either as the nation's largest MVPD or as the licensor, through the JV, of important video programming to enter into agreements containing restrictive contracting terms. Video programming agreements often grant

[23] Under Section VI of the proposed Final Judgment, Defendants are required to license only video programming subject to their management or control or over which Defendants possess the power or authority to negotiate content licenses. NBCU has management rights in The Weather Channel, including the right to negotiate programming contracts on its behalf. NBCU currently is not exercising these rights. However, Section V.F provides that if the JV exercises them or otherwise influences The Weather Channel, this programming will be covered under the requirements of the proposed Final Judgment. Similarly, Section V.E exempts The Weather Channel, TV One, FearNet, the Pittsburgh Cable News Channel, and Hulu from the definitions of ''Defendants'' and other related terms unless the Defendants gain control over those channels or the ability to negotiate or influence carriage contracts for those channels.

licensees preferred or exclusive access to the programming content for a particular time period. Such exclusivity provisions can be competitively neutral, but also can have either pro- or anticompetitive purposes or effects. Sections V.B and V.C of the proposed Final Judgment set forth broad prohibitions on restrictive contracting practices, including exclusives, but then delineate a narrowly tailored set of exceptions to those bans. These provisions ensure that Comcast, through the JV, cannot use restrictive contract terms to harm the development of OVDs and, at the same time, preserve the JV's incentives to produce and exploit quality programming.

The video programming distribution industry frequently uses exclusive contract terms that can be procompetitive. For instance, as discussed above, content producers often sequence the release of their content to various distribution platforms, a practice known as ''windowing.'' These windows of exclusivity enable a content producer to maximize the revenues it earns on its content by separating customers based on their willingness to pay and effectively increasing the price charged to the customers that place a higher value on receiving content earlier. Exclusivity also encourages the various distributors, such as cable companies, to promote the content during a distribution window by assuring the distributor that the content will not be available through other distribution channels at a lower price. This ability to price discriminate across types of customers and increase promotion of the content increases the profitability of producing quality programming and encourages the production of more high-quality programming than otherwise would be the case. Exclusivity also may help a new competitor gain entry to a market by encouraging users to try a service they would not otherwise consider. For example, an OVD may desire a limited exclusivity window in order to market its exclusive access to certain programming provided by its service. This unique content makes the service more attractive to consumers and gives them a reason to replace their existing service or try something new.

However, exclusivity restrictions also can serve anticompetitive ends. As a cable company, Comcast has the incentive to seek exclusivity provisions that would prevent content producers from licensing their content to alternative distributors, such as OVDs, for a longer period than the content producer ordinarily would find economically reasonable, in order to hinder OVD development. If Comcast could use exclusivity provisions to prevent the JV's peers from licensing content to OVDs that otherwise would obtain the rights to offer the programming, other provisions of the proposed Final Judgment designed to preserve and foster OVD competition could be effectively nullified.

The proposed Final Judgment strikes a balance by allowing reasonable and customary exclusivity provisions that enhance competition while prohibiting those provisions that, without any offsetting procompetitive benefits, hinder the development of effective competition from OVDs. Section V.B of the proposed Final Judgment prohibits the JV from entering into any agreement containing terms that forbid, limit, or create economic incentives for the licensee to limit distribution of the JV's video programming through OVDs, unless such terms are common and reasonable in the industry. Evidence of what is common and reasonable industry practice includes, among other things, Defendants' contracting practices prior to the date that the JV was announced, as well as practices of the JV's video programming peers. This provision allows the JV to employ those pricing and contractual strategies used by its peers to maximize the value of the content it produces, while limiting Comcast's incentives, through the JV, to craft unusually restrictive contractual terms in the JV's contracts with third parties, the purpose of which is to limit the access of OVDs to content produced by the JV. Section V.C of the proposed Final Judgment prohibits Comcast from entering into or enforcing agreements for carriage of video programming on its cable systems that forbid, limit, or create incentives that limit the provision of video programming to OVDs. Section V.C establishes three narrow exceptions to this broad prohibition. First, Comcast may obtain a 30-day exclusive from free online display if Comcast pays for the video programming. Second, Comcast may enter into an agreement in which the programmer provides content exclusively to Comcast, and to no other MVPD or OVD, for 14 days or less. Third, Comcast may condition carriage of programming on its cable system on terms which require it to be treated in material parity with other similarly situated MVPDs, except to the extent such terms would be inconsistent with the purpose of the proposed Final Judgment. These provisions are designed to ensure that Comcast, either alone or in conjunction with the JV, cannot use existing or new contracts to dictate the terms of the video programming agreements that the JV's peers are able to offer OVDs, thereby hindering the development of OVDs.

5. The Proposed Final Judgment Prohibits Unreasonable Discrimination in Internet Broadband Access

Section V.G of the proposed Final Judgment requires Comcast to abide by certain restrictions on the operation and management of its Internet facilities. Without these restrictions Comcast would have the ability and the incentive to undermine the effectiveness of the proposed Final Judgment. Comcast is the dominant high-speed ISP in much of its footprint and therefore could disadvantage OVDs in ways that would prevent them from becoming better competitive alternatives to Comcast's video programming distribution services. OVDs are dependent upon ISPs' access networks to deliver video content to their subscribers. Without the protections secured in the proposed Final Judgment, Comcast would have the ability, for instance, to give priority to non-OVD traffic on its network, thus adversely affecting the quality of OVD services that compete with Comcast's own MVPD or OVD services. Comcast also would be able to favor its own services by not subjecting them to the network management practices imposed on other services.

Section V.G.1 of the proposed Final Judgment prohibits Comcast from unreasonably discriminating in the transmission of lawful traffic over its Internet access service, with the proviso that reasonable network management practices do not constitute unreasonable discrimination. This provision requires Comcast to treat all Internet traffic the same and, in particular, to ensure that OVD traffic is treated no worse than any other traffic on Comcast's Internet access service, including traffic from Comcast and NBCU sites. Similarly, Section V.G.2 prohibits Comcast from excluding their own services from any caps, tiers, metering, or other usage-based billing plans, and requires them to ensure that OVD traffic is counted in the same way as Comcast's traffic, and that billing plans are not used to disadvantage an OVD in favor of Comcast. Many high-speed Internet providers are evaluating usage-based billing plans. These plans may more efficiently apportion infrastructure costs across users, offer lower-cost service to low-volume subscribers, or divert high-volume usage to non-peak hours. However, these plans also have the potential to increase the cost of high-volume services, such as video distribution, that may compete with an MVPD's video services. Section V.G.2

addresses this concern by ensuring that under these plans Comcast must treat other OVD services just as it treats its own Internet-based video services.

Specialized Services are offered to consumers over the same last-mile facilities as Internet access services, but are separate from the public Internet. The potential benefits of Specialized Services include the facilitation of services that might not otherwise be technically or economically feasible on current networks and the development of new and innovative services, such as services that may compete directly with Comcast's own MVPD offerings. If Comcast were to offer online video services through Specialized Services, however, it could effectively avoid the prohibitions in Sections V.G.1 and V.G.2. Sections V.G.3 and V.G.4 recognize both the potential benefits and the risks of Specialized Services and strike a balance to protect the beneficial development of these services while preventing Comcast from using them anticompetitively to benefit its own content. Section V.G.3 prohibits Comcast from offering Specialized Services that are comprised substantially or entirely of the JV's content. Section V.G.4 requires Comcast to allow any OVD access to a Specialized Service if other OVDs, including Comcast, are being offered access. Together, these two provisions ensure that OVDs will have access to any Specialized Service Comcast may offer that includes comparable services.

Finally, Section V.G.5 ensures that Comcast will maintain its public Internet access service at a level that typically would allow any user on the network to download content from the public Internet at speeds of at least 12 megabits per second in markets where it has deployed DOCSIS 3.0. The requirement to maintain service at this speed may be adjusted by the Court upon a showing that other comparable high-speed Internet access providers offer higher or lower speeds. These speeds are sufficient to ensure that Comcast's Internet access services can support the development of OVDs as well as other services that are potentially competitive with Comcast's own offerings.

In interpreting Section V.G and the terms used therein, the Department will be informed by the FCC's Report and Order, *In re Preserving the Open Internet Broadband Industry Practices,* GN Docket No. 90–191 & WC Docket No. 07–52, adopted December 21, 2010.

B. The Proposed Final Judgment Preserves Traditional Video Competition

A number of FCC orders issued in prior mergers established a commercial arbitration process for resolution of disputes over access to broadcast network programming and regional sports networks. The FCC Order approving this transaction requires the JV to license all of its programming to MVPDs, including its cable networks, and includes an arbitration mechanism that contains several enhancements to its existing commercial arbitration process when licensing disputes between Defendants and other MVPDs arise.[24] The Department believes that these enhancements, combined with the FCC's experience in MVPD arbitration disputes, should protect MVPDs' access to the JV's programming without need of another commercial arbitration mechanism for MVPDs under this proposed Final Judgment.

In addition to the protections contained in the FCC Order, the proposed Final Judgment, in Section V.A, prohibits Defendants from discriminating against, retaliating against, or punishing any MVPD for obtaining video programming, for furnishing any information to the United States about any noncompliance with the proposed Final Judgment, or for invoking the arbitration provisions of the FCC Order. Section V.D also prevents Defendants from requiring or encouraging their local broadcast network affiliates to deny MVPDs the right to carry the local network signals. To aid the enforcement of this prohibition, pursuant to Sections IV.J and IV.K, Comcast and NBCU are required to maintain not only their network affiliate agreements, but also all documents discussing whether any of their affiliates has withheld or threatened to withhold retransmission consent from any MVPD.

C. Term of the Proposed Final Judgment

Section XI of the proposed Final Judgment provides that the Final Judgment will expire seven years from the date of entry unless extended by the Court. The FCC Order also lasts for seven years. The Department believes this time period is long enough to ensure that the JV cannot deny access to Comcast's OVD competitors at a crucial point in their development but otherwise short enough to account for the rapidly evolving nature of the video distribution market.

[24] For example, the FCC Order allows an MVPD claimant to demand arbitration of programming on a stand-alone basis in certain circumstances. It also allows a claimant whose contract with the JV has expired to continue to carry the JV's programming during the pendency of the dispute, subject to a true-up. The FCC Order also contains further modifications to the arbitration process relating to smaller MVPDs.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The Department and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the Department has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the Department written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the Department, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the Department will be filed with the Court and published in the **Federal Register.**

Written comments should be submitted to: Nancy M. Goodman, Chief, Telecommunications and Media Enforcement Section, Antitrust Division, United States Department of Justice, 450 Fifth Street, NW., Suite 7000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains

jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, seeking preliminary and permanent injunctions against Defendants' transaction and proceeding to a full trial on the merits. The United States is satisfied, however, that the relief in the proposed Final Judgment will preserve competition for the provision of video programming distribution services in the United States. Thus, the proposed Final Judgment would protect competition as effectively as would any remedy available through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A), (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (DC Cir. 1995); *see also United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable.''). *See generally United States* v. *SBC Comm., Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act).[25]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[26] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Comm.,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant ''due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case'').

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.''' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court might have imposed a greater remedy if the matter had been litigated). To meet this standard, the Department ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Comm.,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged.''). Because the ''court's authority to review the decree

[25] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Comm.,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[26] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court recently confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Comm.,* 489 F. Supp. 2d at 15. In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Comm.,* 489 F. Supp. 2d at 11.[27]

VIII. Determinative Documents

Appendix F to the FCC's Memorandum Opinion and Order, *In re Applications of Comcast Corp., General Electric Co. and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licensees,* FCC MB Docket No. 10–56 (adopted Jan. 18, 2011), was the only determinative document or material within the meaning of the APPA considered by the Department in formulating the proposed Final Judgment. The Department will file a notice and link to this document as soon as it is posted on the FCC's Web site.

Dated: January 18, 2011.

Respectfully submitted,

/s/

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In the United States District Court for the District of Columbia

United States of America, State of California, State of Florida, State of Missouri, State of Texas, and State of Washington, Plaintiffs, v. *Comcast Corp., General Electric Co., and NBC Universal, Inc.,* Defendants.

Civil Action No.

[Proposed] Final Judgment

Whereas, Plaintiffs, the United States of America and the States of California, Florida, Missouri, Texas, and Washington, filed their Complaint on January 18, 2011, alleging that Defendants propose to enter into a joint venture that will empower Defendant Comcast Corporation to block competition from video programming distribution competitors in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Plaintiffs and Defendants, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And whereas, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, Plaintiffs require Defendants to agree to undertake certain actions and refrain from certain conduct for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, Defendants have represented to the United States that the actions and conduct restrictions can and will be undertaken and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained below;

Now therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of Defendants, it is *ordered, adjudged, and decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II. Definitions

As used in this Final Judgment:

A. ''AAA'' means the American Arbitration Association.

B. ''Affiliated'' means directly or indirectly controlling, controlled by, or under common control with a Person.

C. ''Broadcast Network'' means The Walt Disney Company (ABC), CBS Inc. (CBS), News Corporation (FOX), NBCU (NBC and Telemundo), or any other Person that provides live or recorded Video Programming for broadcast over a group of local television stations.

D. ''Broadcast Network Peer'' means (1) CBS Inc. (CBS), News Corporation (FOX), or The Walt Disney Company (ABC); or (2) any of the top four Broadcast Networks, measured by the total annual net revenue earned by the Broadcast Network from the broadcast of live or recorded Video Programming over a group of local television stations. Defendants are not Broadcast Network Peers, even if they are one of the top four Broadcast Networks.

E. ''Business Model'' means the primary method by which Video Programming is monetized (*e.g.,* ad-supported, subscription without ads, subscription with ads, electronic sell through, or pay per view/transactional video on demand).

F. ''Cable Programmer'' means Time Warner, Inc., The Walt Disney Company, News Corporation, Viacom, Inc., NBCU, or any other Person that provides Video Programming for distribution through MVPDs. A Person that provides Video Programming to MVPDs solely as a Broadcast Network or as a Network Affiliate, O&O, or local television station operating within its licensed territory is not a Cable Programmer.

G. ''Cable Programmer Peer'' means (1) News Corporation, Time Warner, Inc., Viacom, Inc., or The Walt Disney Company; or (2) any of the top five Cable Programmers, measured by the total annual net revenue earned by the Cable Programmer from its cable networks, as reported by SNL Kagan (or another source commonly relied upon in the television industry), excluding revenues earned from regional sports networks. Defendants are not Cable

[27] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

Programmer Peers, even if they are one of the top five Cable Programmers.

H. ''Comcast'' means Comcast Corporation, a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania, its successors and assigns, and its Subsidiaries (whether partially or wholly owned), divisions, groups, Partnerships, and Joint Ventures, and their directors, officers, managers, agents, and employees.

I. ''Defendants'' means Comcast, General Electric, and NBCU, acting individually or collectively, as appropriate. Where the Final Judgment imposes an obligation to engage in or refrain from engaging in certain conduct, that obligation shall apply to each Defendant individually and to any Joint Venture established by any two or more Defendants.

J. ''Department of Justice'' means the United States Department of Justice Antitrust Division.

K. ''Experimental Deal'' means an agreement between an OVD and a Peer for a term of six months or less.

L. ''Film'' means a feature-length motion picture that has been theatrically released.

M. ''Final Offer'' means a proposed contract identifying the Video Programming Defendants are to provide to OVDs pursuant to Section IV.A or IV.B of this Final Judgment and containing the proposed price, terms, and conditions on which Defendants will provide that Video Programming.

N. ''General Electric'' means General Electric Company, a New York corporation with its principal place of business in Fairfield, Connecticut, its successors and assigns, and its Subsidiaries (whether partially or wholly owned), divisions, groups, Partnerships, and Joint Ventures, and their directors, officers, managers, agents, and employees.

O. ''Hulu'' means Hulu, LLC, a Delaware limited liability company with its headquarters in Los Angeles, California, its successors and assigns, and its Subsidiaries (whether partially or wholly owned), divisions, groups, Partnerships, and Joint Ventures, and their directors, officers, managers, agents, and employees.

P. ''Internet Access Service'' means a mass-market retail communications service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. Internet Access Service does not include virtual private network services, content delivery network services, multichannel video programming services, hosting or data storage services, or Internet backbone services (if those services are separate from Internet Access Services).

Q. ''MVPD'' means a multichannel video programming distributor as that term is defined on the date of entry of this Final Judgment in 47 CFR 76.1200(b).

R. ''NBCU'' means NBC Universal, Inc., a Delaware corporation with its principal place of business in New York, New York, its successors and assigns, and its Subsidiaries (whether partially or wholly owned), divisions, groups, Partnerships, and Joint Ventures, and their directors, officers, managers, agents, and employees.

S. ''Network Affiliate'' means a local television station that broadcasts some or all of the Video Programming of Defendants' Broadcast Networks (i.e., NBC or Telemundo). A Network Affiliate is owned and operated by Persons other than Defendants.

T. ''O&O'' means a local television station owned and operated by Defendants that broadcasts the Video Programming of one of Defendants' Broadcast Networks (i.e., NBC or Telemundo).

U. ''OVD'' means any Person that distributes Video Programming in the United States by means of the Internet or another IP-based transmission path provided by a Person other than the OVD. This definition (1) includes an MVPD that offers Video Programming by means of the Internet or another IP-based transmission path outside its MVPD footprint as a service separate and independent of an MVPD subscription; and (2) excludes an MVPD that offers Video Programming by means of the Internet or another IP-based transmission path to homes inside its MVPD footprint as a component of an MVPD subscription.

V. ''Peer'' means any Broadcast Network Peer, Cable Programmer Peer, or Production Studio Peer, its successors, assigns, and any Person that is managed or controlled by any Broadcast Network Peer, Cable Programmer Peer, or Production Studio Peer. Defendants are not Peers.

W. ''Person'' means any natural person, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, or other business or legal entity, whether private or governmental.

X. ''Plaintiff States'' means the States of California, Florida, Missouri, Texas, and Washington.

Y. ''Production Studio'' means Time Warner, Inc. (Warner Bros. Television and Warner Bros. Pictures), News Corporation (20th Century Fox Television and 20th Century Fox), Viacom, Inc. (Viacom's television production subsidiaries and Paramount Pictures), Sony Corporation of America (Sony Pictures Television and Sony Pictures Entertainment), The Walt Disney Company (Disney-ABC Studios and the Walt Disney Motion Pictures Group), NBCU (Universal Pictures, Focus Films, and Universal Studios), and any other Person that produces Video Programming for distribution through Broadcast Networks or Cable Programmers.

Z. ''Production Studio Peer'' means (1) News Corporation, Viacom, Inc., Sony Corporation of America, Time Warner, Inc., or The Walt Disney Company; or (2) any of the top six Production Studios, measured by the total annual net revenue earned by the Production Studio from the sale or licensing of Video Programming. Defendants are not Production Studio Peers, even if they are one of the top six Production Studios.

AA. ''Qualified OVD'' means any OVD that has an agreement with a Peer for the license of Video Programming to the OVD (other than an agreement under which an OVD licenses only short programming segments or clips from the Peer), where the OVD is not Affiliated with the Peer.

BB. ''Specialized Service'' means any service provided over the same last-mile facilities used to deliver Internet Access Service other than (1) Internet Access Services, (2) services regulated either as telecommunications services under Title II of the Communications Act or as MVPD services under Title VI of the Communications Act, or (3) Defendants' existing VoIP telephony service.

CC. ''Subsidiary,'' ''Partnership,'' and ''Joint Venture'' refer to any Person in which there is partial (25 percent or more) or total ownership or control between the specified Person and any other Person.

DD. ''Value'' means the economic value of Video Programming based on, among other factors, the Video Programming's ratings (as measured by The Nielsen Company or other Person commonly relied upon in the television industry for television ratings), affiliate fees, advertising revenues, and the time elapsed since the Video Programming was first distributed to consumers by a Broadcast Network or Cable Programmer.

EE. ''Video Programming'' means programming provided by, or generally considered comparable to programming

provided by, a Broadcast Network or Cable Programmer, regardless of the medium or method used for distribution, and includes programming prescheduled by the programming provider (also known as scheduled programming or a linear feed); programming offered to viewers on an on-demand, point-to-point basis (also known as video on demand); pay per view or transactional video on demand; short programming segments related to other full-length programming (also known as clips); programming that includes multiple video sources (also known as feeds, including camera angles); programming that includes video in different qualities or formats (including high-definition and 3D); and Films for which a year or more has elapsed since their theatrical release. For purposes of this Final Judgment, Video Programming shall not include programming over which General Electric possesses ownership or control that is unrelated to its ownership interest in NBCU.

III. Applicability

This Final Judgment applies to Defendants and all other Persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV. Required Conduct

Provision of Economically Equivalent Video Programming Terms to OVDs

A. At the request of any OVD, Defendants shall provide, for distribution to consumers through a linear feed (plus any associated video-on-demand rights), all Video Programming they provide to any MVPD in the United States with more than one million subscribers, on terms that are Economically Equivalent to the terms on which Defendants provide Video Programming to that MVPD.

For purposes of this Section IV.A:

1. ''Economically Equivalent'' means the price, terms, and conditions that, in the aggregate, reasonably approximate those on which Defendants provide Video Programming to an MVPD, and shall take account of, among other things, any difference in advertising revenues earned by Defendants through OVD distribution and those earned through MVPD distribution; any limitation of Defendants' legal rights to provide Video Programming as a linear feed over the Internet or other IP-based transmission path; any generally applicable, market-based requirements regarding minimum subscriber and penetration rates; and any other evidence concerning differences in revenues earned by Defendants in connection with the provision of Video Programming to the OVD rather than to an MVPD.

2. Defendants shall provide to any requesting OVD all Video Programming subject to Defendants' management or control and all Video Programming, including Video Programming owned by another Person, over which Defendants possess the power or authority to negotiate content licenses.

3. At the request of the OVD, Defendants shall provide any bundle of channels, and all quality formats (e.g., high definition, 3D) and video-on-demand rights that Defendants provide to any MVPD in the United States with more than one million subscribers.

4. Subject to other provisions of this Section IV.A, Defendants shall not apply to an OVD any terms or conditions contained in Defendants' agreements with MVPDs that would not be technically or economically practicable if applied generally to Video Programming distributed by OVDs (e.g., that the OVD distribute Video Programming over an MVPD system).

5. In any agreement they enter into with an OVD under this Section IV.A, Defendants may require that the OVD not distribute Defendants' Video Programming to consumers (a) if Defendants' Video Programming constitutes more than 45 percent of the OVD's Video Programming (measured by hours available to subscribers), and (b) until at least one Peer has agreed to provide Video Programming to the OVD (including, if the Defendants agree to provide NBC Video Programming to the OVD, at least one Broadcast Network Peer).

6. Defendants may condition their provision of Video Programming to an OVD under this Section IV.A on the OVD's (a) Agreement not to distribute the Video Programming to consumers through a Web site promoting or communicating the availability or accessibility of pornography, gambling, or unlawful activities; (b) reasonable demonstration of its ability to meet its financial obligations; (c) demonstration of its ability to satisfy reasonable quality and technical requirements for the display and secure protection of Defendants' Video Programming; (d) agreement to limit the distribution of an O&O's Video Programming linear feed solely to that O&O's designated market area or ''DMA''; or (e) agreement to limit the distribution of Defendants' Video Programming to the territory of the United States.

Provision of Comparable Video Programming to OVDs

B. At the request of any Qualified OVD, Defendants shall provide Comparable Video Programming to the Qualified OVD on terms that are Economically Equivalent to the price, terms, and conditions on which the Qualified OVD receives Video Programming from a Peer.

For purposes of this Section IV.B:

1. ''Economically Equivalent'' means price, terms, and conditions that, in the aggregate, reasonably approximate those on which the Peer provides Video Programming to the Qualified OVD, and shall take account of, among other things, any difference between the Value of the Video Programming the Qualified OVD seeks from Defendants and the Value of the Video Programming it receives from a Peer.

2. ''Comparable'' Video Programming means Defendants' Video Programming that is reasonably similar in kind and amount to the Video Programming provided by the Peer, considering the volume (i.e., number of channels or shows) of Video Programming and its Value.

3. The following, among other types of Video Programming, are not Comparable:

a. First-day Video Programming and Video Programming distributed after Defendants' first-day distribution of that Video Programming to consumers;

b. Repeat, prior-season Video Programming and original, first-run Video Programming;

c. Non-sports Video Programming and sports Video Programming;

d. Broadcast Video Programming and cable Video Programming;

e. Video Programming directed to children and Video Programming not directed to children;

f. Local news Video Programming and Video Programming that is not local news;

g. Film and non-Film Video Programming; and

h. Film between one and five years from initial distribution and Film over five years from initial distribution.

4. In any agreement they enter into with an OVD under this Section IV.B, Defendants shall not be required to include exclusivity provisions for Comparable Video Programming even if the Qualified OVD's Peer agreement includes exclusivity provisions, *provided that* the price, terms, and conditions on which Defendants provide Video Programming to the Qualified OVD shall be adjusted so that, in the aggregate, they reasonably approximate the price, terms, and

conditions on which the Peer provides Video Programming to the Qualified OVD.

5. If a Qualified OVD receives Video Programming from two or more Peers in any single Peer category (*i.e.,* Broadcast Network Peers, Cable Programmer Peers, or Production Studio Peers) and pursuant to the same Business Model, Defendants shall provide, pursuant to this Section IV.B, Video Programming Comparable to the Video Programming of one Peer in that category selected by the Qualified OVD. If a Qualified OVD receives Video Programming from a Peer in two or more Peer categories, Defendants shall provide Video Programming Comparable to the Peer in both or all categories. If a Qualified OVD receives Video Programming from two or more Peers in the same Peer category but pursuant to different Business Models, Defendants shall provide Video Programming Comparable to each Peer pursuant to the Business Model specified in each Peer contract.

6. In responding to a request from a Qualified OVD to which Defendants have provided Video Programming under this Section IV.B, Defendants shall not be required to provide additional Video Programming unless the Qualified OVD enters into a Video Programming agreement with (a) A Peer in a different Peer category (*i.e.,* Broadcast Network Peers, Cable Programmer Peers, or Production Studio Peers), (b) the same Peer under a different Business Model, or (c) the same Peer for additional Video Programming pursuant to the same Business Model.

7. At the request of an OVD with which Defendants have an agreement to provide Video Programming that subsequently becomes a Qualified OVD, Defendants shall provide additional or different Video Programming so the Video Programming Defendants provide to the Qualified OVD (including any Video Programming the Defendants have previously agreed to provide to the OVD) is Comparable to that which the Qualified OVD receives from the Peer.

8. Defendants may require the Qualified OVD to distribute Video Programming obtained from Defendants pursuant to the Business Model under which the Qualified OVD distributes the Peer's Video Programming.

9. The number of Experimental Deals to which Defendants, at the request of Qualified OVDs, must respond by providing Comparable Video Programming is limited to the maximum number of Experimental Deals any single Peer has entered into with OVDs.

10. If a Cable Programmer Peer provides substantially all of its cable channels to a Qualified OVD for distribution to consumers through a linear feed, Defendants may meet their obligation under this Section IV.B to provide Comparable Video Programming by providing to the Qualified OVD and requiring the Qualified OVD to distribute substantially all of Defendants' channels.

OVD Rights to Commercial Arbitration

C. If, after negotiations, in which Defendants shall participate in good faith and with reasonable diligence, Defendants and any OVD fail to agree on appropriate Economically Equivalent terms on which Defendants must provide Video Programming under Sections IV.A or IV.B of this Final Judgment or on Comparable Video Programming under Section IV.B of this Final Judgment, the OVD may apply to the Department of Justice (but not to the Plaintiff States) for permission to submit its dispute with Defendants to commercial arbitration in accordance with Section VII of this Final Judgment. For so long as commercial arbitration is available for the resolution of such disputes in a timely manner under the Federal Communications Commission's rules and orders, the Department of Justice will ordinarily defer to the Federal Communications Commission's commercial arbitration process to resolve such disputes; *provided that* the Department of Justice reserves the right, in its sole discretion, to permit arbitration under this Final Judgment to advance the competitive objectives of this Final Judgment. Nothing in this Section IV.C shall limit the right of the United States to apply to this Court, pursuant to Section IX of this Final Judgment, either before or in place of commercial arbitration under Section VII of this Final Judgment, for an order enforcing Defendants' compliance or punishing their noncompliance with their obligations under Sections IV.A and IV.B of this Final Judgment.

Disposition of Control Over Hulu

D. Within ten days after entry of this Final Judgment, Defendants shall (1) delegate any voting and other rights they hold pursuant to their ownership interest in Hulu in a manner that directs and authorizes Hulu to cast any votes related to such ownership interest in an amount and manner proportional to the vote of all other votes cast by other Hulu owners; and (2) relinquish any veto right or other right to influence, control, or participate in the governance or management of Hulu; *provided that* such delegation and relinquishment shall terminate upon Defendants' complete divestiture of their ownership interests in Hulu.

E. Defendants shall not read, receive, obtain, or attempt to obtain any confidential or competitively sensitive information concerning Hulu or influence, interfere, or attempt to influence or interfere in the management or operation of Hulu. Notwithstanding the foregoing, Defendants may request and receive from Hulu regularly prepared, aggregated financial statements and information reasonably necessary for Defendants to exercise their rights to purchase advertising inventory from Hulu and to comply with their obligations under Section IV.G of this Final Judgment.

F. Defendants shall not obtain or acquire any ownership interest in Hulu beyond that which it possessed on January 1, 2011. Nothing in this Section IV.F shall prohibit Defendants from receiving a proportional or less than proportional distribution of Hulu equity securities in connection with any future conversion of Hulu into a corporation, *provided that* Defendants' economic share in Hulu may not increase in connection with such distribution.

G. Defendants shall continue to provide Video Programming to Hulu of a type, quantity, ratings, and quality comparable to that of the Broadcast Network owner of Hulu providing the greatest quantity of Video Programming to Hulu. Provided that the other current Broadcast Network owners of Hulu renew their agreements with Hulu, Defendants also either shall continue to provide Video Programming to Hulu on substantially the same terms and conditions as were in place on January 1, 2011, or shall enter into agreements with Hulu on substantially the same terms and conditions as those of the Broadcast Network owner whose renewed agreement is the most economically advantageous to Hulu.

Clear Delineation of Rights

H. Any agreement Defendants enter into with any Production Studio concerning Defendants' distribution of the Production Studio's Video Programming shall include, unless inconsistent with common and reasonable industry practice and subject to any agreements not prohibited by Section V.B of this Final Judgment, either (1) an express grant by the Production Studio to Defendants of the right to provide the Video Programming to OVDs, or (2) an express retention of that right by the Production Studio.

Document Retention and Disclosures

I. Comcast and NBCU shall furnish to the Department of Justice and the Plaintiff States quarterly electronic copies of any communications with any MVPD, OVD, Broadcast Network, Cable Programmer, or Production Studio containing allegations of Defendants' noncompliance with any provision of this Final Judgment.

J. Comcast and NBCU shall collect and maintain one copy of each of the following agreements, currently in effect or established after entry of this Final Judgment:

1. Each affiliation agreement between Defendants and any Network Affiliate;

2. Each agreement under which a Network Affiliate authorizes Defendants to negotiate on its behalf for carriage or retransmission on MVPDs;

3. Each agreement for the carriage or retransmission of an O&O's or a Network Affiliate's (to the extent Defendants possess the power or authority to negotiate on behalf of the Network Affiliate) Video Programming on an MVPD; and

4. Each syndication agreement under which Defendants provide Video Programming to an O&O or Network Affiliate for distribution to consumers.

K. Comcast and NBCU shall collect and maintain each document in their possession, custody, or control discussing an O&O's or a Network Affiliate's denial or threat to deny Video Programming to an MVPD or OVD. Defendants shall notify the Department of Justice and the Plaintiff States within 30 days of learning that an O&O or a Network Affiliate has denied or threatened to deny Video Programming to any MVPD or OVD.

L. Comcast and NBCU shall collect and maintain documents sufficient to show the compensation each O&O and each Network Affiliate (about which Comcast or NBCU possesses information) receives from any MVPD or OVD.

M. Comcast and NBCU shall collect and maintain complete copies of any final agreement or unsigned but operative agreement (1) under which Defendants provide Video Programming (other than short programming segments or clips) to any MVPD or OVD, and (2) for Defendants' carriage or retransmission on their MVPD of Video Programming from a Network Affiliate, a local television station, a Broadcast Network, or a Cable Programmer. For any ongoing negotiations that have not yet produced a final or operative agreement, Comcast and NBCU shall also collect and maintain electronic copies of the most recent offer made to Defendants by an MVPD or OVD seeking Video Programming or by a Network Affiliate, local television station, Broadcast Network, or Cable Programmer seeking carriage or retransmission on Defendants' MVPD, and Defendants' most recent response or offer to any such Persons.

N. Comcast and NBCU shall identify for the Department of Justice and the Plaintiff States semiannually

1. the name of each Person that in writing has requested or submitted to Defendants a contractual offer for Video Programming (other than short programming segments or clips) for distribution to consumers, the date of such Person's most recent written request or contractual offer, and the date of Defendants' most recent response or offer to such Person; and

2. the name of each Person that in writing has requested or submitted a contractual offer for carriage or retransmission of the Person's Video Programming on Defendants' MVPD, the date of such Person's most recent written request or contractual offer, and the date of Defendants' most recent response or offer to such Person.

O. Comcast and NBCU shall collect and maintain each document sent to or received from General Electric relating to (1) Defendants' provision of Video Programming to any MVPD or OVD, (2) any OVD's distribution of any Person's Video Programming to consumers, (3) carriage or retransmission of any Person's Video Programming on Defendants' MVPD, or (4) Defendants' compliance or noncompliance with the terms of this Final Judgment.

V. Prohibited Conduct

Discrimination and Retaliation

A. Defendants shall not discriminate against, retaliate against, or punish (1) any Broadcast Network, Cable Programmer, Production Studio, local television station, or Network Affiliate for providing Video Programming to any MVPD or OVD, or (2) any MVPD or OVD (i) for obtaining Video Programming from any Broadcast Network, Cable Programmer, Production Studio, local television station, or Network Affiliate, (ii) for invoking any provisions of this Final Judgment, (iii) for invoking the provisions of any rules or orders concerning Video Programming adopted by the Federal Communications Commission, or (iv) for furnishing information to the United States or the Plaintiff States concerning Defendants' compliance or noncompliance with this Final Judgment.

Contractual Provisions

B. Defendants shall not enter into any agreement pursuant to which Defendants provide Video Programming to any Person in which Defendants forbid, limit, or create economic incentives to limit the distribution of such Video Programming through OVDs, *provided that,* nothing in this Section V.B shall prohibit Defendants from entering into agreements consistent with common and reasonable industry practice. Evidence relevant to determining common and reasonable industry practice may include, among other things, Defendants' contracting practices prior to December 3, 2009, and the contracting practices of Defendants' Peers. Notwithstanding any other provision in this Section V.B, in providing Comparable Video Programming to a Qualified OVD under Section IV.B of this Final Judgment, Defendants may include exclusivity provisions only to the extent those provisions are no broader than any exclusivity provisions in the Qualified OVD's agreement with a Peer.

C. Defendants shall not enter into or enforce any agreement for Defendants' carriage or retransmission on their MVPD of Video Programming from a local television station, Network Affiliate, Broadcast Network, or Cable Programmer under which Defendants forbid, limit, or create incentives to limit the local television station's, Network Affiliate's, Broadcast Network's, or Cable Programmer's provision of its Video Programming to one or more OVDs, *provided that,* nothing in this Section V.C shall prohibit Defendants from

1. entering into and enforcing an agreement under which Defendants discourage or prohibit a local television station, Network Affiliate, Broadcast Network, or Cable Programmer from making Video Programming for which Defendants pay available to consumers for free over the Internet within the first 30 days after Defendants first distribute the Video Programming to consumers;

2. entering into and enforcing an agreement under which the local television station, Network Affiliate, Broadcast Network, or Cable Programmer provides Video Programming exclusively to Defendants, and to no other MVPD or OVD, for a period of time of not greater than 14 days; or

3. entering into and enforcing an agreement which requires that Defendants are treated in material parity with other similarly situated MVPDs, except to the extent application of other

MVPDs' terms would be inconsistent with the purpose of this Final Judgment.

Control or Influence Over Other Persons

D. Except as permitted by Section V.B of this Final Judgment, Defendants shall not require, encourage, unduly influence, or provide incentives to any local television station or Network Affiliate to

1. Deny Video Programming to (a) any MVPD that provides Video Programming to consumers in any zip code in which Comcast also provides Video Programming to consumers or (b) any OVD; or

2. Provide Video Programming on terms that exceed its Value.

E. Notwithstanding any other provisions of this Final Judgment, including the definitions of ''Defendant,'' ''Comcast,'' ''NBCU,'' ''General Electric,'' ''Subsidiary,'' ''Partnership,'' or ''Joint Venture,'' unless Comcast, NBCU, or General Electric possesses or acquires control over The Weather Channel, TV One, FearNet, the Pittsburgh Cable News Channel, or Hulu, or the right or ability to negotiate for any of those Persons or to influence negotiations for the provision of any such Person's Video Programming to MVPDs or OVDs, such Person is not a Defendant subject to the obligations of this Final Judgment.

F. Defendants shall not exercise any rights under any existing management or operating agreement with The Weather Channel to participate in negotiations for the provision of any of The Weather Channel's Video Programming to any MVPD or OVD, to advise The Weather Channel concerning any such negotiations, or to approve or obtain any information (other than aggregated financial reports) about any agreement between The Weather Channel and any MVPD or OVD. If, in the future, Defendants acquire the right to negotiate for The Weather Channel or to exercise any control or influence over The Weather Channel's negotiation of agreements with MVPDs or OVDs, Defendants shall provide The Weather Channel Video Programming to OVDs when required to do so under Sections IV.A or IV.B of this Final Judgment.

Practices Concerning Comcast's Internet Facilities

G. Comcast shall abide by the following restrictions on the management and operation of its Internet facilities:

1. Comcast, insofar as it is engaged in the provision of Internet Access Service, shall not unreasonably discriminate in transmitting lawful network traffic over a consumer's Internet Access Service. Reasonable network management shall not constitute unreasonable discrimination. A network management practice is reasonable if it is appropriate and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the Internet Access Service.

2. If Comcast offers consumers Internet Access Service under a package that includes caps, tiers, metering, or other usage-based pricing, it shall not measure, count, or otherwise treat Defendants' affiliated network traffic differently from unaffiliated network traffic. Comcast shall not prioritize Defendants' Video Programming or other content over other Persons' Video Programming or other content.

3. Comcast shall not offer a Specialized Service that is substantially or entirely comprised of Defendants' affiliated content.

4. If Comcast offers any Specialized Service that makes content from one or more third parties available to (or that otherwise enables the exchange of network traffic between one or more third parties and) its subscribers, Comcast shall allow any other comparable Person to be included in a similar Specialized Service on a nondiscriminatory basis.

5. Comcast shall offer Internet Access Service that is sufficiently provisioned to ensure, in DOCSIS 3.0 or better markets, that an Internet Access Service subscriber can typically achieve download speeds of at least 12 megabits per second. The United States or Defendants may petition this Court, based upon a showing that comparable Internet Access Service providers (e.g., Persons using hybrid fiber-coax technology to provide service on a mass-market scale) have generally increased or decreased the speed of their services after the entry of this Final Judgment, to modify Comcast's required download speeds. This Section V.G does not restrict Comcast's ability to impose byte caps or consumption-based billing, subject to the other provisions of this Final Judgment.

6. Nothing in this Section V.G

a. Supersedes any obligation or authorization Comcast may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or limits Comcast's ability to do so; or

b. Prohibits reasonable efforts by Comcast to address copyright infringement or other unlawful activity.

VI. Permitted Conduct

Nothing in this Final Judgment prohibits Defendants from refusing to provide to any MVPD or OVD any Video Programming (1) for which Defendants do not possess copyright rights; (2) not subject to Defendants' management or control or over which Defendants do not possess the power or authority to negotiate content licenses; or (3) the provision of which would require Defendants' to breach any contract not prohibited by Sections V.B or V.C of this Final Judgment.

VII. Arbitration

A. Defendants shall negotiate in good faith and with reasonable diligence to provide Video Programming sought by an OVD pursuant to Sections IV.A and IV.B of this Final Judgment and, upon demand by an OVD approved by the Department of Justice pursuant to Section IV.C of this Final Judgment, shall participate in commercial arbitration in accordance with the procedures herein.

B. Defendants and an OVD may, by agreement, modify any time periods specified in this Section VII.

C. Any OVD seeking to invoke commercial arbitration under this Final Judgment must, pursuant to Section IV.C of this Final Judgment, apply to the Department of Justice for permission to do so. If the Department of Justice determines the commercial arbitration should proceed, the OVD shall furnish a written notice to Defendants and the Department of Justice expressly (1) waiving all rights to invoke any dispute resolution process under Federal Communications Commission orders and rules to resolve a dispute with Defendants concerning the same Video Programming; and (2) stating that the OVD consents to be bound by the terms in the Final Offer selected by the arbitrator. Arbitration under this Final Judgment is not available if a dispute between an OVD and Defendants concerning the same Video Programming is the subject of any Federal Communications Commission dispute resolution process. Defendants shall not (a) commence arbitration of any dispute under the arbitration procedures contained in this Final Judgment, or (b) upon receipt of the notice from the OVD that it intends to commence arbitration under this Final Judgment, commence any Federal Communications Commission dispute resolution process to resolve the same dispute with the OVD.

D. Arbitration pursuant to this Final Judgment shall be conducted in accordance with the AAA's Commercial

Arbitration Rules and Expedited Procedures, except where inconsistent with specific procedures prescribed by this Final Judgment. As described below in Sections VII.P and VII.Q, the arbitrator shall select the Final Offer of either the OVD or the Defendants and may not alter, or request or demand alteration of, any terms of those Final Offers. The decision of the arbitrator shall be binding on the parties, and Defendants shall abide by the arbitrator's decision.

E. The AAA, in consultation with the United States, shall assemble a list of potential arbitrators, to be furnished to the OVD and Defendants as soon as practicable after commencement of the arbitration. Within five business days after receipt of this list, the OVD and Defendants each may submit to the AAA the names of up to 20 percent of the persons on the list to be excluded from consideration, and shall rank the remaining arbitrators in their orders of preference. The AAA, in consultation with the United States, will appoint as arbitrator the candidate with the highest ranking who is not excluded by the OVD or Defendants.

F. Defendants shall continue to provide Video Programming to an OVD pursuant to the terms of any existing agreement until the arbitration is completed. If the arbitrator's decision changes the financial terms on which Defendants must provide Video Programming to the OVD, Defendants or the OVD, as the case may be, shall compensate the other based on application of the new financial terms for the period dating from expiration of the existing agreement (plus appropriate interest).

G. Within five business days of the commencement of an arbitration, the OVD and the Defendants each shall furnish a writing to the other and to the Department of Justice committing to maintain the confidentiality of the arbitration and of any Final Offers and discovery materials exchanged during the arbitration, and to limit the use of any Final Offers and discovery materials to the arbitration. The writing shall expressly state that all records of the arbitration and any discovery materials may be disclosed to the Department of Justice..

H. Defendants shall not be bound by the provisions of this Section VII if an OVD commences arbitration under this Final Judgment more than 60 days prior to the expiration of an existing Video Programming agreement, or less than 30 days after an OVD first requests Defendants to provide Video Programming under Section IV.A or IV.B of this Final Judgment.

I. After an OVD receives approval from the Department of Justice, pursuant to Section IV.C of this Final Judgment, the OVD may commence arbitration by filing with the AAA and furnishing to Defendants and to the Department of Justice.

1. An assertion that Defendants must provide Video Programming to the OVD pursuant to Section IV.A or IV.B of this Final Judgment; and

2. If the Qualified OVD's assertion is based, pursuant to Section IV.B of this Final Judgment, on Comparable Video Programming provided by a Peer or Peers, each agreement with any such Peers.

J. Simultaneously with the commencement of arbitration, the OVD must file with the AAA its Final Offer for the Video Programming it believes Defendants must provide.

K. Within five business days of the commencement of an arbitration, Defendants shall file with the AAA and furnish to the Department of Justice their Final Offer for the Video Programming sought by the OVD.

L. After the AAA has received Final Offers from the OVD and Defendants, it will immediately furnish a copy of each Final Offer to the other party.

M. At any time after the commencement of arbitration, the OVD and Defendants may agree to suspend the arbitration, for periods not to exceed 14 days in the aggregate, to attempt to resolve their dispute through negotiation. The OVD and the Defendants shall effectuate such suspension through a joint writing filed with the AAA and furnished to the Department of Justice. Either the OVD or the Defendants may terminate the suspension at any time by filing with the AAA and furnishing to the Department of Justice a writing calling for the arbitration to resume.

N. The OVD and the Defendants shall exchange written discovery requests within five business days of receiving the other party's Final Offer, and shall exercise reasonable diligence to respond within 14 days. Discovery shall be limited to the following items in the possession of the parties:

1. Previous agreements between the OVD and the Defendants;

2. Formal offers to renew previous agreements;

3. Current and prior agreements between the Defendants and MVPDs or other OVDs;

4. Current and prior agreements between the OVD and other Broadcast Networks, Cable Programmers, or Production Studios;

5. Records of past arbitrations pursuant to this Final Judgment;

6. Documents reflecting Nielsen or other ratings of the Video Programming at issue or of Comparable Video Programming; and

7. Documents reflecting the number of subscribers to the OVD. There shall be no discovery or use in the arbitration of documents or information not in the possession, custody, or control of the OVD or the Defendants, of draft agreements or other documents concerning negotiations between the OVD and the Defendants (other than formal offers to renew previous agreements, pursuant to Section VII.N.2 of this Final Judgment), or of the costs associated with Defendants' production of their Video Programming.

O. In reaching his or her decision, the arbitrator may consider only documents exchanged in discovery between the parties and the following:

1. Testimony explaining the documents and the parties' Final Offers;

2. Briefs submitted and arguments made by counsel; and

3. Summary exhibits illustrating the terms of Defendants' agreements with MVPDs or other OVDs or of the party OVD's agreements with other Broadcast Networks, Cable Programmers, or Production Studios.

P. Arbitrations under Section IV.A of this Final Judgment shall begin within 30 days of the AAA furnishing to the OVD and to the Defendants, pursuant to Section VII.L of this Final Judgment, each party's Final Offer. The arbitration hearing shall last no longer than ten business days, after which the arbitrator shall have five business days to inform the OVD and the Defendants which Final Offer best reflects the appropriate Economically Equivalent terms under Section IV.A of the Final Judgment.

Q. Arbitrations under Section IV.B of this Final Judgment shall be conducted in two stages, the first of which shall begin within 30 days of the AAA furnishing to the Qualified OVD and to the Defendants, pursuant to Section VII.L of this Final Judgment, each party's Final Offer. The first stage shall last no longer than ten business days, after which the arbitrator shall have five business days to inform the Qualified OVD and the Defendants which Final Offer encompasses the appropriate Comparable Video Programming under Section IV.B of this Final Judgment. Within five business days of the arbitrator's decision, the Qualified OVD and the Defendants shall file with the AAA, furnish to the Department of Justice, and exchange revised Final Offers containing proposed financial terms for the Comparable Video Programming selected by the arbitrator. The second stage of the arbitration shall

commence within ten days of the exchange of the revised Final Offers and shall last no longer than ten business days, after which the arbitrator shall have five business days to inform the Qualified OVD and the Defendants which Final Offer best reflects the appropriate Economically Equivalent terms under Section IV.B of this Final Judgment.

VIII. Compliance Inspection

A. For purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the Department of Justice, including consultants and other persons retained by the Department of Justice, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted

1. Access during the Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide to the United States and the Plaintiff States hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment, including documents Defendants are required to collect and maintain pursuant to Sections IV.J, IV.K, IV.L, IV.M, or IV.O of this Final Judgment; and

2. To interview, either informally or on the record, the Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or respond to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested. Written reports authorized under this paragraph may, at the sole discretion of the United States (after consultation with the Plaintiff States), require Defendants to conduct, at their cost, an independent audit or analysis relating to any of the matters contained in this Final Judgment.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of (1) the executive branch of the United States, (2) the Plaintiff States, or (3) the Federal Communications Commission, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by a Defendant to the United States and the Plaintiff States, the Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and the Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States and the Plaintiff States shall give the Defendant ten calendar days notice prior to divulging such material in any civil or administrative proceeding.

IX. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions. Notwithstanding the foregoing, the Plaintiff States shall have no right to apply to the Court for further orders or directions with respect to Sections IV.C, IV.D, IV.E, IV.F, V.G, or VII of this Final Judgment. In particular, the Plaintiff States shall not be able to apply to this Court to carry out, construe, modify, enforce, or punish violations of Sections IV.C, IV.D, IV.E, IV.F, V.G, or VII of this Final Judgment.

X. No Limitation On Government Rights

Nothing in this Final Judgment shall limit the right of the United States or the Plaintiff States to investigate and bring actions to prevent or restrain violations of the antitrust laws concerning any past, present, or future conduct, policy, or practice of the Defendants.

XI. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire seven years from the date of its entry.

XII. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures set forth in the Antitrust Procedures and Penalties Act, 15 U.S.C. 16

/s/ _____

United States District Judge

[FR Doc. 2011–1821 Filed 1–28–11; 8:45 am]

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S. 3481/P.L. 111–378
To amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution. (Jan. 4, 2011; 124 Stat. 4128)

S. 3592/P.L. 111–379
To designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building". (Jan. 4, 2011; 124 Stat. 4130)

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S. 4036/P.L. 111–382
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