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Contents

Federal Register

Vol. 76, No. 60

Tuesday, March 29, 2011

Administration on Aging
See Aging Administration

Aging Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Extension of Certification on Maintenance of Effort for Title III and Minor Revisions to Certification, etc., 17419–17420

Agriculture Department
See Forest Service
See Rural Utilities Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17378–17379

Bureau of Ocean Energy Management, Regulation and Enforcement

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Open and Nondiscriminatory Access to Oil and Gas Pipelines, 17430–17431
Platforms and Structures, 17431–17434

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17420–17421
Request for Comments:
World Trade Center Health Program Cancer Conditions, 17421

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
State Developmental Disabilities Council 5-Year State Plan, 17421–17422

Coast Guard
RULES
Drawbridge Operation Regulations; Columbia River, OR; CFR Correction, 17341
Special Local Regulations:
Hydroplane Races within Captain of Port Puget Sound Area of Responsibility, 17339–17341

Commerce Department
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17380

Corporation for National and Community Service
RULES
Americorps Participants, Programs, and Applicants; CFR Correction, 17347

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17383–17384
Applications for New Awards:
Carol M. White Physical Education Program, 17384–17391
United States–Brazil Higher Education Consortia Program, 17391–17396
Proposed Priorities:
Disability and Rehabilitation Research Projects and Centers Program, 17396–17400
Disability in the Family, 17403–17406
Interventions to Promote Community Living Among Individuals with Disabilities, 17400–17403

Employment and Training Administration
NOTICES
Affirmative Determinations Regarding Applications for Reconsideration:
Penske Logistics LLC, El Paso, TX, 17447
Wausau Daily Herald, Wausau, WI, 17446–17447
Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance, 17447–17448

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Environmental Impact Statements; Availability, etc.:
Mountaineer Commercial Scale Carbon Capture and Storage Project, Mason County, WV; Postponement of Public Hearing, 17406
Proposed Subsequent Arrangements, 17406–17407

Environmental Protection Agency
RULES
Approval and Promulgation of Implementation Plans:
Nevada; Determination of Attainment for the Clark County 8-Hour Ozone Nonattainment Area, 17343–17347
Protection of Stratospheric Ozone:
New Substitute in Motor Vehicle Air Conditioning Sector under the Significant New Alternatives Policy Program, 17488–17520
Revision to the California State Implementation Plan, Great Basin Unified Air Pollution Control District:
CFR Correction, 17347
PROPOSED RULES
Approval and Promulgation of Air Quality Implementation Plans:
Louisiana; Determination of Termination of Section 185 Fees, 17368–17373
Approval and Promulgation of Implementation Plans:
Nevada; Determination of Attainment for the Clark County 8-Hour Ozone Nonattainment Area, 17373
Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities, 17374–17377

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
2011 Hazardous Waste Report, Notification of Regulated Waste Activity, etc., 17414–17416
Proposed Settlement Agreements, Clean Air Act Citizen Suit, 17416–17417

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Special Conditions:
Boeing Model 747–2G4B Airplane; Certification of Cooktops, 17334–17336
Embraer S.A, Model EMB 500, Single-Place Side-Facing Seat, 17332–17334
PROPOSED RULES
Airworthiness Directives:
Bombardier, Inc. Model DHC–8–400 Series Airplanes, 17362–17364
Dassault–Aviation Model FALCON 7X Airplanes, 17364–17366
NOTICES
Environmental Assessments; Availability, etc.:
Air Tour Management Plan, Mount Rainier National Park, WA; Public Meeting, 17471
Environmental Impact Statements; Availability, etc.:
Air Tour Management Plan, Haleakala National Park, Maui, HI; Public Meeting, 17471–17472
Air Tour Management Plan, Hawaii Volcanoes National Park, HI; Public Meetings, 17472–17473
Meetings:
Commercial Space Transportation Advisory Committee, 17474
RTCA Special Committee 214 Working Group 78; Standards for Air Traffic Data Communication Services, 17473–17474

Federal Communications Commission
RULES
Aviation Communications, 17347–17353
NOTICES
Meetings:
Advisory Committee for the 2012 World Radiocommunication Conference, 17417–17418

Federal Emergency Management Agency
NOTICES
Meetings:
National Fire Academy Board of Visitors, 17425

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 17407–17411
Filing of Supplement to Facilities Surcharge Settlement:
Enbridge Energy, LP, 17411
Filings of Applications:
Free Flow Power Corp., 17411–17413
Preliminary Permit Applications:
Kahawai Power 4, LLC, 17413
Technical Workshops:
Contract Reporting Requirements of Intrastate Natural Gas Companies; Form 549D, 17413–17414

Federal Housing Enterprise Oversight Office
RULES
Debt Collection, 17331–17332

Federal Housing Finance Agency
RULES
Debt Collection, 17331–17332

Federal Motor Carrier Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17474–17475
Qualification of Drivers; Exemption Applications; Diabetes Mellitus, 17475–17481
Qualification of Drivers; Exemption Applications; Vision, 17481–17485

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 17418

Fish and Wildlife Service
RULES
Migratory Bird Subsistence Harvest in Alaska:
Regulations for 2011 Season, 17353–17360
NOTICES
Endangered Species Act Incidental Take Permit Applications, 17434–17439
Environmental Assessments; Availability, etc.:
Nonessential Experimental Populations of Gray Wolves; Lethal Take of Wolves in the West Fork Elk Management Unit of Montana, 17439–17442
Meetings:
Wildlife and Hunting Heritage Conservation Council Teleconference, 17442–17443

Food and Drug Administration
RULES
New Animal Drugs:
Amikacin Sulfate, Ampicillin Trihydrate, Ceftiofur Hydrochloride, Cephapirin Benzathine, etc.; Correcting Amendments, 17336–17339
NOTICES
Meetings:
Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee, 17422–17423

Forest Service
RULES
Idaho Roadless Rule:
Final Administrative Correction, 17341–17343
NOTICES
Meetings:
National Tree-Marking Paint Committee, 17379

Health and Human Services Department
See Aging Administration
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17418–17419
Federal Health IT Strategic Plan; 2011–2015 Open Comment Period, 17419

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17423

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
See U.S. Customs and Border Protection
NOTICES
Meetings:
President's National Security Telecommunications Advisory Committee, 17424

Housing and Urban Development Department
See Federal Housing Enterprise Oversight Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Floodplain Management and Protection of Wetlands, 17427–17428
Homelessness Prevention Study, 17427
Rehabilitation Mortgage Insurance Underwriting Program Section 203(K), 17428–17429
Buy American Exceptions under the 2009 American Recovery and Reinvestment Act, 17429
FHA Debenture Call, 17429–17430

Interior Department
See Bureau of Ocean Energy Management, Regulation and Enforcement
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service

International Trade Administration
NOTICES
Antidumping Duty Administrative Reviews; Extensions of Time Limits for Preliminary Results:
Solid Urea from Russian Federation, 17380–17381
Antidumping Duty Administrative Reviews; Final Results:
Certain Corrosion-Resistant Carbon Steel Flat Products from Republic of Korea, 17381
Applications for Duty-Free Entry of Electron Microscopes:
Battelle Memorial Institute, et al.; Consolidated Decision, 17381

International Trade Commission
NOTICES
Investigations:
Certain Vaginal Ring Birth Control Devices, 17444–17446

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Alleged Safety or Health Hazards, 17446

Land Management Bureau
NOTICES
Filings of Plats of Survey:
Montana, 17443
Meetings:
Dominguez–Escalante Advisory Council, 17443–17444

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 17459–17460

National Highway Traffic Safety Administration
NOTICES
Meetings:
Federal Interagency Committee on Emergency Medical Service; Correction to Clarify Time Zone, 17485

National Institute of Standards and Technology
PROPOSED RULES
National Voluntary Laboratory Accreditation Program:
Operating Procedures, 17367–17368

National Institutes of Health
NOTICES
Laboratory Animal Welfare:
Proposed Adoption and Implementation of Eighth Edition of Guide for Care and Use of Laboratory Animals, 17423–17424

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Octopus in Bering Sea and Aleutian Islands Management Area, 17360–17361
NOTICES
Endangered Species Act Incidental Take Permit Applications, 17434–17439
Meetings:
Fisheries of South Atlantic; South Atlantic Fishery Management Council, 17382
New England Fishery Management Council, 17381–17382
Pacific Fishery Management Council, 17382–17383

National Park Service
NOTICES
Inventory Completions:
Colorado Historical Society (History Colorado), Denver, CO, 17444

Nuclear Regulatory Commission
PROPOSED RULES
Medical Use of Byproduct Material:
Meeting; Advisory Committee on the Medical Uses of Isotopes, 17362
NOTICES
Establishment of Atomic Safety and Licensing Board:
South Texas Project Nuclear Operating Co., 17460
Meetings; Sunshine Act, 17460–17461

Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17448–17451
Online OSHA Outreach Training Programs, 17451–17459

Office of Federal Housing Enterprise Oversight
See Federal Housing Enterprise Oversight Office

Overseas Private Investment Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17461

Postal Regulatory Commission
NOTICES
Meetings; Sunshine Act, 17461–17462

Presidential Documents
PROCLAMATIONS
Special Observances:
100th Anniversary of the Triangle Shirtwaist Factory Fire (Proc. 8639), 17327–17328
Greek Independence Day: A National Day of Celebration of Greek and American Democracy (Proc. 8640), 17329–17330

Rural Utilities Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17379–17380

Securities and Exchange Commission
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Board Options Exchange, Inc., 17463–17466
International Securities Exchange, Inc., 17466–17468
International Securities Exchange, LLC, 17462–17463
NASDAQ OMX PHLX LLC, 17468–17470

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See National Highway Traffic Safety Administration
NOTICES
Transportation Services' Transition from Paper to Electronic Fare Media, 17470–17471

Treasury Department
See United States Mint

U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Waiver of Passport and/or Visa, 17426–17427
Entry of Articles for Exhibition, 17425–17426

United States Mint
NOTICES
Pricing for America Beautiful Five Ounce Silver Bullion Coin Presentation Case, 17485

Separate Parts In This Issue

Part II
Environmental Protection Agency, 17488–17520

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

8639 17327
8640 17329

10 CFR

Proposed Rules:

35 17362

12 CFR

1208 17331
1704 17332

14 CFR

23 17332
25 17334

Proposed Rules:

39 (2 documents) 17362, 17364

15 CFR

Proposed Rules:

285 17367

21 CFR

520 17336
522 17336
526 17336
529 17336

33 CFR

100 17339
117 17341

36 CFR

294 17341

40 CFR

52 (2 documents) 17343, 17347
82 17488

Proposed Rules:

52 (2 documents) 17368, 17373
174 17374
180 17374

45 CFR

2522 17347

47 CFR

1 17347
2 17347
87 (2 documents) 17347, 17353

50 CFR

92 17353
679 17360

Federal Register
Vol. 76, No. 60
Tuesday, March 29, 2011

Presidential Documents

Title 3—

The President

Proclamation 8639 of March 24, 2011

100th Anniversary of the Triangle Shirtwaist Factory Fire

By the President of the United States of America

A Proclamation

On March 25, 1911, a fire spread through the cramped floors of the Triangle Shirtwaist Factory in lower Manhattan. Flames spread quickly through the 8th, 9th, and 10th floors—overcrowded, littered with cloth scraps, and containing few buckets of water to douse the flames—giving the factory workers there little time to escape. When the panicked workers tried to flee, they encountered locked doors and broken fire escapes, and were trapped by long tables and bulky machines. As bystanders watched in horror, young workers began jumping out of the windows to escape the inferno, falling helplessly to their deaths on the street below.

By the time the fire was extinguished, nearly 150 individuals had perished in an avoidable tragedy. The exploited workers killed that day were mostly young women, recent immigrants of Jewish and Italian descent. The catastrophe sent shockwaves through New York City and the immigrant communities of Manhattan's Lower East Side, where families struggled to recognize the charred remains of their loved ones in makeshift morgues. The last victims were officially identified just this year.

A century later, we reflect not only on the tragic loss of these young lives, but also on the movement they inspired. The Triangle factory fire was a galvanizing moment, calling American leaders to reexamine their approach to workplace conditions and the purpose of unions. The fire awakened the conscience of our Nation, inspiring sweeping improvements to safety regulations both in New York and across the United States. The tragedy strengthened the potency of organized labor, which gave voice to previously powerless workers. A witness to the fire, Frances Perkins carried the gruesome images of that day through a lifetime of advocacy for American workers and into her role as the Secretary of Labor and our country's first female Cabinet Secretary.

Despite the enormous progress made since the Triangle factory fire, we are still fighting to provide adequate working conditions for all women and men on the job, ensure no person within our borders is exploited for their labor, and uphold collective bargaining as a tool to give workers a seat at the tables of power. Working Americans are the backbone of our communities and power the engine of our economy. As we mark the anniversary of the Triangle Shirtwaist Factory Fire, let us resolve to renew the urgency that tragedy inspired and recommit to our shared responsibility to provide a safe environment for all American workers.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 25, 2011, as the 100th Anniversary of the Triangle Shirtwaist Factory Fire. I call upon all Americans to participate in ceremonies and activities in memory of those who have been killed due to unsafe working conditions.

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

[FR Doc. 2011–7497
Filed 3–28–11; 8:45 am]
Billing code 3195–W1–P

Presidential Documents

Proclamation 8640 of March 24, 2011

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2011

By the President of the United States of America

A Proclamation

One hundred ninety years ago, Greece regained its independence and became a symbol of democracy for the world for the second time in history. As America recognizes this milestone in the birthplace of democracy, we also celebrate our warm friendship with Greece and the lasting legacy of Hellenic culture in our own country.

America's Founders drew upon the core democratic principles developed in ancient Greece as they imagined a new government. Since that time, our Union has strived to uphold the belief that each person has a fundamental right to liberty and participation in the democratic process, and Greece has continued to promote those very principles. Over the centuries these cherished ideals—democracy, equality, and freedom—have inspired our citizens and the world.

The relationship between the United States and Greece extends beyond our common values and is strengthened by the profound influence of Greek culture on our national life. From the architecture of our historic buildings to the lessons in philosophy and literature passed on in our classrooms, America has drawn on the deep intellectual traditions of the Greeks in our own establishment and growth as a nation. Reinforcing the steadfast bonds between our two countries, Americans of Greek descent have maintained the best of their heritage and immeasurably enriched our national character.

The American people stand with Greece to honor the legacy of democracy wrought over 2,000 years ago and its restoration to the Hellenic Republic nearly 200 years ago. As we celebrate the history and values of Greece and the United States, we also look forward to our shared future and recommit to continuing our work as friends and allies.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 25, 2011, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. I call upon all the people of the United States to observe this day with appropriate ceremonies and activities.

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

[FR Doc. 2011–7502
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Rules and Regulations

Federal Register
Vol. 76, No. 60
Tuesday, March 29, 2011

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

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

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1208

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1704

RIN 2590–AA15

Debt Collection

AGENCY: Federal Housing Finance Agency; Office of Federal Housing Enterprise Oversight.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) publishes this final rule to adopt, without change, the interim final rule that was published in the **Federal Register** on November 10, 2010, setting forth procedures for use by FHFA in collecting debts owed to the Federal Government. The final rule implements the requirements of the Federal Claims Collection Act and the Debt Collection Improvement Act of 1996, and includes procedures for collection of debts through salary offset, administrative offset, tax refund offset, and administrative wage garnishment.

DATES: The final rule is effective on March 29, 2011.

FOR FURTHER INFORMATION CONTACT: Andra Grossman, Senior Counsel, telephone (202) 343–1313 or Gail F. Baum, Associate General Counsel, telephone (202) 343–1508 (not toll-free numbers); Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

A. Debt Collection

On November 10, 2010, FHFA published an interim final rule in the **Federal Register** at 75 FR 68956. This final rule adopts, without change, that interim final rule that set forth procedures for use by FHFA in collecting debts owed to the Federal Government. The final rule implements the requirements of the Federal Claims Collection Act [1] and the Debt Collection Improvement Act of 1996 (DCIA).[2] The DCIA requires agencies to either (1) adopt without change regulations on collecting debts by administrative offset promulgated by the Department of Justice or Department of the Treasury; or (2) prescribe agency regulations for collecting such debts by administrative offset, which are consistent with the Federal Claims Collection Standards (FCCS).[3] The agency regulations are to protect the minimum due process rights that must be afforded to a debtor when an agency seeks to collect a debt, including the ability to verify, challenge, and compromise claims, and provide access to administrative appeals procedures which are both reasonable and protect the interests of the United States. FHFA issued its own agency regulations for debt collection, to account for FHFA's status as an independent regulatory agency, and for ease of use. The final rule is consistent with the FCCS, as required by the DCIA. In addition, the tax refund offset provisions of the regulations satisfy the requirement of the Internal Revenue Service (IRS) that FHFA adopt agency regulations authorizing its collection of debts by administrative offset in general and tax refund offset in particular.[4] The administrative wage garnishment provisions of the regulations satisfy the requirement in 31 CFR 285.11(f) that FHFA adopt regulations for the conduct of administrative wage garnishment hearings.

B. Effective Date

This final rule, without change, affirms the establishment of 12 CFR part 1208 and removal of 12 CFR part 1704 by the interim final rule that is already in effect. FHFA determined that the interim final rule pertains to agency practice and procedure and is interpretative in nature. The procedures contained in the interim final rule for salary offset, administrative offset, tax refund offset, and administrative wage garnishment are mandated by law and by regulations promulgated by the Office of Personnel Management, jointly by the Department of the Treasury and the Department of Justice, and by the IRS. FHFA determined that the interim final rule was not subject to the Administrative Procedure Act (APA) and the requirements of the APA for a notice and comment period and for a delayed effective date.[5] While the interim final rule became effective on November 10, 2010, FHFA provided a 60-day comment period that ended on January 10, 2011. FHFA did not receive any comments. Based on the rationale set forth in the interim final rule, FHFA adopts the provisions of the interim final rule as a final rule without any changes.

Regulatory Impact

Paperwork Reduction Act

The final rule does not contain any information collection requirement that requires the approval of the Office of Management and Budget under the Paperwork Reduction Act.[6]

Regulatory Flexibility Act

The Regulatory Flexibility Act requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities.[7] Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities.[8] FHFA has considered the impact of the final rule under the Regulatory Flexibility Act. FHFA certifies that the final rule is not likely to have a significant economic impact on a substantial number of small business entities because the rule applies

[1] Public Law 89–508, 80 Stat. 308 (1966), as amended by the Debt Collection Act of 1982, Public Law 97–365, 96 Stat. 1749 (1982).

[2] Public Law 104–134, 110 Stat. 1321 (1996).

[3] 31 U.S.C. 3716.

[4] 31 U.S.C. 3720A(b)(4); 26 CFR 301.6402–6(b);31 CFR 285.2(c).

[5] 5 U.S.C. 553(b), (c) and(d)(3).

[6] 44 U.S.C. 3501 *et seq.*

[7] 5 U.S.C. 601 *et seq.*

[8] 5 U.S.C. 605(b).

primarily to Federal employees and a limited number of Federal and business entities.[9]

List of Subjects

12 CFR Part 1208

Administrative practice and procedure, Claims, Debt collection, Government employees, Wages.

12 CFR Part 1704

Administrative practice and procedure, Debt collection.

PART 1208—DEBT COLLECTION

PART 1704—[REMOVED]

Authority and Issuance

Accordingly, the interim final rule establishing 12 CFR part 1208 and removing 12 CFR part 1704 that was published in the **Federal Register** at 75 FR 68956 on November 10, 2010, is adopted as a final rule without change.

Dated: March 18, 2011.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2011–7341 Filed 3–28–11; 8:45 am]

BILLING CODE 8070–01–P

[9] Id.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE311; Special Conditions No. 23–251–SC]

Special Conditions: Embraer S.A.; Model EMB 500; Single-Place Side-Facing Seat Dynamic Test Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the installation of a single-place side-facing seat/lavatory on Embraer S.A. EMB 500 aircraft. Side-facing seats are considered a novel design, and their installation in a part 23 airplane was not envisaged and is not adequately addressed in 14 CFR part 23. The FAA has determined that the existing regulations do not provide adequate or appropriate safety standards for occupants of single-place side-facing seats. In order to provide a level of safety that is equivalent to that afforded to occupants of forward and aft facing seating, additional airworthiness standards, in the form of special conditions, are necessary.

DATES: The effective date of these special conditions is March 22, 2011. Comments must be received on or before April 28, 2011.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration (FAA), Regional Counsel, ACE–7, Attention: Rules Docket, Docket No. CE311, 901 Locust, Room 506, Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: Docket No. CE311. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Stegeman, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Kansas City, Missouri, 816–329–4140, fax 816–329–4090, e-mail *Robert.Stegeman@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On December 26, 2009, Embraer S.A. submitted request for a change to type certificate No. A59CE for a design change application (DCA) for installation of a side-facing belted toilet in the EMB–500 airplane. The implication of the term belted is that the toilet will be used for a passenger seat during takeoff and landing and so must comply with the provisions of 14 CFR §§ 23.562 and 23.785 (in addition to the certification basis as established in type certificate A59CE) and any additional requirements that the FAA determines are applicable. In this case, the approval of a side-facing seat to these provisions is considered new and novel and, as such, will require special conditions and specific methods of compliance to certificate.

14 CFR part 23 was amended August 8, 1988, by Amendment 23–36, to revise the emergency landing conditions that must be considered in the design of the airplane. Amendment 23–36 revised the static load conditions in § 23.561, and added a new § 23.562 that required dynamic testing for all seats approved for occupancy during takeoff and landing. The intent of Amendment 23–36 is to provide an improved level of safety for occupants on part 23 airplanes. Because most seating is forward-facing in part 23 airplanes, the pass/fail criteria developed in Amendment 23–36 focused primarily on these seats. Since the regulations do not address side-facing seats, these criteria should be documented in special conditions.

The FAA decided to review compliance with these regulations because the current regulations do not provide adequate and appropriate standards for the type certification of this type of seat.

These requirements are substantially similar to other single place side-facing seat installations approved for use on several different 14 CFR part 25 airplanes.

Type Certification Basis

Under the provisions of § 21.101, Embraer S.A. must show that the model EMB 500, as modified, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A59CE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. A59CE are as follows:

Part 23 of the Code of Federal Regulations effective February 1, 1965, as amended by 23–1 through 23–55; Part 36 of the Code of Federal Regulations effective December 1, 1969, as amended by 36–1 through 36–28; Part 34 of the Code of Federal Regulations effective September 10, 1990, as amended by 34–1 through 34–3.

For the model listed above, the certification basis also includes all exemptions, if any; equivalent level of safety findings, if any; and special conditions not relevant to the special conditions adopted by this rulemaking action.

The Administrator has determined that the applicable airworthiness regulations (*i.e.,* part 23 as amended) do not contain adequate or appropriate safety standards for the Embraer EMB 500 side-facing seat because of a novel or unusual design feature. Therefore, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to that model under the provisions of § 21.101.

Novel or Unusual Design Features

The Embraer S.A., model EMB 500 will incorporate the following novel or unusual design feature:

A side-facing lavatory seat intended for taxi/takeoff and landing.

Discussion

The seat is to incorporate design features that reduce the potential for injury in the event of an accident. In a severe impact, the occupant will be restrained by a 3-point seatbelt and bear on an adjacent padded wall. In addition to the design features intended to minimize occupant injury during an accident sequence, the installation will also require operational procedures that will facilitate egress after an accident, including leaving the lavatory door locked open during taxi, takeoff and landing. The adjacent forward wall/bulkhead interior structure will have padding, which will provide some protection to the head of the occupant.

The Code of Federal Regulations states performance criteria for forward and aft facing seats and restraints in an objective manner. However, none of these criteria are adequate to address the specific issues raised concerning side-facing seats. Therefore, the FAA has determined that, in addition to the requirements of part 21 and part 23, special conditions are needed to address the installation of this seat installation/restraint.

Accordingly, these special conditions are for the Embraer S.A. model EMB 500 side-facing seat location. Other conditions may be developed, as needed, based on further FAA review and discussions with the manufacturer and civil aviation authorities.

Applicability

As discussed above, these special conditions are applicable to the EMB 500. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the previously identified Embraer S.A. model. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Embraer S.A. model EMB 500, as changed to allow installation of a single-place side-facing seat.

The minimum acceptable standards for dynamic seat certification of the belted lavatory seat are as follows:

1. *Existing Criteria.* As referenced by § 23.785(b), all injury protection criteria of §§ 23.562(c)(1) through (c)(7) apply to the occupants of the side-facing seats. Head injury criteria (HIC) assessments are only required for head contact with the seat and/or adjacent structures.

2. *Body-to-wall/furnishing contact.* The seat must be installed aft of a structure such as an interior wall or furnishing that will contact the pelvis, upper arm, chest, or head of an occupant seated next to the structure. A conservative representation of the structure and its stiffness must be included in the tests. It is required that the contact surface of this structure must be covered with at least two inches of energy absorbing protective padding (foam or equivalent), such as Ensolite.

3. *Thoracic Trauma.* Testing with a Side Impact Dummy (SID), as defined by 49 CFR part 572, subpart F, or its equivalent, must be performed in order to establish Thoracic Trauma Index (TTI) injury criteria. TTI acquired with the SID must be less than 85, as defined in 49 CFR part 572, subpart F. SID TTI data must be processed as defined in Federal Motor Vehicle Safety Standard (FMVSS) Part 571.214, section S6.13.5. Rational analysis, comparing an installation with another installation where TTI data were acquired and found acceptable, may also be viable.

4. *Pelvis.* Pelvic lateral acceleration must not exceed 130g. Pelvic acceleration data must be processed as defined in FMVSS Part 571.214, section S6.13.5.

5. *Shoulder Strap Loads.* Where upper torso straps (shoulder straps) are used for occupants, tension loads in individual straps must not exceed 1,750 pounds. If dual straps are used for restraining the upper torso, the total strap tension loads must not exceed 2,000 pounds.

6. *Compression Loads.* The compression load measured between the pelvis and the lumbar spine of the ATD may not exceed 1,500 pounds.

7. *Emergency Evacuation.* When occupied, the lavatory door must be latched open for takeoff and landing and must remain latched under the § 23.561(b) loads. The airplane configuration must meet the emergency evaluation requirements of its certification basis with the seat occupied.

8. *Lavatory Door Placard.* A placard specifying the lavatory door must be latched open for takeoff and landing when occupied must be displayed on the outside of the door.

9. *Test Requirements in § 23.562 dynamic loads.* The tests in § 23.562(a), (b) and (c) must be conducted on the lavatory seat. Floor deformation is required except for a seat that is cantilevered to the bulkhead.

Issued in Kansas City, Missouri on March 22, 2011.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–7307 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM452; Notice No. 25–424–SC]

Special Conditions: Boeing Model 747–2G4B Airplane; Certification of Cooktops

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Boeing Model 747–2G4B series airplane. This airplane, as modified by Greenpoint Technologies, Inc., will have a novel or unusual design feature associated with the replacement and re-certification of existing cooktops with advanced technology induction coil cooktops in the main deck galleys on two Boeing Model 747–2G4B airplanes. The proposed modification is limited to removing the existing cooktops and replacing them with new technology cooktops. No changes to the galley surfaces, smoke detection system, ventilation system, warning systems, and fire suppression systems are included in this modification. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is March 22, 2011. We must receive your comments by April 28, 2011.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM452, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM452. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2194; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected airplanes. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to acknowledge receipt of your comments on this proposal, include with your comments a self-addressed, stamped postcard on which you have written the docket number. We will stamp the date on the postcard and mail it back to you.

Background

On July 20, 2010, Greenpoint Technologies, Inc., applied for a Supplemental Type Certificate (STC) for the replacement of existing cooktops in the Boeing Model 747–2G4B airplane. The Boeing Model 747–2G4B currently approved under Type Certificate No. A20WE, is a Model 747–200 series airplane with four CF6–80C2B1 engines. The Model 747–200 series airplane is an extended range passenger version of the Model 747–100 airplanes with changes to increase its strength and fuel capacity.

The modification incorporates the installation of an electrically heated surface, called a cooktop. Cooktops introduce high heat, smoke, and the possibility of fire into the passenger cabin environment. These potential hazards to the airplane and its occupants must be satisfactorily addressed. Since existing airworthiness regulations do not contain safety standards addressing cooktops, special conditions are therefore needed.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Greenpoint Technologies Inc., must show that the Boeing Model 747–2G4B, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certification No. A20WE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. A20WE are part 25, as amended by Amendments 25–1 through 25–8, with reversions to earlier amendments, voluntary compliance to later amendments, special conditions, equivalent safety findings, and exemptions listed in the type certificate data sheet.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 747–2G4B because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design features, the special conditions would also apply to the other model.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 747–2G4B must comply with the fuel vent and exhaust emission requirements of 14

CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The modification of the Boeing Model 747–2G4B airplane will include installation of cooktops in the passenger cabin. Cooktops introduce high heat, smoke, and the possibility of fire into the passenger cabin environment. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards to protect the airplane and its occupants from these potential hazards. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

Currently, ovens are the prevailing means of heating food on airplanes. Ovens are characterized by an enclosure that contains both the heat source and the food being heated. The hazards represented by ovens are thus inherently limited, and are well understood through years of service experience. Cooktops, on the other hand, are characterized by exposed heat sources and the presence of relatively unrestrained hot cookware and heated food, which may represent unprecedented hazards to both occupants and the airplane. Cooktops could have serious passenger and airplane safety implications if appropriate requirements are not established for their installation and use. These special conditions apply to cooktops with electrically powered burners. The use of an open flame cooktop (for example natural gas) is beyond the scope of these special conditions and would require separate rulemaking action. The requirements identified in these special conditions are in addition to those considerations identified in Advisory Circular (AC) 20–168, "Certification Guidance for Installation of Non-Essential, Non-Required Aircraft Cabin Systems & Equipment (CS&E)," and those in AC 25–17A, "Transport Airplane Cabin Interiors Crashworthiness Handbook." The intent of these special conditions is to provide a level of safety that is consistent with that on similar airplanes without cooktops.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 747–2G4B airplane modified by Greenpoint Technologies, Inc. Should Greenpoint Technologies, Inc., apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the Boeing Model 747–2G4B airplane modified by Greenpoint Technologies, Inc. It is not a rule of general applicability and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date of the Boeing Model 747–2G4B in imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 747–2G4B airplanes modified by Greenpoint Technologies, Inc.:

Cooktop Installations With Electrically-Powered Burner

1. Means, such as conspicuous burner-on indicators, physical barriers, or handholds, must be installed to minimize the potential for inadvertent personnel contact with hot surfaces of both the cooktop and cookware. Conditions of turbulence must be considered.

2. Sufficient design means must be included to restrain cookware while in place on the cooktop, as well as representative contents, *e.g.,* soup, sauces, etc., from the effects of flight loads and turbulence. Restraints must be provided to preclude hazardous movement of cookware and contents. These restraints must accommodate any cookware that is identified for use with the cooktop. Restraints must be designed to be easily utilized and effective in service. The cookware restraint system should also be designed so that it will not be easily disabled, thus rendering it unusable. Placarding must be installed which prohibits the use of cookware that can not be accommodated by the restraint system.

3. Placarding must be installed which prohibits the use of cooktops (i.e., power on any burner) during taxi, takeoff, and landing (TTL).

4. Means must be provided to address the possibility of a fire occurring on or in the immediate vicinity of the cooktop. Two acceptable means of complying with this requirement are as follows:

a. Placarding must be installed that prohibits any burner from being powered when the cooktop is unattended (**Note:** That this would prohibit a single person from cooking on the cooktop and intermittently serving food to passengers while any burner is powered), and a fire detector must be installed in the vicinity of the cooktop which provides an audible warning in the passenger cabin, or galley only audible warning per the airworthiness approval of the Boeing Model 747–2G4B aircraft with existing design safety features, compartment and a fire extinguisher of appropriate size and extinguishing agent must be installed in the immediate vicinity of the cooktop. Access to the extinguisher must not be blocked by a fire on or around the cooktop. One of the fire extinguishers required by § 25.851 may be used to satisfy this requirement if the total complement of extinguishers can be evenly distributed throughout the cabin. If this is not possible, then the extinguisher in the galley area would be additional, or

b. An automatic, thermally activated fire suppression system must be installed to extinguish a fire at the cooktop and immediately adjacent surfaces. The agent used in the system must be an approved total flooding agent suitable for use in an occupied area. The fire suppression system must have a manual override. The automatic activation of the fire suppression system must also automatically shut off power to the cooktop.

5. Means must be provided to address the surfaces of the galley surrounding the cooktop, which could be exposed to a fire on the cooktop surface or in cookware on the cooktop. Two acceptable means of complying with this requirement are as follows:

a. The materials must be constructed of materials that comply with the flammability requirements of Part III of Appendix F of part 25. This requirement is in addition to the flammability requirements typically required of the materials in these galley surfaces.

During the selection of these materials, consideration must also be given to ensure that the flammability characteristics of the materials will not be adversely affected by the use of cleaning agents and utensils used to remove cooking stains.

b. Retain the surface materials of the existing galleys surrounding the cooktops per the airworthiness approval of the Boeing 747–2G4B model aircraft flammability requirements of Part I (§ 25.853 Amendment 25–59) of Appendix F of part 25. The use of the existing flammability approvals of the galley per the Type Certificate (A20WE) certification basis for the Boeing 747–2G4B model is acceptable as this modification consists of structural changes strictly to accommodate the installation of new cooktops.

6. The cooktop must be ventilated with a system independent of the airplane cabin and cargo ventilation system. Procedures and time intervals must be established to inspect and clean or replace the ventilation system to prevent a fire hazard from the accumulation of flammable oils and be included in the instructions for continued airworthiness. The ventilation system ducting must be protected by a flame arrestor or an automatic shutoff valve in the over-range top ventilation system in lieu of the flame arrestor. [**Note:** The applicant may find additional useful information in Society of Automotive Engineers, Aerospace Recommended Practice 85, Rev. E, entitled "Air Conditioning Systems for Subsonic Airplanes," dated August 1, 1991.]

7. Means must be provided to contain spilled foods or fluids in a manner that will prevent the creation of a slipping hazard to occupants and will not lead to the loss of structural strength due to corrosion.

8. Cooktop installations must provide adequate space for the user to immediately escape a hazardous cooktop condition.

9. A means to shut off power to the cooktop must be provided at the galley containing the cooktop and in the cockpit. If additional switches are introduced in the cockpit, revisions to smoke or fire emergency procedures of the AFM will be required.

Issued in Renton, Washington, on March 22, 2011.

K.C. Yanamura,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–7343 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520, 522, 526, and 529

[Docket No. FDA–2011–N–0003]

New Animal Drugs; Amikacin Sulfate, Ampicillin Trihydrate, Ceftiofur Hydrochloride, Cephapirin Benzathine, Chlortetracycline, Fenbendazole, Formalin, Furosemide, Glucose/Glycine/Electrolyte, Pyrantel Pamoate, Sulfadimethoxine, Sulfamethazine, and Tetracycline

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correcting amendments.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect revised human food safety warnings or updated pathogen nomenclature on dosage form new animal drug product labeling that have not been codified. The regulations are also being amended to correct the wording of certain other conditions of use, to correct minor errors, and to revise some sections to reflect a current format. These actions are being taken to comply with the Federal Food, Drug, and Cosmetic Act (FD&C Act) and to improve the accuracy and readability of the regulations.

DATES: This rule is effective March 29, 2011.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9019, e-mail: *george.haibel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA has found that the animal drug regulations do not reflect certain human food safety warnings or the scientific nomenclature of pathogens that have been updated on labeling of various dosage form new animal drug products. At this time, the regulations are being amended to reflect approved labeling. The regulations are also being amended to correct the wording of certain other conditions of use and to correct minor errors. As the opportunity has presented itself, some sections have been revised to a current format. These actions are being taken to comply with the FD&C Act and to improve the accuracy and readability of the regulations.

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

List of Subjects in 21 CFR Parts 520, 522, 526, and 529

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520, 522, 526, and 529 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

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

■ 2. In § 520.550, revise the section heading and paragraph (a), the first sentence in paragraph (c)(1), and paragraph (c)(3) to read as follows:

§ 520.550 Glucose/glycine/electrolyte.

(a) *Specifications.* The product is distributed in packets each of which contains the following ingredients: Sodium chloride 8.82 grams, potassium phosphate 4.20 grams, citric acid anhydrous 0.5 gram, potassium citrate 0.12 gram, aminoacetic acid (glycine) 6.36 grams, and glucose 44.0 grams.

(c) * * *

(1) Glucose/glycine/electrolyte is indicated for use in the control of dehydration associated with diarrhea (scours) in calves.* * *

* * * * *

(3) The product should not be used in animals with severe dehydration (down, comatose, or in a state of shock). Such animals need intravenous therapy. A veterinarian should be consulted in severely scouring calves. The product is not nutritionally complete if administered by itself for long periods of time. It should not be administered beyond the recommended treatment period without the addition of milk or milk replacer.

■ 3. In § 520.905a, revise paragraphs (e)(2)(i), (e)(2)(iii), (e)(3)(i), and (e)(3)(iii) to read as follows:

§ 520.905a Fenbendazole suspension.

* * * * *

(e) * * *

(2) * * *

(i) *Amount.* Administer orally 5 mg/kg of body weight (2.3 mg/lb). Retreatment may be needed after 4 to 6 weeks.

* * * * *

(iii) *Limitations.* Cattle must not be slaughtered within 8 days following last treatment. A withdrawal period has not

been established for this product in preruminating calves. Do not use in calves to be processed for veal.

(3) * * *

(i) *Amount.* Administer orally 10 mg/kg of body weight (2.3 mg/lb). Retreatment may be needed after 4 to 6 weeks.

* * * * *

(iii) *Limitations.* Cattle must not be slaughtered within 8 days following last treatment. A withdrawal period has not been established for this product in preruminating calves. Do not use in calves to be processed for veal. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

* * * * *

■ 4. In § 520.905c, revise paragraph (e)(2)(iii) to read as follows:

§ 520.905c Fenbendazole paste.

* * * * *

(e) * * *

(2) * * *

(iii) *Limitations.* Cattle must not be slaughtered within 8 days following last treatment. A withdrawal period has not been established for this product in preruminating calves. Do not use in calves to be processed for veal.

■ 5. In § 520.1422, revise paragraph (b) to read as follows:

§ 520.1422 Metoserpate hydrochloride.

* * * * *

(b) *Sponsor.* See No. 053501 in § 510.600(c) of this chapter.

* * * * *

■ 6. In § 520.2043, revise paragraph (d)(1)(iii) to read as follows:

§ 520.2043 Pyrantel pamoate suspension.

* * * * *

(d) * * *

(1) * * *

(iii) *Limitations.* Do not use in horses intended for human consumption. When the drug is for administration by stomach tube, it shall be labeled: "Federal law restricts this drug to use by or on the order of a licensed veterinarian."

* * * * *

■ 7. In § 520.2044, revise paragraph (d)(2) to read as follows:

§ 520.2044 Pyrantel pamoate paste.

* * * * *

(d) * * *

(2) *Limitations.* Do not use in horses intended for human consumption.

■ 8. In § 520.2220a, revise paragraph (d)(3)(ii) to read as follows:

§ 520.2220a Sulfadimethoxine oral solution and soluble powder.

* * * * *

(d) * * *

(3) * * *

(ii) *Indications for use.* For the treatment of shipping fever complex and bacterial pneumonia associated with *Pasteurella* spp. sensitive to sulfadimethoxine; and calf diphtheria and foot rot associated with *Fusobacterium necrophorum* (*Sphaerophorus necrophorus*) sensitive to sulfadimethoxine.

* * * * *

■ 9. In § 520.2220b, revise paragraph (d) to read as follows:

§ 520.2220b Sulfadimethoxine tablets and boluses.

* * * * *

(d) *Conditions of use*—(1) *Cattle*—(i) *Amount.* Administer 2.5 grams per 100 pounds body weight for 1 day followed by 1.25 grams per 100 pounds body weight per day; treat for 4 to 5 days.

(ii) *Indications for use.* For the treatment of shipping fever complex and bacterial pneumonia associated with *Pasteurella* spp. sensitive to sulfadimethoxine; and calf diphtheria and foot rot associated with *Fusobacterium necrophorum* sensitive to sulfadimethoxine.

(iii) *Limitations.* Do not administer within 7 days of slaughter; milk that has been taken from animals during treatment and 60 hours (5 milkings) after the latest treatment must not be used for food. A withdrawal period has not been established for this product in preruminating calves. Do not use in calves to be processed for veal.

(2) *Dogs and cats*—(i) *Amount.* Administer 25 milligrams per pound of body weight on the first day followed by 12.5 milligrams per pound of body weight per day until the animal is free of symptoms for 48 hours.

(ii) *Indications for use.* Treatment of sulfadimethoxine-susceptible bacterial infections.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(3) *Beef cattle and nonlactating dairy cattle*—(i) *Amount.* Administer one 12.5-gram-sustained-release bolus for the nearest 200 pounds of body weight, i.e., 62.5 milligrams per pound of body weight. Do not repeat treatment for 7 days.

(ii) *Indications for use.* Treatment of shipping fever complex and bacterial pneumonia associated with organisms such as *Pasteurella* spp. sensitive to sulfadimethoxine; calf diphtheria and foot rot associated with *Fusobacterium necrophorum* sensitive to sulfadimethoxine.

(iii) *Limitations.* Do not use in female dairy cattle 20 months of age or older. Do not administer within 12 days of slaughter. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 10. In § 520.2260a, revise paragraph (a)(3)(iii) to read as follows:

§ 520.2260a Sulfamethazine oblet, tablet, and bolus.

(a) * * *

(3) * * *

(iii) *Limitations.* Administer daily until animal's temperature and appearance are normal. If symptoms persist after using for 2 or 3 days consult a veterinarian. Fluid intake must be adequate. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed 5 consecutive days. Follow dosages carefully. Do not treat cattle within 10 days of slaughter. Do not use in female dairy cattle 20 months of age or older. Use of sulfamethazine in this class of cattle may cause milk residues. A withdrawal period has not been established in preruminating calves. Do not use in calves to be processed for veal. Do not use in horses intended for human consumption.

* * * * *

■ 11. In § 520.2261a, revise the section heading; the first sentence in paragraph (c)(2)(iii); and paragraph (c)(3) to read as follows:

§ 520.2261a Sulfamethazine solution.

* * * * *

(c) * * *

(2) * * *

(iii) *Chickens and turkeys.* In chickens for control of infectious coryza (*Avibacterium paragallinarum*), coccidiosis (*Eimeria tenella, Eimeria necatrix*), acute fowl cholera (*Pasteurella multocida*), and pullorum disease (*Salmonella pullorum*). * * *

(3) *Limitations.* Add the required dose to that amount of water that will be consumed in 1 day. Consumption should be carefully checked. Have only medicated water available during treatment. Withdraw medication from cattle, chickens, and turkeys 10 days prior to slaughter for food. Withdraw medication from swine 15 days before slaughter for food. Do not medicate chickens or turkeys producing eggs for human consumption. Treatment of all diseases should be instituted early. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed a total of 5 consecutive days in cattle or swine. Medicated cattle, swine, chickens, and turkeys must actually consume enough medicated water which provides the recommended dosages. Do not use in female dairy cattle 20 months of age or

older. Use of sulfamethazine in this class of cattle may cause milk residues. A withdrawal period has not been established in preruminating calves. Do not use in calves to be processed for veal.

* * * * *

■ 12. In § 520.2261b, revise paragraph (d)(1)(ii) and paragraph (d)(4)(iii) to read as follows:

§ 520.2261b Sulfamethazine powder.

* * * * *

(d) * * *

(1) * * *

(ii) *Indications for use.* For control of infectious coryza (*Avibacterium paragallinarum*), coccidiosis (*Eimeria tenella, E. necatrix*), acute fowl cholera (*Pasteurella multocida*), and pullorum disease (*Salmonella pullorum*).

* * * * *

(4) * * *

(iii) *Limitations.* Add the required dose to that amount of water that will be consumed in 1 day. Consumption should be carefully checked. Have only medicated water available during treatment. Withdraw medication from cattle 10 days prior to slaughter for food. Treatment of all diseases should be instituted early. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed a total of 5 consecutive days. Medicated cattle must actually consume enough medicated water which provides the recommended dosages. Do not use in female dairy cattle 20 months of age or older. Use of sulfamethazine in this class of cattle may cause milk residues. A withdrawal period has not been established in preruminating calves. Do not use in calves to be processed for veal.

■ 13. In § 520.2345d, revise paragraph (b)(2), the first sentence in paragraph (d)(1)(iii), and paragraph (d)(2)(iii) to read as follows:

§ 520.2345d Tetracycline powder.

* * * * *

(b) * * *

(2) No. 000010: 25, 102.4, and 324 grams per pound as in paragraph (d) of this section.

* * * * *

(d) * * *

(1) * * *

(iii) *Limitations.* Administer for 3 to 5 days; do not slaughter animals for food within 4 days of treatment for No. 000010 and within 5 days of treatment for Nos. 046573, 054925, 057561, 059130, and 061623; prepare a fresh solution daily; use as the sole source of tetracycline. * * *

(2) * * *

(iii) *Limitations.* Administer for 3 to 5 days; do not slaughter animals for food within 7 days of treatment for No. 000010 and within 4 days of treatment for Nos. 046573, 054925, 057561, 059130, and 061623; prepare a fresh solution daily; use as the sole source of tetracycline.

* * * * *

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 15. Revise § 522.56 to read as follows:

§ 522.56 Amikacin.

(a) *Specifications.* Each milliliter of solution contains 50 milligrams (mg) of amikacin as amikacin sulfate.

(b) *Sponsors.* See Nos. 000856 and 059130 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* 5 mg/pound (lb) of body weight twice daily by intramuscular or subcutaneous injection.

(2) *Indications for use.* For treatment of genitourinary tract infections (cystitis) caused by susceptible strains of *Escherichia coli* and *Proteus* spp. and skin and soft tissue infections caused by susceptible strains of *Pseudomonas* spp. and *E. coli.*

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 16. In § 522.90b, revise the section heading and paragraphs (a), (b), and (d) to read as follows:

§ 522.90b Ampicillin trihydrate.

(a) *Specifications.* Each milliliter of aqueous suspension constituted from ampicillin trihydrate powder contains 50, 100, or 250 milligrams (mg) ampicillin equivalents.

(b) *Sponsors.* See Nos. 000010 and 010515 in § 510.600(c) of this chapter.

* * * * *

(d) *Conditions of use*—(1) *Dogs and cats*—(i) *Amount.* 3 mg/pound (lb) of body weight twice daily by subcutaneous or intramuscular injection.

(ii) *Indications for use.* For treatment of strains of organisms susceptible to ampicillin and associated with respiratory tract infections, urinary tract infections, gastrointestinal infections, skin infections, soft tissue infections, and postsurgical infections.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) *Cattle*—(i) *Amount.* 2 to 5 mg/lb of body weight once daily by intramuscular injection.

(ii) *Indications for use.* For treatment of respiratory tract infections caused by organisms susceptible to ampicillin, bacterial pneumonia (shipping fever, calf pneumonia, and bovine pneumonia) caused by *Aerobacter* spp., *Klebsiella* spp., *Staphylococcus* spp., *Streptococcus* spp., *Pasteurella multocida,* and *Escherichia coli.*

(iii) *Limitations.* Do not treat cattle for more than 7 days. Milk from treated cows must not be used for food during treatment or for 48 hours (4 milkings) after the last treatment. Cattle must not be slaughtered for food during treatment or for 144 hours (6 days) after the last treatment. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 17. In § 522.313b, revise paragraph (a) to read as follows:

§ 522.313b Ceftiofur hydrochloride.

(a) *Specifications.* Each milliliter of ceftiofur hydrochloride suspension contains 50 milligrams (mg) ceftiofur equivalents.

* * * * *

■ 18. In § 522.1010, redesignate paragraph (d)(3)(iii) as paragraph (d)(2)(iii); and add new paragraph (d)(3)(iii) to read as follows:

§ 522.1010 Furosemide.

* * * * *

(d) * * *

(3) * * *

(iii) *Limitations.* Treatment not to exceed 48 hours post-parturition. Milk taken during treatment and for 48 hours (four milkings) after the last treatment must not be used for food. Cattle must not be slaughtered for food within 48 hours following last treatment.

PART 526—INTRAMAMMARY DOSAGE FORM NEW ANIMAL DRUGS

■ 19. The authority citation for 21 CFR part 526 continues to read as follows:

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

■ 20. In § 526.363, revise paragraph (d)(1) and the first sentence in paragraph (d)(3) to read as follows:

§ 526.363 Cephapirin benzathine.

* * * * *

(d) * * *

(1) *Amount.* Infuse the contents of one syringe into each quarter.

* * * * *

(3) *Limitations.* Infuse each quarter following last milking, but no later than 30 days before calving. * * *

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 21. The authority citation for 21 CFR part 529 continues to read as follows:

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

§ 529.50 [Redesignated as § 529.56 and Amended]

■ 22. Redesignate § 529.50 as § 529.56 and revise it to read as follows:

§ 529.56 Amikacin.

(a) *Specifications.* Each milliliter (mL) of solution contains 250 milligrams of amikacin as amikacin sulfate.

(b) *Sponsors.* See Nos. 000856 and 059130 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* Administer 2 grams (8 mL) diluted with 200 mL of sterile physiological saline by intrauterine infusion daily for 3 consecutive days.

(2) *Indications for use.* For treating genital tract infections (endometritis, metritis, and pyometra) in mares caused by susceptible organisms including *Escherichia coli, Pseudomonas* spp., and *Klebsiella* spp.

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 23. In § 529.1030, revise paragraphs (d)(1)(i) and (d)(1)(iv) to read as follows:

§ 529.1030 Formalin.

* * * * *

(d) * * *

(1) * * *

(i) Select finfish. For control of external protozoa *Ichthyophthirius* spp., *Chilodonella* spp., *Ichthyobodo* spp., *Ambiphrya* spp., *Epistylis* spp., and *Trichodina* spp., and monogenetic trematodes *Cleidodiscus* spp., *Gyrodactylus* spp., and *Dactylogyrus* spp., on salmon, trout, catfish, largemouth bass, and bluegill.

* * * * *

(iv) All finfish. For control of external protozoa *Ichthyophthirius* spp., *Chilodonella* spp., *Ichthyobodo* spp., *Ambiphrya* spp., *Epistylis* spp., and *Trichodina* spp., and monogenetic trematodes *Cleidodiscus* spp., *Gyrodactylus* spp., and *Dactylogyrus* spp.

* * * * *

Dated: March 23, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–7313 Filed 3–28–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2009–0996]

RIN 1625–AA08

Special Local Regulation; Hydroplane Races Within the Captain of the Port Puget Sound Area of Responsibility

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a special local regulation to restrict vessel movement in designated permanent hydroplane race areas in Dyes Inlet, Lake Washington and Lake Sammamish, WA during permitted hydroplane race events. When this special local regulation is activated, and thus subject to enforcement, this rule will limit the movement of non-participating vessels within the regulated race areas immediately prior to, during and immediately following the conclusion of permitted hydroplane marine events. This rule is needed to provide effective control over these events while ensuring the safety of the maritime public.

DATES: This rule is effective March 29, 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–2009–0996 and are available online by going to *http://www.regulations.gov,* inserting USCG–2009–0996 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 rule, call or e-mail LTJG Ashley M. Wanzer, Waterways Management, Sector Puget Sound, Coast Guard; telephone 206–217–6175, e-mail *SectorPugetSoundWWM@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 Tuesday, January 19, 2010, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone Regulation; Hydroplane Races within the Captain of the Port Puget Sound Area of Responsibility in the **Federal Register** (75 FR 2833). On Wednesday, January 19, 2011, we published a supplemental notice of proposed rulemaking (SNPRM), revising the rulemaking to create a special local regulation designating three permanent hydroplane race areas under 33 CFR part 100 in the **Federal Register** (76 FR 3057). We did not receive any comments on the NPRM or SNPRM and did not receive any requests for a public meeting. A public meeting was not 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**. Immediate action is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the intended objective of promoting safety during these permitted events because the ULHRA Spring Training takes place on 21 April 2011 in the Lake Washington designated race area and this is less than 30 days after publication in the **Federal Register**.

Basis and Purpose

The U.S. Coast Guard is establishing special local regulations to establish three permanent designated hydroplane race areas in Dyes Inlet, Lake Washington, and Lake Sammamish, WA within the Captain of the Port, Puget Sound Area of Responsibility. This action is necessary in order to restrict vessel movement in the vicinity of the race courses thereby promoting safety on navigable waters during these events.

Background

The Coast Guard receives numerous marine event permits for hydroplane races taking place on the waterways of Dyes Inlet, Lake Washington, and Lake Sammamish, WA. This rule establishes a special local regulation to restrict vessel movement in designated hydroplane race areas during permitted hydroplane marine events. This rule enables event sponsors and the Coast Guard to adequately provide safety in support of these marine events.

Initial Enforcement

The Coast Guard will enforce the special local regulation for Lake Washington in 33 CFR 100.1308 from 10 a.m. until 4 p.m. on April 21, 2011.

Discussion of Comments and Changes

The notice of proposed rulemaking and supplemental notice of proposed rulemaking for this rule did not receive any comments.

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.

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 will affect the following small entities: The owners or operators of vessels intending to transit or anchor within these designated hydroplane race areas while enforced on the waters of northern Dyes Inlet, Lake Washington, and Lake Sammamish, Washington. This proposed rule will not have a significant economic impact on a substantial number of small entities because it is small in size and short in duration. The only vessels likely to be impacted will be recreational boaters.

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 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

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 that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves a special local regulation to establish vessel movement restrictions in designated race areas immediately prior to, during and immediately following permitted hydroplane race events. 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 100

Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—REGATTAS AND MARINE PARADES

■ 1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.1308 to read as follows:

§ 100.1308 Special Local Regulation; Hydroplane Races within the Captain of the Port Puget Sound Area of Responsibility.

(a) *Location.* The following areas are designated race areas for the purpose of reoccurring hydroplane races:

(1) *Dyes Inlet.* West of Port Orchard, WA to include all waters north to land from a line connecting the following points 47°37.36′ N, 122°42.29′ W and 47°37.74′ N, 122°40.64′ W (NAD 1983).

(2) *Lake Washington.* South of the Interstate 90 bridge and north of Andrew's Bay to include all waters east of the shoreline within the following points: 47°34.15′ N, 122°16.40′ W; 47°34.31′ N, 122°15.96′ W; 47°35.18′ N, 122°16.31′ W; 47°35.00′ N, 122°16.71′ W (NAD 1983).

(3) *Lake Sammamish.* South to land from a line connecting the following points 47°33.810′ N, 122°04.810′ W and 47°33.810′ N, 122° 03.674′ W (NAD 1983).

(b) *Notice of enforcement or suspension of enforcement.* This special local regulation will be activated and thus subject to enforcement, under the following conditions: the Coast Guard must receive and approve a marine event permit for each hydroplane event in accordance with 33 CFR 100. The Captain of the Port will provide notice of the enforcement of this special local regulation by all appropriate means to ensure the widest dissemination among the affected segments of the public, as practicable; such means of notification may include but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners.

(c) *Regulations.* (1) When this special local regulation is enforced, non-participant vessels are prohibited from entering the designated race areas unless authorized by the designated on-scene Patrol Commander. Spectator craft may remain in designated spectator areas but must follow the directions of the designated on-scene Patrol Commander. The event sponsor may also function as the designated on-scene Patrol Commander. Spectator craft entering, exiting or moving within the spectator area must operate at speeds which will create a minimum wake.

(2) *Emergency signaling.* A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the discretion of the designated on-scene Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the patrol vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

Dated: March 3, 2011.

A.T. Ewalt,

Captain, U.S. Coast Guard, Acting District Commander, Thirteenth Coast Guard District.

[FR Doc. 2011–7284 Filed 3–28–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

Drawbridge Operation Regulations; Columbia River, OR

CFR Correction

In Title 33 of the Code of Federal Regulations, Parts 1 to 124, revised as of July 1, 2010, on page 624, in § 117.869, paragraph (d) is removed.

[FR Doc. 2011–7441 Filed 3–28–11; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 294

Idaho Roadless Rule

AGENCY: Forest Service, USDA.

ACTION: Final administrative correction.

SUMMARY: The Forest Service, U.S. Department of Agriculture (USDA), is issuing administrative corrections affecting Big Creek Fringe, French Creek, Placer Creek, Secesh, and Smith Creek Idaho Roadless Areas on the Payette National Forest. These corrections remedy clerical errors relating to regulatory classifications involving two Forest Plan Special Areas (Big Creek and French Creek) and a mapping error. These corrections are made pursuant to 36 CFR 294.27(a).

DATES: This correction is effective March 29, 2011.

FOR FURTHER INFORMATION CONTACT: Idaho Roadless Coordinator Joan Dickerson at 406–329–3314. Additional information concerning these administrative corrections, including the corrected maps, may be obtained on the Internet at *http://roadless.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 Idaho Roadless Rule authorizes administrative corrections to the maps of lands identified in 36 CFR 294.22(c), including but not limited to, adjustment that remedy clerical errors, typographical errors, mapping errors, or improvements in mapping technology. The Chief may issue administrative corrections after a 30-day public notice and opportunity to comment.

The Agency presented the corrections to the State of Idaho's Roadless Rule Advisory Commission on September 28, 2010. The Commission recommended to the Governor of Idaho that the corrections be made and that the Agency contact the Valley County Commissioners. The Valley County Commissioners supported the corrections.

The Agency requested comment and/or met with the Shoshone-Paiute Tribes of Duck Valley, the Shoshone-Bannock Tribes of Fort Hall, and the Nez Perce Tribe. No comments or concerns from the Tribes were received.

Consideration of Comments

The Chief provided a 30-day public notice and opportunity to comment (75 FR 54542). A total of 13 comments were received from 9 individuals.

Two respondents were concerned about the original classification of lands in the Big Creek Fringe, Placer Creek, Secesh and French Creek Roadless Areas. In addition these respondents were concerned about the original mapping of these roadless areas and felt the boundaries of the roadless areas should be modified to exclude existing

disturbances (past harvesting and roads). These corrections only address the technical regulatory classification and mapping errors. The decisions on how to classify the management themes and the boundaries were made during the original rulemaking and are not being reassessed.

Two respondents were concerned about travel planning, and other projects and activities on the Payette National Forest. These activities are outside the scope of the technical corrections assessed in this rulemaking. The comments have been forwarded to the Payette National Forest for their consideration.

Two respondents were concerned about the maps provided for the corrections. They felt the maps were inadequate and lacked the necessary detail to understand the corrections. The maps posted on the Internet on September 8, 2010, were adequate to identify the proposed changes to each roadless area. However, in response to comments received, additional maps showing greater detail were posted on September 14, 2010. These maps show the roadless area corrections in relation to key points of interest (mountains, towns, main roads, etc).

One respondent felt an Environmental Impact Statement (EIS) was warranted for the change, and another felt some level of effects analysis should be done. An EIS is not warranted for these errata corrections. The corrections have no effect on the analysis presented in the Roadless Area Conservation, National Forest System Lands in Idaho Final EIS and are simply technical corrections of labeling and mapping errors made in promulgation of the Idaho Roadless Rule. The corrections result in a net increase of 577 acres (600 acres rounded) in the Backcountry Restoration theme for a total of 5,313,500 acres of Backcountry/Restoration over all Idaho Roadless Areas. This is less than 0.01 percent change in the management classification. Site-specific analysis, including public involvement will be conducted for any future projects proposed in areas reclassified to Backcountry/Restoration.

Questions were received concerning the correction for private land. The correction aligns the roadless boundary with the private land boundary. This was a mapping error which did not align (edge match) the roadless boundary with private land; this reduced the roadless area by 3 acres. Only National Forest System lands are included in the Roadless Area.

One respondent identified two of typographical errors made in the Federal Register Notice. (1) Correction regarding French Creek. On page 54543, the Federal Register said "moving 1,000 acres of Forest Plan Special Area to Backcountry Restoration". The respondent noted that the proposed correction should have stated "1,000 acres of Backcountry Restoration would be moved to a Forest Plan Special Area". (2) On page 54543 for French Creek the township should be changed from Township 22N to Township 23N. These edits have been made.

Four respondents, the Governor's Commission, and Valley County Commissioners supported the corrections or did not have significant concerns with the proposed changes. These comments are noted.

Corrections Regarding Big Creek

The Idaho Roadless Rule and associated maps mistakenly identify Big Creek as a Forest Plan Special Area (Wild and Scenic River). During the Idaho rulemaking, Forest Plan Special Areas were identified where the management is governed by specific Agency directives and forest plan direction. The 2003 Southwest Idaho Ecogroup Land and Resource Management Plan Final Environmental Impact Statement (FEIS) included an eligibility study for Big Creek. The Agency's Record of Decision found Big Creek in-eligible for Wild and Scenic River designation. As the Payette Forest Plan did not establish a special management area, the Idaho rulemaking and associated maps are now conformed to remove this erroneous classification. These corrections occur in T20N, R8E, sections 13–14 and 22–24; T20N, R9E, sections 2–3, 10, 15, and 17–18; T21N, R9E, sections 13, 23–24, 26, and 34–36, Boise Meridian.

The four corrections concerning Big Creek are as follows:

- Big Creek Fringe Idaho Roadless Area: 365 acres of Forest Plan Special Area are changed to Backcountry/Restoration; and the boundary of the roadless area is aligned with the private land boundary decreasing the roadless area by 3 acres. The Forest Plan Special Area classification is removed in the rule.
- Placer Creek Idaho Roadless Area: 98 acres of Forest Plan Special Area are changed to Backcountry/Restoration; and 14 acres of Forest Plan Special Area are changed to Primitive. The Forest Plan Special Area classification is removed in the rule.
- Secesh Idaho Roadless Area: 1,086 acres of the 11,630 acre Forest Plan Special Area is changed to Backcountry/Restoration.
- Smith Creek Roadless Area: 14 acres of Forest Plan Special Area is changed to Primitive.

Correction Regarding French Creek

The Idaho Roadless Rule erroneously did not identify an existing Forest Plan Special Area for the Lake Creek Wild and Scenic River Corridor in the French Creek Idaho Roadless Area. The 2003 Southwest Idaho Ecogroup Land and Resource Management Plan Final Environmental Impact Statement included a suitability study for the Secesh River, including Lake Creek. The Record of Decision found the Secesh River, including Lake Creek, eligible for Wild and Scenic River designation and the Payette National Forest Land and Resource Management Plan established a Special Management Area.

The associated maps have been corrected for this area. The correction moves 1,000 acres of Backcountry/Restoration to Forest Plan Special Area and occurs in T23N, R4E, sections 10, 15, 22, 26–27, and 35, Boise Meridian.

List of Subjects in 36 CFR Part 294

National Forests, Navigation (air), Recreation areas, State petitions for inventoried roadless area management.

For the reasons set forth in the preamble, part 294 of Title 36 of the Code of Federal Regulations is amended as follows:

PART 294—SPECIAL AREAS

Subpart C—Idaho Roadless Area Management

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

Authority: 16 U.S.C. 472, 529, 551, 1608, 1613; 23 U.S.C. 201, 205.

■ 2. Amend the table in § 294.29 by revising the entries for Big Creek Fringe and Placer Creek in Payette National Forest to read as follows:

§ 294.29 [Amended]

* * * * *

Forest	Idaho roadless area	Number	WLR	Primitive	BCR	GFRG	SAHTS	FPSA
*	*	*	*		*	*		*
Payette	Big Creek Fringe	009			X			
*	*	*	*		*	*		*
Payette	Placer Creek	008		X	X			
*	*	*	*		*	*		*

Dated: March 22, 2011.

Thomas L. Tidwell,

Chief, U.S. Forest Service.

[FR Doc. 2011–7247 Filed 3–28–11; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0169; FRL–9286–8]

Approval and Promulgation of Implementation Plans; Nevada; Determination of Attainment for the Clark County 8-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is determining that the Clark County (Nevada) 8-hour ozone nonattainment area has attained the 1997 8-hour ozone national ambient air quality standards (NAAQS). This determination is based upon complete, quality-assured, and certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2007 to 2009 monitoring period. Preliminary air quality monitoring data available for 2010 are consistent with continued attainment. Based on this determination, the obligation for the State of Nevada to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for the Clark County ozone nonattainment area shall be suspended for as long as the nonattainment area continues to meet the 1997 8-hour ozone NAAQS. This action is being taken under the Clean Air Act (CAA).

DATES: This action is effective on May 31, 2011 without further notice, unless EPA receives adverse comment by April 28, 2011. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2011–0169 by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail: kelly.johnj@epa.gov.*
3. *Fax:* (415) 947–3579.
4. *Mail:* "EPA–R09–OAR–2011–0169," Lisa Hanf, Chief, Air Planning Office, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street (Air–2), San Francisco, California 94105.
5. *Hand Delivery or Courier:* At the previously-listed EPA Region IX address. 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–R09–OAR–2011–0169. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or by e-mail information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/dockets/.*

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, for example, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Planning Office, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street (Air–2), San Francisco, California 94105. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection during normal business hours.

FOR FURTHER INFORMATION CONTACT: John Kelly, (415) 947–4151, or by e-mail at *kelly.johnj@epa.gov.*

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

Table of Contents

I. What determination is EPA making?
II. What is the background for this action?
A. The Clark County Ozone Nonattainment Area
B. Determination of Attainment
C. Ambient Air Quality Monitoring Data
III. What is the effect of this action?
A. Determination of Attainment
B. Subpart 1 Designation
IV. What is EPA's analysis of the relevant air quality data?
V. EPA's Final Action
VI. Statutory and Executive Order Reviews

I. What determination is EPA making?

EPA is determining that the Clark County (Nevada) 8-hour ozone nonattainment area ("Clark County ozone nonattainment area") has attained the 1997 8-hour ozone NAAQS. The Clark County ozone nonattainment area is composed of a portion of Clark County in Nevada.[1] EPA's determination is based upon complete, quality-assured, and certified ambient air quality monitoring data for the years 2007 to 2009 showing that the Clark County ozone nonattainment area has monitored attainment of the 1997 8-hour ozone NAAQS. Preliminary air quality monitoring data available for 2010 are consistent with continued attainment.

On March 27, 2008 (73 FR 16436), EPA promulgated a revised 8-hour ozone standard of 0.075 parts per million (ppm). On January 6, 2010, EPA again addressed this 2008 revised standard and proposed to set the primary 8-hour ozone standard within the range of 0.060 to 0.070 ppm, rather than at 0.075 ppm. EPA is working to complete reconsideration of the standard and thereafter will proceed with attainment/nonattainment area designations. This rulemaking relates only to a determination of attainment for the 1997 8-hour ozone standard and is not affected by the ongoing process of reconsidering the revised 2008 standard. This action addresses only the 1997 8-hour ozone standard of 0.08 ppm, and does not address any subsequently revised 8-hour ozone standard.

II. What is the background for this action?

A. The Clark County Ozone Nonattainment Area

In 1997, EPA revised the health-based NAAQS for ozone, setting it at 0.08 ppm averaged over an 8-hour timeframe. EPA set the 8-hour ozone standard based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time, than was understood when the pre-existing 1-hour ozone standard was set. EPA determined that the 8-hour standard would be more protective of human health, especially children and adults who are active outdoors, and individuals with a pre-existing respiratory disease, such as asthma.

On April 30, 2004 (69 FR 23858), EPA finalized its attainment/nonattainment designations for areas across the country with respect to the 8-hour ozone standard. In that action we designated Clark County as nonattainment and provided that this designation would become effective on June 15, 2004. Following the April 2004 final rule, the State of Nevada submitted additional information requesting that the boundaries of the area to be designated nonattainment be reconsidered. In response, EPA granted a deferral of the effective date for Clark County to consider this information. *See* 69 FR 34076 (June 18, 2004). On September 17, 2004, EPA reduced the geographic extent of the ozone nonattainment area to encompass a portion of, but not all of, Clark County. *See* 69 FR 55956 (September 17, 2004) and 40 CFR 81.329. In 2005, we published a final rule that we would treat the effective date of the partial-county nonattainment area designation the same as the designations for the rest of the country, *i.e.,* June 15, 2004. *See* 70 FR 71612 (November 29, 2005) and 40 CFR 51.917.

B. Determination of Attainment

Under the provisions of EPA's ozone implementation rule for the 1997 ozone NAAQS (*see* 40 CFR 51.918), if EPA issues a determination that an area is attaining the standard (through a rulemaking that includes public notice and comment), it will suspend the area's obligations to submit an attainment demonstration, RACM, RFP, contingency measures and other planning requirements related to attainment for as long as the area continues to attain. The determination of attainment is not equivalent to a redesignation. The State must still meet the statutory requirements for redesignation in order to be redesignated to attainment.

C. Ambient Air Quality Monitoring Data

Complete, quality-assured, and certified 8-hour ozone air quality monitoring data for 2007 through 2009, as well as preliminary data available to date for 2010, show that the Clark County ozone nonattainment area has attained, and continues to attain, the 1997 8-hour ozone NAAQS.

III. What is the effect of this action?

As noted, under 40 CFR section 51.918, the effect of today's determination of attainment is to suspend the obligation to submit certain planning requirements described above; however, it does not constitute a redesignation to attainment under section 107(d)(3) of the CAA. The designation status of the Clark County ozone nonattainment area remains nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan.

A. Determination of Attainment

EPA is determining that the Clark County ozone nonattainment area is attaining the 1997 8-hour ozone NAAQS. In accordance with 40 CFR 51.918, based on this determination, the obligation under the CAA for the State of Nevada to submit an attainment demonstration and RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for the Clark County ozone nonattainment area is suspended for so long as the area continues to attain the 1997 8-hour ozone NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements, if Nevada submits them for EPA review and approval.

The effect of this determination is to:

(1) Suspend the requirements to submit an attainment demonstration, RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 8-hour ozone NAAQS;

(2) Continue until such time, if any, that EPA (i) redesignates the area to attainment at which time those requirements no longer apply, or (ii) subsequently determines that the area has violated the 1997 8-hour ozone NAAQS;

(3) Be separate from, and not influence or otherwise affect, any future designation determination or requirements for the area based on any new or revised ozone NAAQS; and

(4) Remain in effect regardless of whether EPA designates this area as a nonattainment area for purposes of any new or revised ozone NAAQS.

If EPA subsequently determines, after notice-and-comment rulemaking, that the Clark County ozone nonattainment area has violated the 1997 8-hour ozone NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 51.918, would no longer exist, and the Clark County ozone nonattainment area would thereafter have to address applicable requirements.

[1] The boundaries of the Clark County ozone nonattainment area are defined in 40 CFR 81.329. Specifically, the area is defined as: "That portion of Clark County that lies in hydrographic areas 164A, 164B, 165, 166, 167, 212, 213, 214, 216, 217, and 218 but excluding the Moapa River Indian Reservation and the Fort Mojave Indian Reservation." The area includes a significant portion of the unincorporated portions of central and southern Clark County, as well as the cities of Las Vegas, Henderson, North Las Vegas, and Boulder City.

B. Subpart 1 Designation

Under the implementation rule for the 1997 8-hour ozone standard, EPA designated certain areas under title I, part D, subpart 1 of the CAA (subpart 1) if they had a 1-hour design value below 0.121 ppm. As discussed above, in 2004, EPA designated a portion of Clark County nonattainment under subpart 1 for the 1997 8-hour ozone standard. In June 2007, the United States Court of Appeals for the District of Columbia Circuit (DC Circuit Court) vacated the portion of the 1997 ozone implementation rule that allowed areas to be designated under subpart 1. On January 16, 2009 (74 FR 2936), EPA published a proposed rule to address, among other issues, the DC Circuit Court vacatur of the classification system that EPA used to designate a subset of initial 1997 8-hour ozone nonattainment areas under subpart 1. In that rulemaking, EPA proposed that all areas designated nonattainment for the 1997 8-hour ozone NAAQS under subpart 1 would be classified as subpart 2 areas (hereafter referred to as the "Subpart 1/Subpart 2 1997 8-Hour Ozone Rulemaking"). The Clark County ozone nonattainment area is among those areas that would be classified under subpart 2 if EPA's proposal is finalized. EPA has not yet completed its final rulemaking action for the Subpart 1/Subpart 2 1997 8-Hour Ozone Rulemaking. When the Subpart 1/Subpart 2 1997 8-Hour Ozone Rulemaking is finalized, and if the Clark County ozone nonattainment area continues in attainment for the 1997 8-hour ozone NAAQS, EPA will address in a future rulemaking the consequences of a determination of attainment for any requirements to which the Clark County ozone nonattainment area becomes subject as a result of its reclassification. If, after the Clark County ozone nonattainment area is classified under subpart 2, EPA determines in a future rulemaking that the Clark County ozone nonattainment area continues to be in attainment, then the obligation to submit the applicable attainment planning-related requirements for its new classification would be suspended in accordance with 40 CFR 51.918.

IV. What is EPA's analysis of the relevant air quality data?

A determination of whether an area's air quality meets the ozone NAAQS is generally based upon the most recent three years of complete, quality-assured data gathered at established National Air Monitoring Stations ("NAMS") or State and Local Air Monitoring Stations ("SLAMS") in the nonattainment area and entered into the EPA Air Quality System ("AQS") database. Data from air monitors operated by State/local agencies in compliance with EPA monitoring requirements must be submitted to the EPA AQS database. Heads of monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, EPA relies primarily on data in its AQS database when determining the attainment status of areas. *See* 40 CFR 50.10; 40 CFR part 50, appendix I; 40 CFR part 53; 40 CFR part 58, appendices A, C, D and E. All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix I.

Under EPA regulations at 40 CFR part 50, the 1997 8-hour ozone standard is attained at a site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.08 ppm. *See* 40 CFR 50.10. This 3-year average is referred to as the design value. When the design value is less than or equal to 0.084 ppm (based on the rounding convention in 40 CFR part 50, appendix I) at each monitoring site within the area, then the area is meeting the NAAQS. The data completeness requirement is met when the three-year average percent of days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness as determined in Appendix I of 40 CFR Part 50.

The Clark County Department of Air Quality & Environmental Management (DAQEM) is responsible for monitoring ambient air quality within Clark County. DAQEM submits monitoring network plan reports to EPA on an annual basis. These reports discuss the status of the air monitoring network, as required under 40 CFR part 58. Beginning in 2007, EPA reviews these annual plans for compliance with the applicable reporting requirements in 40 CFR 58.10. With respect to ozone, we have found DAQEM's annual network plans to meet the applicable requirements under 40 CFR part 58. *See* EPA letters to DAQEM concerning DAQEM's annual network plan reports for years 2007, 2008, 2009 and 2010. Furthermore, we concluded in our *Technical System Audit Report* (February 2010) that Clark County DAQEM's ambient air monitoring network currently meets or exceeds the requirements for the minimum number of monitoring sites designated as State and local air monitoring stations (SLAMS) for all of the criteria pollutants, and that all of the monitoring sites are properly located with respect to monitoring objectives, spatial scales and other site criteria. Also, DAQEM annually certifies that the data it submits to AQS are complete and quality-assured. *See, e.g.,* letter dated April 14, 2010, from Lewis Wallenmeyer, Director, DAQEM, to Jared Blumenfeld, EPA Region IX Regional Administrator.

Clark County DAQEM operated 12 ozone SLAMS monitoring sites over the 2007–2010 period within the Clark County ozone nonattainment area: Apex (Apex Valley), Boulder City (City of Boulder City), Craig Road (City of North Las Vegas), J.D. Smith School (City of North Las Vegas), Jean (City of Jean, south of Las Vegas), Joe Neal (northwest Las Vegas), Lone Mountain (northwest Las Vegas), Orr School (central-southeast Las Vegas), Paul Meyer Park (southwest Las Vegas), Palo Verde School (west Las Vegas), Walter Johnson (west Las Vegas), and Winterwood (southeast Las Vegas). All 12 sites monitor ozone concentrations on a continuous basis using ultraviolet absorption monitors.[2] The spatial scale and monitoring objective of most of DAQEM's ozone monitoring sites are "neighborhood" and "population exposure," respectively. The exceptions are the Apex and Jean sites, whose spatial scale and monitoring objective is "regional" and "regional transport," respectively, and the Joe Neal site, whose spatial scale is "neighborhood" and monitoring objective is "highest concentration." *See* Clark County DAQEM's *Annual Network Plan Report* (June 2010).

Consistent with the requirements contained in 40 CFR part 50, EPA has reviewed the ozone ambient air monitoring data for the monitoring period from 2007 through 2009 collected at the monitoring sites discussed above, as recorded in AQS. On the basis of that review, EPA has concluded that this area attained the 1997 8-hour ozone NAAQS based on data for the 2007–2009 ozone seasons. Table 1 shows the ozone design values for the Clark County ozone nonattainment area monitors based on 2007–2009 ambient air quality monitoring data. Preliminary data available for 2010, summarized in table

[2] DAQEM operates Federal equivalent method (FEM) monitors for ozone. Specifically, API 400 Series ultraviolet absorption monitors. *See* "Annual Network Plan Report", page 13, June 2010. These monitoring devices have an EPA designation number EQOA–0992–087. *See* EPA "List of Designated Reference and Equivalent Methods", page 27, February 1, 2011, available at: *http://www.epa.gov/ttn/amtic/criteria.html.*

2, are also consistent with continued attainment.[3]

TABLE 1—2007–2009 CLARK COUNTY OZONE NONATTAINMENT AREA 8-HOUR OZONE DESIGN VALUES

DAQEM Monitoring site	Monitoring site ID	2007–2009 Average % data completeness	2007–2009 Design value (ppm)
Apex	32–003–0022	96	0.074
Boulder City	32–003–0601	92	0.072
Craig Road	32–003–0020	97	0.072
J.D. Smith	32–003–2002	98	0.073
Jean	32–003–1019	96	0.076
Joe Neal School	32–003–0075	98	0.078
Lone Mountain	32–003–0072	98	0.076
Orr School	32–003–1021	97	0.074
Paul Meyer Park	32–003–0043	97	0.077
Palo Verde School	32–003–0073	97	0.075
Walter Johnson	32–003–0071	97	0.078
Winterwood	32–003–0538	92	0.072

TABLE 2—PRELIMINARY 2008–2010 CLARK COUNTY OZONE NONATTAINMENT AREA 8-HOUR OZONE DESIGN VALUES

DAQEM Monitoring site	Monitoring site ID	2008–2010 Average % data completeness	Preliminary 2008–2010 design value (ppm)
Apex	32–003–0022	87	0.069
Boulder City	32–003–0601	84	0.070
Craig Road	32–003–0020	88	0.070
J.D. Smith	32–003–2002	98	0.069
Jean	32–003–1019	97	0.073
Joe Neal School	32–003–0075	98	0.076
Lone Mountain	32–003–0072	76	0.070
Orr School	32–003–1021	75	0.068
Paul Meyer Park	32–003–0043	98	0.072
Palo Verde School	32–003–0073	98	0.072
Walter Johnson	32–003–0071	97	0.074
Winterwood	32–003–0538	94	0.069

EPA's review of these data indicates that the Clark County ozone nonattainment area has met the 1997 8-hour ozone NAAQS. Preliminary air quality monitoring data available for 2010 are consistent with continued attainment.

V. EPA's Final Action

EPA is determining that the Clark County (Nevada) 8-hour ozone nonattainment area has attained the 1997 8-hour ozone NAAQS based on 2007–2009 complete, quality-assured, and certified ambient air quality monitoring data. Preliminary data available to date for 2010 are consistent with continued attainment. As provided in 40 CFR 51.918, this determination of attainment suspends the requirements for the State of Nevada to submit, for the Clark County ozone nonattainment area, an attainment demonstration and associated RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 8-hour ozone NAAQS as long as the area continues to attain the 1997 8-hour ozone NAAQS.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal should adverse comments be filed. This action will be effective May 31, 2011, without further notice unless the EPA receives relevant adverse comments by April 28, 2011.

If we receive such comments, then we will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period. Parties interested in commenting should so at this time. If no such comments are received, the public is advised that this rule will be effective on *May 31, 2011* and no further action will be taken on the proposed rule.

VI. Statutory and Executive Order Reviews

This action makes a determination of attainment based on air quality and suspends certain 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.*);

[3] For 2010, DAQEM has reported three calendar quarters of data for Apex, Boulder City and Craig Road. Lone Mountain and Orr School monitors closed in April, 2010. The rest of the monitoring stations in the Clark County ozone nonattainment area reflect four quarters of monitoring data for 2010.

• 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 disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this determination that the Clark County ozone nonattainment area has attained the 1997 8-hour ozone NAAQS 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 May 31, 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: March 15, 2011.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2011–7221 Filed 3–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Revision to the California State Implementation Plan, Great Basin Unified Air Pollution Control District

CFR Correction

In Title 40 of the Code of Federal Regulations, Part 52 (§§ 52.01 to 52.1018), revised as of July 1, 2010, on page 252, in § 52.220, paragraph (c)(345)(i)(D) is added to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(345) * * *

(i) * * *

(D) Great Basin Unified Air Pollution Control District

(*1*) Rule 201, "Exemptions," adopted on September 5, 1974 and revised on January 23, 2006.

* * * * *

[FR Doc. 2011–7432 Filed 3–28–11; 8:45 am]

BILLING CODE 1505–01–D

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2522

Americorps Participants, Programs, and Applicants

CFR Correction

In Title 45 of the Code of Federal Regulations, Part 1200 to End, revised as of October 1, 2010, on page 674, in § 2522.910, paragraph (b)(1)(ii) is removed.

[FR Doc. 2011–7439 Filed 3–28–11; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2 and 87

[WT Docket No. 01–289; FCC 10–103]

Aviation Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) addresses a number of important issues pertaining to the Aviation Radio Services, amending its rules in the interest of accommodating the communications needs of the aviation community to the greatest possible extent, and ensuring that aeronautical spectrum is used efficiently to enhance the safety of flight.

DATES: Effective May 31, 2011.

FOR FURTHER INFORMATION CONTACT: Jeffrey Tobias, *Jeff.Tobias@FCC.gov,* Mobility Division, Wireless Telecommunications Bureau, (202) 418–1617, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Third Report and Order* (*Third R&O),* in WT Docket No. 01–289, FCC 10–103, adopted on June 1, 2010, and released on June 15, 2010. Contemporaneous with this document, the Commission issues an *Order* that stays a rule that was adopted in the *Third R&O* (published elsewhere in this publication). The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402,

Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by sending an e-mail to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

1. The *Third Report and Order* addresses issues raised in the *Second Further Notice of Proposed Rule Making* (*Second FNPRM*) in this WT Docket No. 01–289 proceeding. The Commission takes the following significant actions in the *Third R&O:* (i) Deletes the secondary allocation of the 117.975–136 MHz aeronautical frequency band for Aeronautical Mobile Satellite (Route) Service (AMS(R)S); (ii) permits the use of 8.33 kHz channel spacing in the aeronautical enroute service and by flight test stations; (iii) removes one of the four frequencies designated for Flight Information Services—Broadcast (FIS–B); (iv) permits the use of specified frequencies for air-to-air communications in Hawaii; (v) permits the use of specified frequencies for air-to-air communications in the Los Angeles area; (vi) clarifies the applicability of the one-unicom-per-airport rule; and (vii) permits the filing of applications to assign or transfer control of aircraft station licenses. In addition in this *Third R&O,* the Commission adopts a rule prohibiting the certification, manufacture, importation, sale, or continued use of 121.5 MHz emergency locator transmitters (ELTs) other than the Breitling Emergency Watch ELT, but, in a separate order, the Commission stays the effective date of this rule indefinitely.

I. Procedural Matters

A. Paperwork Reduction Act Analysis

2. The *Third R&O* does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Neither, does it contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

B. Report to Congress

3. The Commission will send a copy of this *Third R&O* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

C. Final Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Second FNPRM* in this proceeding. The Commission sought written public comment on the proposals in the *Second FNPRM,* including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Third Report and Order

5. The rules adopted in the *Third R&O* are intended to ensure that the Commission's part 87 rules governing the Aviation Radio Service remain up-to-date and continue to further the Commission's goals of accommodating new technologies, facilitating the efficient and effective use of the aeronautical spectrum, avoiding unnecessary regulation, and, above all, enhancing the safety of flight. Specifically, in the *Third R&O,* the Commission (a) deletes the secondary allocation of the 117.975–136 MHz aeronautical frequency band for Aeronautical Mobile Satellite (Route) Service (AMS(R)S); (b) permits the use of 8.33 kHz channel spacing in the aeronautical enroute service and by flight test stations; (c) removes one of the four frequencies designated for Flight Information Services—Broadcast (FIS–B); (d) permits the use of specified frequencies for air-to-air communications in Hawaii; (e) permits the use of specified frequencies for air-to-air communications in the Los Angeles area; (f) clarifies the applicability on the one-unicom-per-airport rule; (g) permits the filing of applications to assign or transfer aircraft station licenses; and (h) prohibits the certification, manufacture, importation, sale, or continued use of 121.5 MHz emergency locator transmitters (ELTs) other than the Breitling Emergency Watch ELT. In a separate order, the Commission stays the effective date of the rule prohibiting the certification, manufacture, importation, sale, or continued use of 121.5 MHz ELTs.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

6. No comments were submitted specifically in response to the IRFA. Nonetheless, we have considered the potential economic impact on small entities of the rules discussed in the IRFA, and we have considered alternatives that would reduce the potential economic impact on small entities of the rules enacted herein.

Description and Estimate of the Number of Small Entities to Which Rules Will Apply

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

8. Small businesses in the aviation and marine radio services use a marine very high frequency (VHF), medium frequency (MF), or high frequency (HF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, an aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. For purposes of this FRFA, therefore, the applicable definition of small entity is the definition under the SBA rules applicable to wireless service providers. Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, we estimate

that the majority of wireless firms are small.

9. Some of the rules adopted herein may also affect small businesses that manufacture aviation radio equipment. The Commission has not developed a definition of small entities applicable to aviation radio equipment manufacturers. Therefore, the applicable definition is that for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturers. The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment." The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

10. The *Third R&O* does not impose any additional reporting, recordkeeping, or other compliance requirements on small entities.

Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

11. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."

12. As explained in section D of this FRFA, above, the *Third R&O* does not impose any additional reporting, recordkeeping, or other compliance requirements on small entities. In the IRFA accompanying the *Second FNPRM,* the Commission identified two measures that it was considering that might conceivably impose significant new compliance burdens on small entities: (1) The adoption of rules requiring that mobile satellite systems accord priority and preemptive access to AMS(R)S communications in additional frequency bands, including the 1.6 MHz, 2 MHz, and 5 MHz frequency bands, and (2) the adoption of rules mandating a transition to 8.33 kHz channel spacing in the aeronautical enroute service. In the *Third R&O,* however, the Commission does not adopt either of these requirements. The Commission has determined to defer addressing the possibility of requiring MSS licensees to accord priority and preemptive access to AMS(R)S communications in additional frequency bands until other matters pertaining to MSS licensees are addressed in other proceedings. In addition, the Commission has decided not to mandate that the aeronautical enroute service transition to 8.33 kHz channel spacing, but only to allow such a transition to 8.33 kHz channel spacing in the aeronautical enroute (and flight test station) service on a permissive basis. Finally, as noted, the Commission determined in the IRFA accompanying the *Second FNPRM* that none of the other rule changes under consideration would impose any new compliance burden on any entity, and there is nothing in the record to undermine that conclusion. In sum, none of the rule changes adopted in the *Third R&O* imposes a new compliance burden on any entity.

F. Report to Congress

13. The Commission will send a copy of this *Third R&O* in WT Docket No. 01–289, including the Final Regulatory Flexibility Analysis, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Third R&O,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA. A copy of the *Third R&O* and the Final Regulatory Flexibility Analysis (or summaries thereof) will also be published in the **Federal Register.**

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Radio.

47 CFR Part 2

Radio.

47 CFR Part 87

Air transportation, Communications equipment, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 2 and 87 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

■ 2. Amend § 1.948 by revising paragraph (b)(5) to read as follows:

§ 1.948 Assignment of authorization or transfer of control, notification of consummation.

* * * * *

(b)(5) Licenses, permits, and authorizations for stations in the Amateur, Ship, Commercial Operator and Personal Radio Services (except 218–219 MHz Service) may not be assigned or transferred, unless otherwise stated.

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 4. Amend § 2.106, by revising page 20 of the Table of Frequency Allocations, and by adding footnote US36 to the list of United States (U.S.) Footnotes to read as follows.

§ 2.106 Table of frequency allocations.

* * * * *

BILLING CODE 6712–01–P

	75.4-76 FIXED MOBILE	75.4-87 FIXED MOBILE	75.4-88	75.4-76 FIXED MOBILE NG3 NG49 NG56	Public Mobile (22) Aviation (87) Private Land Mobile (90) Personal Radio (95)
5.175 5.179 5.187	76-88 BROADCASTING Fixed Mobile 5.185	5.182 5.183 5.188 87-100 FIXED MOBILE BROADCASTING		76-88 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/ Booster (74G) Low Power Auxiliary (74H)
87.5-100 BROADCASTING 5.190	88-100 BROADCASTING		88-108 US93	88-108 BROADCASTING NG2 US93 NG5	Broadcast Radio (FM)(73) FM Translator/Booste (74L)
100-108 BROADCASTING 5.192 5.194					
108-117.975 AERONAUTICAL RADIONAVIGATION 5.197 5.197A			108-117.975 AERONAUTICAL RADIONAVIGATION US93 US343		Aviation (87)
117.975-137 AERONAUTICAL MOBILE (R)			117.975-121.9375 AERONAUTICAL MOBILE (R) 5.111 5.200 US26 US28 US36		
			121.9375-123.0875 US30 US31 US33 US80 US102 US213	121.9375-123.0875 AERONAUTICAL MOBILE US30 US31 US33 US80 US102 US213	
			123.0875-123.5875 AERONAUTICAL MOBILE 5.200 US32 US33 US112		
			123.5875-128.8125 AERONAUTICAL MOBILE (R) US26 US36		
			128.8125-132.0125	128.8125-132.0125 AERONAUTICAL MOBILE (R)	
			132.0125-136 AERONAUTICAL MOBILE (R) US26		
			136-137 US244	136-137 AERONAUTICAL MOBILE (R) US244	
5.111 5.200 5.201 5.202					Page 20

BILLING CODE 6712–01–C

United States (U.S.) Footnotes

* * * * *

US36 In Hawaii, the bands 120.647–120.653 MHz and 127.047–127.053 MHz are also allocated to the aeronautical mobile service on a primary basis for non-Federal aircraft air-to-air communications on 120.65 MHz (Maui) and 127.05 MHz (Hawaii and Kauai) as specified in 47 CFR 87.187.

* * * * *

PART 87—AVIATION SERVICES

■ 5. The authority citation for part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

■ 6. Amend § 87.133 by revising paragraph (a) introductory text and by adding paragraph (g) to read as follows:

§ 87.133 Frequency stability.

(a) Except as provided in paragraphs (c), (d), (f), and (g) of this section, the carrier frequency of each station must be maintained within these tolerances:

* * * * *

(g) Any aeronautical enroute service transmitter operating in U.S. controlled airspace with 8.33 kHz channel spacing (except equipment being tested by avionics equipment manufacturers and flight test stations prior to delivery to their customers for use outside U.S. controlled airspace) must achieve 0.0005% frequency stability when operating in that mode.

■ 7. Amend § 87.137 by revising footnote 17 in paragraph (a) to read as follows:

§ 87.137 Types of emission.

(a) * * *

[17] In the band 117.975–137 MHz, the Commission will not authorize any 8.33 kHz channel spaced transmissions or the use of their associated emission designator within the U.S. National Airspace System, except, on an optional basis, by Aeronautical Enroute Stations and Flight Test Stations, or by avionics equipment manufacturers which are required to perform installation and checkout of such radio systems prior to delivery to their customers. For transmitters certificated to tune to 8.33 kHz channel spacing as well as 25 kHz channel spacing, the authorized bandwidth is 8.33 kHz when tuned to an 8.33 kHz channel.

* * * * *

§ 87.171 [Amended]

■ 8. Amend § 87.171 by removing the entry "FAP–Civil Air Patrol."

■ 9. Amend § 87.173 by removing the entry for "72.020–75.980 MHz," adding entries for "72.02–72.98 MHz" and "75.42–75.98 MHz," revising the entries for "118.00–121.400," "121.500 MHz," "121.975 MHz," "122.025 MHz," "122.075 MHz," "123.6–128.8 MHz," "128.825–132.000 MHz," "132.025–135.975 MHz," "136.500–136.875 MHz," and "406.0–406.1 MHz" in the table in paragraph (b) to read as follows:

§ 87.173 Frequencies.

* * * * *

(b) Frequency table:

Frequency or frequency band	Subpart	Class of station	Remarks
72.02–72.98 MHz	P	FA, AXO	Operational fixed.
75.42–75.98 MHz	P	FA, AXO	Operational fixed.
* *	*	*	* *
118.000–121.400 MHz	O, S	MA, FAC, FAW, GCO RCO, RPC	25 kHz channel spacing
* *	*	*	* *
121.500 MHz	G, H, I, J, K, M, O	MA, FAU, FAE, FAT, FAS, FAC, FAM.	Emergency and distress.
* *	*	*	* *
121.975 MHz	F, S	MA2, FAW, FAC, MOU	Air traffic control operations.
* *	*	*	* *
122.025 MHz	F, S	MA2, FAW, FAC, MOU	Air traffic control operations.
* *	*	*	* *
122.075 MHz	F, S	MA2, FAW, FAC, MOU	Air traffic control operations.
* *	*	*	* *
123.6–128.8 MHz	O, S	MA, FAC, FAW, GCO, RCO, RPC	25 kHz channel spacing.
128.825–132.000	I	MA, FAE	Domestic VHF.
132.025–135.975 MHz	O, S	MA, FAC, FAW, GCO RCO RPC	25 kHz channel spacing.
* *	*	*	* *
136.500–136.875 MHz	I	MA, FAE	Domestic VHF.
* *	*	*	* *
406.0–406.1 MHz	F, G, H, I, J, K, M, O	MA, FAU, FAE, FAT, FAS, FAC, FAM.	Emergency and distress.
* *	*	*	* *

* * * * *

■ 10. Amend § 87.187 by revising paragraphs (cc) and (dd), and by adding new paragraphs (gg) and (hh) to read as follows:

§ 87.187 Frequencies.

* * * * *

(cc) The frequency 120.650 MHz [1] is authorized for air-to-air use for aircraft up to and including 3 km (10,000 ft) mean sea level within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

35–59–44.9 N. Lat; 114–51–48.0 W. Long.

36–09–29.9 N. Lat; 114–50–3.0 W. Long.

36–09–29.9 N. Lat; 114–02–57.9 W. Long.

35–54–45.0 N. Lat; 113–48–47.8 W. Long.

(dd) The frequencies 136.425, 136.450, and 136.475 MHz are designated for flight information services—broadcast (FIS–B) and may not be used by aircraft for transmission.

* * * * *

(gg) (1) The frequency 120.650 MHz is authorized for air-to-air communications for aircraft over and within five nautical miles of the shoreline of the Hawaiian Island of Maui.

(2) The frequency 121.950 MHz is authorized for air-to-air use for aircraft over and within five nautical miles of the shoreline of the Hawaiian Island of Molokai.

(3) The frequency 122.850 MHz is authorized for air-to-air use for aircraft over and within five nautical miles of the shoreline of the Hawaiian Island of Oahu.

(4) The frequency 122.850 MHz is authorized for aircraft over and within five nautical miles of the shoreline of the Hawaiian Island of Hawaii when aircraft are south and east of the 215 degree radial of very high frequency omni-directional radio range of Hilo International Airport.

(5) The frequency 127.050 MHz is authorized for air-to-air use for aircraft over and within five nautical miles of the shoreline of the Hawaiian Island of Hawaii when aircraft are north and west of the 215 degree radial of very high frequency omni-directional radio range of Hilo International Airport.

(6) The frequency 127.050 MHz is authorized for air-to-air use for aircraft over and within five nautical miles of the Hawaiian Island of Kauai.

(hh) (1) The frequency 121.95 MHz is authorized for air-to-air communications for aircraft within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

33–46–00 N. Lat.; 118–27–00 W. Long.
33–47–00 N. Lat.; 118–12–00 W. Long.
33–40–00 N. Lat.; 118–00–00 W. Long.
33–35–00 N. Lat.; 118–08–00 W. Long.
34–00–00 N. Lat.; 118–26–00 W. Long.

(2) The frequency 122.775 MHz is authorized for air-to-air communications for aircraft within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

34–22–00 N. Lat.; 118–30–00 W. Long.
34–35–00 N. Lat.; 118–15–00 W. Long.
34–27–00 N. Lat.; 118–15–00 W. Long.
34–16–00 N. Lat.; 118–35–00 W. Long.
34–06–00 N. Lat.; 118–35–00 W. Long.
34–05–00 N. Lat.; 118–50–00 W. Long.

(3) The frequency 123.30 MHz is authorized for air-to-air communications for aircraft within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

34–08–00 N. Lat.; 118–00–00 W. Long.
34–10–00 N. Lat.; 117–08–00 W. Long.
34–00–00 N. Lat.; 117–08–00 W. Long.
33–53–00 N. Lat.; 117–42–00 W. Long.
33–58–00 N. Lat.; 118–00–00 W. Long.

(4) The frequency 123.50 MHz is authorized for air-to-air communications for aircraft within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

33–53–00 N. Lat.; 117–37–00 W. Long.
34–00–00 N. Lat.; 117–15–00 W. Long.
34–00–00 N. Lat.; 117–07–00 W. Long.
33–28–00 N. Lat.; 116–55–00 W. Long.
33–27–00 N. Lat.; 117–12–00 W. Long.

(5) The frequency 123.50 MHz is authorized for air-to-air communications for aircraft within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

33–50–00 N. Lat.; 117–48–00 W. Long.
33–51–00 N. Lat.; 117–41–00 W. Long.
33–38–00 N. Lat.; 117–30–00 W. Long.
33–30–00 N. Lat.; 117–30–00 W. Long.
33–30–00 N. Lat.; 117–49–00 W. Long.

■ 11. Amend § 87.195 by revising the section heading, and by adding introductory text to read as follows:

§ 87.195 Prohibition of 121.5 MHz ELTs.

The manufacture, importation, sale or use of 121.5 MHz ELTs is prohibited.

* * * * *

■ 12. Amend § 87.199 by revising paragraph (a) to read as follows:

§ 87.199 Special requirements for 406.0–406.1 MHz ELTs.

(a) 406.0–406.1 ELTs use G1D emission. Except for the spurious emission limits specified in § 87.139(h), 406.0–406.1 MHz ELTs must meet all the technical and performance standards contained in the Radio Technical Commission for Aeronautics document titled "Minimum Operational Performance Standards 406 MHz Emergency Locator Transmitters (ELT)" Document No. RTCA/DO–204 dated September 29, 1989. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of this standard can be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* Copies of the RTCA standards also may be obtained from the Radio Technical Commission of Aeronautics, One McPherson Square, 1425 K Street, NW., Washington, DC 20005.

* * * * *

■ 13. Amend § 87.215 by revising paragraphs (b) and (f) to read as follows:

§ 87.215 Supplemental eligibility.

* * * * *

(b) Only one unicom will be authorized to operate at an airport which does not have a control tower, RCO or FAA flight service station that operates on the published common traffic advisory frequency. At any other airport, the one unicom limitation does not apply, and the airport operator and all aviation services organizations may be licensed to operate a unicom on the assigned frequency.

* * * * *

(f) At an airport where only one unicom may be licensed, when the Commission believes that the unicom has been abandoned or has ceased operation, another unicom may be licensed on an interim basis pending final determination of the status of the original unicom. An applicant for an interim license must notify the present licensee and must comply with the notice requirements of paragraph (g) of this section.

* * * * *

■ 14. Amend § 87.263 by revising paragraphs (a)(1) and (c) to read as follows:

§ 87.263 Frequencies.

(a) * * *

(1) Frequencies in the 128.8125–132.125 MHz and 136.4875–137.00 MHz bands are available to serve domestic routes, except that the frequency 136.750 MHz is available only to aeronautical enroute stations located at least 288 kilometers (180 miles) from the Gulf of Mexico shoreline (outside the Gulf of Mexico region). The frequencies 136.900 MHz, 136.925 MHz, 136.950 MHz and 136.975 MHz are available to serve domestic and international routes. Frequency assignments may be based on either 8.33 kHz or 25 kHz spacing. Use of these frequencies must be compatible with existing operations and must be in accordance with pertinent international treaties and agreements.

* * * * *

(c) *International VHF service.* Frequencies in the 128.825–132.000 and 136.000–137.000 MHz bands are available to enroute stations serving international flight operations. Frequency assignments are based on either 8.33 kHz or 25 kHz channel spacing. Proposed operations must be compatible with existing operations in the band.

* * * * *

■ 15. In 87.303, revise paragraph (b) and add a new paragraph (f) to read as follows:

§ 87.303 Frequencies.

* * * * *

(b) These additional frequencies are available for assignment only to flight test stations of aircraft manufacturers:

MHz	MHz	MHz	MHz
123.125 [2]	123.275 [3]	123.425 [3]	123.550 [3]
123.150 [2]	123.325 [3]	123.475 [3]	123.575 [2]
123.250 [3]	123.350 [3]	123.525 [3]	

[1] When R3E, H3E or J3E emission is used, the assigned frequency will be 3282.4 kHz (3281.0 kHz carrier frequency).
[2] This frequency is available only to itinerant stations that have a requirement to be periodically transferred to various locations.
[3] Mobile station operations on these frequencies are limited to an area within 320 km (200 mi) of an associated flight test land station.

* * * * *

(f) Frequency assignments for Flight Test VHF Stations may be based on either 8.33 kHz or 25 kHz spacing. Assignable frequencies include the interstitial frequencies 8.33 kHz from the VHF frequencies listed in paragraphs (a) and (b) of this section. Each 8.33 kHz interstitial frequency is subject to the same eligibility criteria and limitations as the nearest frequency listed in paragraphs (a) and (b) of this section.

[FR Doc. 2011–4003 Filed 3–28–11; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 87

[WT Docket No. 01–289; FCC 11–2]

Aviation Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule; suspension of effectiveness.

SUMMARY: In this document, the Federal Communications Commission (FCC) stays indefinitely a rule that rule prohibits the certification, manufacture, importation, sale, or continued use of 121.5 MHz emergency locator transmitters (ELTs). The Commission is staying the effective date of the amendment because information that first came to its attention after the adoption and release of the *Third R&O* indicates that it would serve the public interest to augment the record on this issue by providing an additional opportunity for public comment.

DATES: Effective March 29, 2011, § 87.195 is stayed until further notice.

FOR FURTHER INFORMATION CONTACT: Jeff Tobias, Mobility Division, Wireless Telecommunications Bureau, at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the *Order,* released on January 11, 2011. Contemporaneous with this document, the Commission issues a *Third Report and Order* (*Third R&O*), (published elsewhere in this publication). The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the FCC's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by sending an e-mail to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

In this *Order,* the FCC stayed the effectiveness of 47 CFR 89.195, as amended in the *Third R&O,* which prohibits the certification, manufacture, importation, sale, or continued use of 121.5 MHz ELTs. The stay will remain in effect indefinitely, and the question of the appropriate regulatory treatment of 121.5 MHz ELTs will be addressed anew after the FCC has received additional public comment on the question. The FCC will separately publish in the **Federal Register** a document requesting such comment.

List of Subjects in 47 CFR Part 87

Communications equipment, Radio.

For the reasons discussed in the preamble, the FCC amends 47 part 87 as follows:

PART 47—[AMENDED]

■ 1. The authority citation for part 47 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

■ 2. Effective March 29, 2011, § 87.195 is stayed indefinitely.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2011–4007 Filed 3–28–11; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R9–MB–2010–0082; 91200–1231–9BPP–L2]

RIN 1018–AX30

Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2011 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) establishes migratory bird subsistence harvest regulations in Alaska for the 2011 season. These regulations will enable the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. The rulemaking is necessary because the regulations governing the subsistence harvest of migratory birds in Alaska are subject to annual review. This rulemaking establishes region-specific regulations that go into effect on April 2, 2011, and expire on August 31, 2011.

DATES: The amendments to subpart D of 50 CFR part 92 are effective April 2, 2011, through August 31, 2011.

FOR FURTHER INFORMATION CONTACT: Fred Armstrong, (907) 786–3887, or Donna Dewhurst, (907) 786–3499, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503.

SUPPLEMENTARY INFORMATION:

Why is this rulemaking necessary?

This rulemaking is necessary because, by law, the migratory bird harvest

season is closed unless opened by the Secretary of the Interior, and the regulations governing subsistence harvest of migratory birds in Alaska are subject to public review and annual approval. This rule establishes regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer of 2011. This rule establishes a list of migratory bird season openings and closures in Alaska by region.

How do I find the history of these regulations?

Background information, including past events leading to this rulemaking, accomplishments since the Migratory Bird Treaties with Canada and Mexico were amended, and a history addressing conservation issues can be found in the following **Federal Register** documents:

Date	**Federal Register** citation
August 16, 2002	67 FR 53511
July 21, 2003	68 FR 43010
April 2, 2004	69 FR 17318
April 8, 2005	70 FR 18244
February 28, 2006	71 FR 10404
April 11, 2007	72 FR 18318
March 14, 2008	73 FR 13788
May 19, 2009	74 FR 23336
April 13, 2010	75 FR 18764

These documents, which are all final rules setting forth the annual harvest regulations, are available at *http://alaska.fws.gov/ambcc/regulations.htm* or by contacting one of the people listed under **FOR FURTHER INFORMATION CONTACT.**

What is the process for issuing regulations for the subsistence harvest of migratory birds in Alaska?

The U.S. Fish and Wildlife Service (Service or we) are establishing migratory bird subsistence harvest regulations in Alaska for the 2011 season. These regulations enable the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

We opened the process to establish regulations for the 2011 spring and summer subsistence harvest of migratory birds in Alaska in a proposed rule published in the **Federal Register** on June 10, 2010 (75 FR 32872). While that proposed rule dealt primarily with the regulatory process for hunting migratory birds for all purposes throughout the United States, we also discussed the background and history of Alaska subsistence regulations, explained the annual process for their establishment, and requested proposals for the 2011 season. The rulemaking processes for both types of migratory bird harvest are related, and the June 10, 2010, proposed rule explained the connection between the two.

The Alaska Migratory Bird Co-management Council (Co-management Council) held a meeting in April 2010 to develop recommendations for changes that would take effect during the 2011 harvest season. These recommendations were presented first to the Flyway Councils and then to the Service Regulations Committee at the committee's meeting on July 28 and 29, 2010.

On October 26, 2010, we published in the **Federal Register** (75 FR 65599) a proposed rule that provided our proposed migratory bird subsistence harvest regulations in Alaska for the 2011 season. Regulations presented in that proposed rule were identical to those for the 2010 harvest season.

Who is eligible to hunt under these regulations?

Eligibility to harvest under the regulations established in 2003 was limited to permanent residents, regardless of race, in villages located within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, and in areas north and west of the Alaska Range (50 CFR 92.5). These geographical restrictions opened the initial migratory bird subsistence harvest to about 13 percent of Alaska residents. High populated areas such as Anchorage, the Matanuska-Susitna and Fairbanks North Star boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, and Southeast Alaska were excluded from eligible subsistence harvest areas.

Based on petitions requesting inclusion in the harvest, in 2004, we added 13 additional communities based on criteria set forth in 50 CFR 92.5(c). These communities were Gulkana, Gakona, Tazlina, Copper Center, Mentasta Lake, Chitina, Chistochina, Tatitlek, Chenega, Port Graham, Nanwalek, Tyonek, and Hoonah, with a combined population of 2,766. In 2005, we added three additional communities for glaucous-winged gull egg gathering only, based on petitions requesting inclusion. These southeastern communities were Craig, Hydaburg, and Yakutat, with a combined population of 2,459, based on the latest census information at that time.

In 2007, we enacted the Alaska Department of Fish and Game's request to expand the Fairbanks North Star Borough excluded area to include the Central Interior area. This action excluded the following communities from participation in this harvest: Big Delta/Fort Greely, Healy, McKinley Park/Village, and Ferry, with a combined population of 2,812.

What is different in the region-specific regulations for 2011?

As stated earlier, regulations presented in the October 26, 2010, proposed rule (75 FR 65599) were identical to those for the 2010 harvest season. However, after reviewing public comments received on the proposed rule and further internal discussions, the Service is removing the shooting hours restriction effective for the North Coastal Zone of the North Slope of Alaska. A full justification of this decision and how we will monitor results are detailed later in this final rule.

How will the service ensure that the subsistence harvest will not raise overall migratory bird harvest or threaten the conservation of endangered and threatened species?

We have monitored subsistence harvest for the past 25 years through the use of annual household surveys in the most heavily used subsistence harvest areas, such as the Yukon-Kuskokwim Delta. In recent years, more intensive surveys combined with outreach efforts focused on species identification have been added to improve the accuracy of information gathered from regions still reporting some subsistence harvest of listed or candidate species.

Spectacled and Steller's Eiders

Spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*) are listed as threatened species; their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird hunt is open in Alaska. Both species are closed to hunting, although harvest surveys and Service documentation indicate both species have been taken in several regions of Alaska.

The Service has dual goals and responsibilities for authorizing a subsistence harvest while protecting migratory birds and threatened species. Although these goals continue to be challenging, they are not irreconcilable, providing sufficient recognition is given to the need to protect threatened species, measures to remedy documented threats are implemented,

and the subsistence community and other conservation partners commit to working together. With these dual goals in mind, the Service, working with partners, developed measures in 2009 to further reduce the potential for shooting mortality or injury of closed species. These conservation measures included: (1) Increased waterfowl hunter outreach and community awareness partnering with the North Slope Migratory Bird Task Force; (2) continued enforcement of the migratory bird regulations that are protective of listed eiders; and (3) in-season Service verification of the harvest to detect Steller's eider mortality.

This rule continues to focus on the North Slope from Barrow through Point Hope because Steller's eiders from the listed Alaska breeding population are known to breed and migrate there. These regulations were designed to address several ongoing eider management needs by clarifying for subsistence users that (1) service law enforcement personnel have authority to verify species of birds possessed by hunters, and (2) it is illegal to possess any bird closed to harvest. It also describes how the Service's existing authority of emergency closure would be implemented, if necessary, to protect Steller's eiders. We are willing to discuss many of the regulations with our partners on the North Slope to ensure the regulations protect closed species as well as provide subsistence hunters an opportunity to harvest migratory birds in a way that maintains the culture and traditional harvest of the community. The regulations pertaining to bag checks and possession of illegal birds are deemed necessary to verify compliance with not harvesting protected eider species.

As for the shooting hours restriction, this regulation is similar to one in the State of Alaska's fall regulations, which take effect on September 1 each year. The goal of the shooting hours restrictions is to minimize the risk of inadvertent shooting of closed species when light levels are low and misidentification is more likely. The Service believes this regulation adds some level of conservation benefit for protected eiders. However, our co-management partners over the past couple of years have pointed out correctly that no Steller's eiders have been documented as taken during periods of low or no adequate light, and that the Service was addressing a non-problem with the shooting hours restrictions. It has been suggested that this action may be actually counterproductive to developing community understanding and support for conservation of Steller's eiders.

The Service is aware and appreciates the considerable efforts by North Slope partners to raise awareness and educate hunters on Steller's eider conservation via the bird fair, meetings, radio shows, signs, school visits, and one-on-one contacts since 2008. We also recognize that no listed eiders have been documented shot in that last 2 years, although we note that Steller's eiders did not have a significant breeding population in the Barrow area during this period. Also the Service acknowledges progress made with the other eider conservation measures including partnering with the North Slope Migratory Bird Task Force for increased waterfowl hunter awareness, continued enforcement of the regulations, and in-season verification of the harvest. At this time, the Service is removing the shooting hours restriction during subsistence harvest on the North Slope to foster moving forward with a stronger co-management approach to Steller's eider conservation. However, if evidence is gathered in the future indicating that shooting during times of low or no light is resulting in protected eider species being taken, then a return to the shooting hours restrictions will have to be considered. We plan to work closely with the North Slope Migratory Bird Task Force to develop and implement a harvest monitoring program that will verify that closed species are not being taken during the period when shooting hours would have been in effect. This monitoring program would be implemented starting this coming harvest season. Our primary strategy to reduce the threat of shooting mortality of threatened eiders continues to be working with North Slope partners to conduct education, outreach, and harvest monitoring, followed when necessary by law enforcement. In addition, the emergency closure authority provides another level of assurance if an unexpected amount of Steller's eider shooting mortality occurs (50 CFR 92.21 and 50 CFR 92.32).

In-season harvest monitoring information will be used to evaluate the efficacy of regulations, conservation measures, and outreach efforts. In 2009 and 2010, no Steller's eider harvest was reported on the North Slope, and no Steller's eiders were found shot during in-season verification of the subsistence harvest. However, 2009 was a non-nesting year for Steller's eiders on the North Slope, and in 2010, only one active nest was found in the Barrow area. Based on these relative successes, the 2010 conservation measures will also be continued, although there will be some modification of the amount of effort and emphasis each will receive. Specifically, local communities have continued to develop greater responsibility for taking actions to ensure Steller's and spectacled eider conservation and recovery; and based on last year's observations, local hunters have demonstrated greater compliance with hunting regulations, so the Service's Office of Law Enforcement does not plan on maintaining a continuous presence in Barrow this season.

The longstanding general emergency closure provision at 50 CFR 92.21 specifies that the harvest may be closed or temporarily suspended upon finding that a continuation of the regulation allowing the harvest would pose an imminent threat to the conservation of any migratory bird population. With regard to Steller's eiders, the regulation at 50 CFR 92.32, carried over from the past 2 years, would clarify that we will take action under 50 CFR 92.21 as is necessary to prevent further take of Steller's eiders, and that action could include temporary or long-term closures of the harvest in all or a portion of the geographic area open to harvest. If mortality of threatened eiders occurs, we will evaluate each mortality event by criteria such as cause, quantity, sex, age, location, and date. We will consult with the Co-management Council when we are considering an emergency closure. If we determine that an emergency closure is necessary, we will design it to minimize its impact on the subsistence harvest.

Yellow-Billed Loon and Kittlitz's Murrelet

Yellow-billed loon (*Gavia adamsii*) and Kittlitz's murrelet (*Brachyramphus brevirostris*) are candidate species for listing under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Their migration and breeding distribution overlaps with where the spring and summer migratory bird hunt is open in Alaska. Both species are closed to hunting, and there is no evidence Kittlitz's murrelets are harvested. On the other hand, harvest surveys have indicated that harvest of yellow-billed loons on the North Slope and St. Lawrence Island does occur. Most of the yellow-billed loons reported harvested on the North Slope were found to be entangled loons salvaged from subsistence fishing nets as described below. The Service will continue outreach efforts in both areas in 2011, engaging partners to improve harvest estimates and decrease take of yellow-billed loons.

Consistent with the request of the North Slope Borough Fish and Game Management Committee and the recommendation of the Co-management Council, this final rule would continue into 2011 the provisions originally established in 2005 to allow subsistence use of yellow-billed loons (*Gavia adamsii*) inadvertently entangled in subsistence fishing (gill) nets on the North Slope. Yellow-billed loons are culturally important to the Inupiat Eskimo of the North Slope for use in traditional dance regalia. A maximum of 20 yellow-billed loons may be kept if found entangled in fishing nets in 2011 under this provision. This provision does not authorize intentional harvest of yellow-billed loons, but allows use of those loons inadvertently entangled during normal subsistence fishing activities. Service support of this proposal is contingent upon the North Slope Region representative collaborating with the Service and Co-management Council provide a scientifically defensible estimate of yellow-billed loons inadvertently entangled by North Slope subsistence fishers and kept for use during the 2011 season. Additional information is needed relative to species and number of loons entangled in subsistence nets, distribution across the North Slope Region, age of birds entangled (adult vs. young-of-year), status of loons when found entangled, and dates of capture. These data will allow the Service to better assess the potential effects of subsistence fishing on this species. Currently, individual reporting to the North Slope Borough Department of Wildlife is required by the end of each season. In 2009, two yellow-billed loons were reported entangled and found dead in fishing nets, while two others were released from fishing nets by the North Slope Borough staff.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act (16 U.S.C. 1536) requires the Secretary of the Interior to "review other programs administered by him and utilize such programs in furtherance of the purposes of the Act" and to "insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *." We conducted an intra-agency consultation with the Fairbanks Fish and Wildlife Field Office on this harvest as it will be managed in accordance with this final rule and the conservation measures. The consultation was completed with a biological opinion dated March 23, 2011, that concluded the final rule and conservation measures are not likely to jeopardize the continued existence of Steller's eider, spectacled eider, yellow-billed loon, or Kittlitz's murrelet, or result in the destruction or adverse modification of designated critical habitat for Steller's eider or spectacled eider.

Summary of Public Involvement

On October 26, 2010, we published in the **Federal Register** a proposed rule (75 FR 65599) to establish spring and summer migratory bird subsistence harvest regulations in Alaska for the 2011 subsistence season. The proposed rule provided for a public comment period of 60 days. We posted an announcement of the comment period dates for the proposed rule, as well as the rule itself and related historical documents, on the Co-management Council's Internet homepage. We issued a press release announcing our request for public comments and the pertinent deadlines for such comments, which was faxed to the media Statewide. Additionally, all documents were available on *http://www.regulations.gov.* The Service received two comments, both from organizations.

Response to Public Comments

General Comments

Comment: We received one comment on the operations of the Service Regulation Committee (SRC) in making regulatory decisions. The commenter stated that during the last 2 years the SRC has met behind closed doors and decided to reject both the recommendations of the Flyway Council and the Co-management Council for the North Slope eider regulations, creating a lack of transparency.

Service Response: The SRC meetings are public meetings, and the process allows for input from the four North American Flyway Councils and the Co-management Council to provide additional information on their recommendations. The SRC, the Service, and the Department then have to consider all sides and issues before making decisions in counsel with technical staff. The SRC strives to make the best decisions to ensure the long-term conservation of the resource in compliance with mandates imposed by law.

Law Enforcement

Comment: One commenter stated that efforts to promote cultural sensitivity with the Service's law enforcement actions seem to have had little success. The commenter added that interactions between local hunters and law enforcement agents continue to generate angry reactions.

Service Response: For several years, the Service's Office of Law Enforcement and Divisions of Endangered Species and Migratory Bird Management have worked with many groups and individuals in the greater North Slope area, and Barrow specifically, to provide information on the regulatory requirements and enforcement of the regulations. This last year our approach focused on significant outreach efforts, including public meetings, radio talk show opportunities, posted fliers, and brochures followed by a reduced reliance on enforcement actions and law enforcement presence. The Service and its partners continue to take part in these activities in an effort to increase hunter awareness and to promote cultural sensitivity from our law enforcement officers, especially when they are interacting with hunters. Based on last year's observations, the Service expects hunter compliance with the regulations to continue and does not plan on having a continuous presence in Barrow this season.

Comments on Original Region-Specific Regulations

Comment: One commenter requested that criteria be written to provide guidance as to when the North Slope could see a return to pre-2009 regulations. More specifically the commenter would like these criteria to include Barrow's outreach efforts and the lack of intentional shooting since 2008. The commenter was further concerned that the criteria should not include a requirement for the Steller's eider population to increase before the regulations could be reversed. A second commenter asked that the Service not implement shooting hour regulations on the North Slope unless hunters understand and support the concept.

Service Response: The commenters seem to be defining "success" as a return to the 2008 regulations, which did not have any additional eider conservation regulations on the North Slope. Our definition of success for the North Slope subsistence harvest includes: (1) Continued opportunity for subsistence hunting on the North Slope; (2) compliance with the regulations, including no harvest or possession of closed species and adherence to the closed season; and (3) no use of lead shot. We are willing to discuss the regulations with our partners on the North Slope to ensure the regulations protect closed species as well as provide subsistence hunters an opportunity to harvest migratory birds in a way that

maintains the cultural and traditional lifestyle they have enjoyed for centuries. However, whatever regulatory changes are made, we must point out that to ensure success and verify compliance, the regulations pertaining to bag checks and possession of illegal birds will remain in place.

As for the shooting hours restrictions, this regulation is similar to one in the State of Alaska's fall hunt regulations, which take effect on September 1 each year. The goal of restricting shooting hours was to minimize the risk of inadvertent shooting of closed species when light levels are low and misidentification is more likely. However, commenters over the past couple of years have correctly pointed out that no Steller's eiders were ever documented as taken during periods of low or no adequate light, and that the Service was solving a non-problem with the shooting hours restrictions. It has been suggested that this action may be counterproductive to developing community understanding and support for conservation of Steller's eiders.

The Service is aware of and appreciates the considerable efforts by North Slope partners to raise awareness and educate hunters on Steller's eider conservation via the bird fair, meetings, radio shows, signs, school visits, and one-on-one contacts since 2008. We also recognize that no listed eiders have been documented shot in that last 2 years, although we note that Steller's eiders did not have a significant breeding population in the Barrow area during this period. At this time, the Service is willing to remove the shooting hours restriction during subsistence harvest on the North Slope to foster moving forward with a stronger co-management approach to Steller's eider conservation. However, if evidence is gathered in the future indicating that shooting during times of low or no light is resulting in protected eider species being taken, then a return to the shooting hours restrictions will have to be considered. It is the Service's intention to work closely with the North Slope Migratory Bird Task Force to develop and implement a program that will verify that closed species are not being taken during the period when shooting hours would have been in effect. This monitoring program would be implemented starting this coming harvest season.

Comment: One commenter asked that the Service continue using the provisions in 50 CFR 92.31(g)(4) (originally established in 2005) to allow subsistence use of yellow-billed loons inadvertently entangled in subsistence fishing nets on the North Slope. Yellow-billed loons remain an important part of the Inupiaq culture. Another commenter requested that yellow-billed loon regulations not be contingent upon a completed revision of the harvest survey in 2011.

Service Response: We are currently working with the State, the North Slope Borough, and the Co-management Council to develop a stronger harvest survey design for the North Slope. We are retaining the yellow-billed loon provision for the North Slope for the 2011 season, allowing for the use of yellow-billed loons inadvertently entangled in subsistence fishing nets on the North Slope.

Statutory Authority

We derive our authority to issue these regulations from the Migratory Bird Treaty Act of 1918, 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to "issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds."

Required Determinations

Regulatory Planning and Review (Executive Order 12866)

The Office of Management and Budget (OMB) has determined that this rule is not significant and has not reviewed this rule under Executive Order 12866 (E.O. 12866). OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. The rule legalizes a pre-existing subsistence activity, and the resources harvested will be consumed by the harvesters or persons within their local community.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Will not have an annual effect on the economy of $100 million or more. It will legalize and regulate a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities being regulated under this rule are migratory birds. This rule deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule derives from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska would qualify as small businesses. We have no reason to believe that this rule will lead to a disproportionate distribution of benefits.

(b) Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This rule does not deal with traded commodities and, therefore, does not have an impact on prices for consumers.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule deals with the harvesting of wildlife for personal consumption. It does not regulate the marketplace in any way to generate effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, State, or tribal governments or private entities. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the

Unfunded Mandates Reform Act is not required. Participation on regional management bodies and the Co-management Council will require travel expenses for some Alaska Native organizations and local governments. In addition, they will assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than $300,000 per year. In a Notice of Decision (65 FR 16405; March 28, 2000), we identified 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The Alaska Department of Fish and Game will also incur expenses for travel to Co-management Council and regional management body meetings. In addition, the State of Alaska will be required to provide technical staff support to each of the regional management bodies and to the Co-management Council. Expenses for the State's involvement may exceed $100,000 per year, but should not exceed $150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations and the Alaska Department of Fish and Game to help offset their expenses.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this rule does not have significant takings implications. This rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. We discuss effects of this rule on the State of Alaska in the Unfunded Mandates Reform Act section above. We worked with the State of Alaska to develop these regulations. Therefore, a Federalism Assessment is not required.

Civil Justice Reform (Executive Order 12988)

The Department, in promulgating this rule, has determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Government-to-Government Relations With Native American Tribal Governments

In keeping with the spirit of the President's memorandum of April 29, 1994, "Government-to-Government Relations With Native American Tribal Governments" (59 FR 22951), and Executive Order 13175 (65 FR 67249; November 6, 2000), concerning consultation and coordination with Indian Tribal Governments, we implemented the amended treaty with Canada with a focus on local involvement. The treaty calls for the creation of management bodies to ensure an effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They will develop recommendations for among other things: Seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, education program, research and use of traditional knowledge, and habitat protection. The management bodies will involve village councils to the maximum extent possible in all aspects of management. To ensure maximum input at the village level, we required each of the 11 participating regions to create regional management bodies consisting of at least one representative from the participating villages. The regional management bodies meet twice annually to review and/or submit proposals to the statewide body.

The rule will legally recognize the subsistence harvest of migratory birds and their eggs for indigenous inhabitants including tribal members. In 1998, we began a public involvement process to determine how to structure management bodies in order to provide the most effective and efficient involvement of subsistence users. We began by publishing in the **Federal Register** stating that we intended to establish management bodies to implement the spring and summer subsistence harvest (63 FR 49707, September 17, 1998). We held meetings with the Alaska Department of Fish and Game and the Native Migratory Bird Working Group to provide information regarding the amended treaties and to listen to the needs of subsistence users. The Native Migratory Bird Working Group was a consortium of Alaska Natives formed by the Rural Alaska Community Action Program to represent Alaska Native subsistence hunters of migratory birds during the treaty negotiations. We held forums in Nome, Kotzebue, Fort Yukon, Allakaket, Naknek, Bethel, Dillingham, Barrow, and Copper Center. We led additional briefings and discussions at the annual meeting of the Association of Village Council Presidents in Hooper Bay and for the Central Council of Tlingit & Haida Indian Tribes in Juneau.

On March 28, 2000, we published in the **Federal Register** (65 FR 16405) a Notice of Decision entitled, "Establishment of Management Bodies in Alaska To Develop Recommendations Related to the Spring/Summer Subsistence Harvest of Migratory Birds." This notice described the way in which management bodies would be established and organized. Based on the wide range of views expressed on the options document, the decision incorporated key aspects of two of the modules. The decision established one Statewide management body consisting of 1 Federal member, 1 State member, and 7–12 Alaska Native members, with all components serving as equals.

Paperwork Reduction Act

This rule has been examined under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and does not contain any new collections of information that require Office of Management and Budget approval. OMB has approved our collection of information associated with the voluntary annual household surveys used to determine levels of subsistence take. The OMB control number is 1018–0124, which expires April 30, 2013. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (42 U.S.C. 4321 et seq.) Consideration

The annual regulations and options were considered in the environmental assessment, "Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2011 Spring/Summer Harvest," October 18, 2010. Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at *http://www.regulations.gov.*

Energy Supply, Distribution, or Use (Executive Order 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This is not a significant regulatory action under this Executive Order; it would allow only for traditional subsistence harvest and

would improve conservation of migratory birds by allowing effective regulation of this harvest. Further, this rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action under Executive Order 13211, and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 92

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Subsistence, Treaties, Wildlife.

For the reasons set out in the preamble, we amend title 50, chapter I, subchapter G, of the Code of Federal Regulations as follows:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

■ 1. The authority citation for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

Subpart D—Annual Regulations Governing Subsistence Harvest

■ 2. In subpart D, add § 92.31 to read as follows:

§ 92.31 Region-specific regulations.

The 2011 season dates for the eligible subsistence harvest areas are as follows:

(a) *Aleutian/Pribilof Islands Region.*

(1) Northern Unit (Pribilof Islands):

(i) Season: April 2–June 30.

(ii) Closure: July 1–August 31.

(2) Central Unit (Aleut Region's eastern boundary on the Alaska Peninsula westward to and including Unalaska Island):

(i) Season: April 2–June 15 and July 16–August 31.

(ii) Closure: June 16–July 15.

(iii) Special Black Brant Season Closure: August 16–August 31, only in Izembek and Moffet lagoons.

(iv) Special Tundra Swan Closure: All hunting and egg gathering closed in units 9(D) and 10.

(3) Western Unit (Umnak Island west to and including Attu Island):

(i) Season: April 2–July 15 and August 16–August 31.

(ii) Closure: July 16–August 15.

(b) *Yukon/Kuskokwim Delta Region.*

(1) Season: April 2–August 31.

(2) Closure: 30-day closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with local subsistence users, field biologists, and the Association of Village Council President's Waterfowl Conservation Committee. This 30-day period will occur between June 1 and August 15 of each year. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations and posted in village post offices and stores.

(3) Special Black Brant and Cackling Goose Season Hunting Closure: From the period when egg laying begins until young birds are fledged. Closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President's Waterfowl Conservation Committee. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations and posted in village post offices and stores.

(c) *Bristol Bay Region.*

(1) Season: April 2–June 14 and July 16–August 31 (general season); April 2–July 15 for seabird egg gathering only.

(2) Closure: June 15–July 15 (general season); July 16–August 31 (seabird egg gathering).

(d) *Bering Strait/Norton Sound Region.*

(1) Stebbins/St. Michael Area (Point Romanof to Canal Point):

(i) Season: April 15–June 14 and July 16–August 31.

(ii) Closure: June 15–July 15.

(2) Remainder of the region:

(i) Season: April 2–June 14 and July 16–August 31 for waterfowl; April 2–July 19 and August 21–August 31 for all other birds.

(ii) Closure: June 15–July 15 for waterfowl; July 20–August 20 for all other birds.

(e) *Kodiak Archipelago Region,* except for the Kodiak Island roaded area, which is closed to the harvesting of migratory birds and their eggs. The closed area consists of all lands and waters (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larson Bay. Waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest.

(1) Season: April 2–June 30 and July 31–August 31 for seabirds; April 2–June 20 and July 22–August 31 for all other birds.

(2) Closure: July 1–July 30 for seabirds; June 21–July 21 for all other birds.

(f) *Northwest Arctic Region.*

(1) Season: April 2–June 9 and August 15–August 31 (hunting in general); waterfowl egg gathering May 20–June 9 only; seabird egg gathering May 20–July 12 only; hunting molting/non-nesting waterfowl July 1–July 31 only.

(2) Closure: June 10–August 14, except for the taking of seabird eggs and molting/non-nesting waterfowl as provided in paragraph (f)(1) of this section.

(g) *North Slope Region.*

(1) Southern Unit (Southwestern North Slope regional boundary east to Peard Bay, everything west of the longitude line 158°30′ W and south of the latitude line 70°45′ N to the west bank of the Ikpikpuk River, and everything south of the latitude line 69°45′ N between the west bank of the Ikpikpuk River to the east bank of Sagavinirktok River):

(i) Season: April 2–June 29 and July 30–August 31 for seabirds; April 2–June 19 and July 20–August 31 for all other birds.

(ii) Closure: June 30–July 29 for seabirds; June 20–July 19 for all other birds.

(iii) Special Black Brant Hunting Opening: From June 20–July 5. The open area would consist of the coastline, from mean high water line outward to include open water, from Nokotlek Point east to longitude line 158°30′ W. This includes Peard Bay, Kugrua Bay, and Wainwright Inlet, but not the Kuk and Kugrua river drainages.

(2) Northern Unit (At Peard Bay, everything east of the longitude line 158°30′ W and north of the latitude line 70°45′ N to west bank of the Ikpikpuk River, and everything north of the latitude line 69°45′ N between the west bank of the Ikpikpuk River to the east bank of Sagavinirktok River):

(i) Season: April 6–June 6 and July 7–August 31 for king and common eiders; April 2–June 15 and July 16–August 31 for all other birds.

(ii) Closure: June 7–July 6 for king and common eiders; June 16–July 15 for all other birds.

(3) Eastern Unit (East of eastern bank of the Sagavanirktok River):

(i) Season: April 2–June 19 and July 20–August 31.

(ii) Closure: June 20–July 19.

(4) All Units: yellow-billed loons. Annually, up to 20 yellow-billed loons total for the region may be inadvertently entangled in subsistence fishing nets in the North Slope Region and kept for subsistence use.

(5) North Coastal Zone (Cape Thompson north to Point Hope and east along the Arctic Ocean coastline around Point Barrow to Ross Point, including Iko Bay, and 5 miles inland).

(i) No person may at any time, by any means, or in any manner, possess or have in custody any migratory bird or part thereof, taken in violation of subpart C and D of this part.

(ii) Upon request from a Service law enforcement officer, hunters taking, attempting to take, or transporting migratory birds taken during the subsistence harvest season must present them to the officer for species identification.

(h) *Interior Region.*

(1) Season: April 2–June 14 and July 16–August 31; egg gathering May 1–June 14 only.

(2) Closure: June 15–July 15.

(i) *Upper Copper River Region* (Harvest Area: Units 11 and 13) (Eligible communities: Gulkana, Chitina, Tazlina, Copper Center, Gakona, Mentasta Lake, Chistochina and Cantwell).

(1) Season: April 15–May 26 and June 27–August 31.

(2) Closure: May 27–June 26.

(3) The Copper River Basin communities listed above also documented traditional use harvesting birds in Unit 12, making them eligible to hunt in this unit using the seasons specified in paragraph (h) of this section.

(j) *Gulf of Alaska Region.*

(1) Prince William Sound Area (Harvest area: Unit 6 [D]), (Eligible Chugach communities: Chenega Bay, Tatitlek):

(i) Season: April 2–May 31 and July 1–August 31.

(ii) Closure: June 1–30.

(2) Kachemak Bay Area (Harvest area: Unit 15[C] South of a line connecting the tip of Homer Spit to the mouth of Fox River) (Eligible Chugach Communities: Port Graham, Nanwalek):

(i) Season: April 2–May 31 and July 1–August 31.

(ii) Closure: June 1–30.

(k) *Cook Inlet* (Harvest area: portions of Unit 16[B] as specified below) (Eligible communities: Tyonek only):

(1) Season: April 2–May 31—That portion of Unit 16(B) south of the Skwentna River and west of the Yentna River, and August 1–31—That portion of Unit 16(B) south of the Beluga River, Beluga Lake, and the Triumvirate Glacier:

(2) Closure: June 1–July 31.

(l) *Southeast Alaska.*

(1) Community of Hoonah (Harvest area: National Forest lands in Icy Strait and Cross Sound, including Middle Pass Rock near the Inian Islands, Table Rock in Cross Sound, and other traditional locations on the coast of Yakobi Island. The land and waters of Glacier Bay National Park remain closed to all subsistence harvesting (50 CFR 100.3(a)):

(i) Season: Glaucous-winged gull egg gathering only: May 15–June 30.

(ii) Closure: July 1–August 31.

(2) Communities of Craig and Hydaburg (Harvest area: Small islands and adjacent shoreline of western Prince of Wales Island from Point Baker to Cape Chacon, but also including Coronation and Warren islands):

(i) Season: Glaucous-winged gull egg gathering only: May 15–June 30.

(ii) Closure: July 1–August 31.

(3) Community of Yakutat (Harvest area: Icy Bay (Icy Cape to Point Riou), and coastal lands and islands bordering the Gulf of Alaska from Point Manby southeast to Dry Bay):

(i) Season: Glaucous-winged gull egg gathering: May 15–June 30.

(ii) Closure: July 1–August 31.

■ 3. In subpart D, add § 92.32 to read as follows:

§ 92.32 Emergency regulations to protect Steller's eiders.

Upon finding that continuation of these subsistence regulations would pose an imminent threat to the conservation of threatened Steller's eiders (*Polysticta stelleri*), the U.S. Fish and Wildlife Service Alaska Regional Director, in consultation with the Co-management Council, will immediately under § 92.21 take action as is necessary to prevent further take. Regulation changes implemented could range from a temporary closure of duck hunting in a small geographic area to large-scale regional or Statewide longterm closures of all subsistence migratory bird hunting. These closures or temporary suspensions will remain in effect until the Regional Director, in consultation with the Co-management Council, determines that the potential for additional Steller's eiders to be taken no longer exists.

Dated: February 23, 2011.

Will Shafroth,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011–7334 Filed 3–28–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126521–0640–02]

RIN 0648–XA322

Fisheries of the Exclusive Economic Zone Off Alaska; Octopus in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; apportionment of reserves; request for comments.

SUMMARY: NMFS apportions amounts of the non-specified reserve to the initial total allowable catch of octopus in the Bering Sea and Aleutian Islands (BSAI). This action is necessary to allow the fisheries to continue operating. It is intended to promote the goals and objectives of the fishery management plan for the BSAI.

DATES: Effective March 24, 2011 through 2400 hrs, Alaska local time, December 31, 2011. Comments must be received at the following address no later than 4:30 p.m., Alaska local time, April 8, 2011.

ADDRESSES: Send comments to James W. Balsiger, Regional Administrator, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648–XA322, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal Web site at *http://www.regulations.gov.*
- *Mail:* P.O. Box 21668, Juneau, AK 99802.
- *Fax:* (907) 586–7557, Attn: Ellen Sebastian.

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 (*e.g.,* name, address) 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 portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

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

The 2011 initial total allowable catch (ITAC) of octopus in the BSAI was

established as 128 metric tons (mt) by the final 2011 and 2012 harvest specifications for groundfish of the BSAI (76 FR 11139, March 1, 2011). In accordance with § 679.20(a)(3) the Regional Administrator, Alaska Region, NMFS, has reviewed the most current available data and finds that the ITAC for octopus in the BSAI needs to be supplemented from the non-specified reserve in order to promote efficiency in the utilization of fishery resources in the BSAI and allow fishing operations to continue.

Therefore, in accordance with § 679.20(b)(3), NMFS apportions from the non-specified reserve of groundfish 22 mt to the octopus ITAC in the BSAI. This apportionment is consistent with § 679.20(b)(1)(i) and does not result in overfishing of a target species because the revised ITAC is equal to or less than the specifications of the acceptable biological catch in the final 2011 and 2012 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011).

The harvest specification for octopus included in the final 2011 and 2012 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011) for the 2011 ITAC is revised as follows: 150 mt for octopus in the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and § 679.20(b)(3)(iii)(A) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the apportionment of the non-specified reserves of groundfish to the groundfish fisheries in the BSAI. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 23, 2011.

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

Under § 679.20(b)(3)(iii), interested persons are invited to submit written comments on this action (see **ADDRESSES**) until April 8, 2011.

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

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

Dated: March 24, 2011.

Margo Schulze-Haugen,

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

[FR Doc. 2011–7346 Filed 3–24–11; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 76, No. 60
Tuesday, March 29, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Advisory Committee on the Medical Uses of Isotopes: Meeting

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of meeting.

SUMMARY: NRC will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on April 11–12, 2011. This will be a public meeting, and the final agenda is under development. A sample of agenda items to be discussed during this session includes: (1) Written directives and medical event reporting for permanent implant brachytherapy; (2) amending preceptor attestation requirements, (3) extending grandfathering to certain certified individuals regarding training and experience requirements (Petition for Rulemaking (PRM 35–20, Ritenour Petition); (4) dose limits to members of the public (per year versus per treatment) from patients who have been administered radioiodine; (5) a subcommittee report on medical-related events; and (6) a variety of other topics related to 10 *Code of Federal Regulations* (CFR) Part 35 rulemaking. Once finalized, a copy of the agenda will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/agenda* or by e-mailing Ms. Sophie Holiday at the contact information below. The primary purpose of the meeting is for the NRC to seek comments and insights from the members of the ACMUI. However, NRC will also welcome public participation and comments on the rulemaking topics listed above. The meeting's purpose is to discuss current rulemaking activities related to 10 CFR Part 35, Medical Use of Byproduct Material.

DATES: *Date and Time for Closed Session:* April 11, 2011, from 8 a.m. to 9 a.m. This session will be closed so that ACMUI members can enroll for and activate new badges and complete self evaluations.

Date and Time for Open Sessions: April 11, 2011, from 9 a.m. to 5 p.m. and April 12, 2011, from 8 a.m. to 4:30 p.m.

ADDRESSES: *Public Meeting:* U.S. Nuclear Regulatory Commission, Two White Flint North Building, Room T2–B3, 11545 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Sophie J. Holiday, *e-mail: sophie.holiday@nrc.gov, telephone:* (301) 415–7865.

SUPPLEMENTARY INFORMATION:

Public Participation: Any member of the public who wishes to participate in the meeting in person or via phone should contact Ms. Holiday using the information in the **FOR FURTHER INFORMATION** section above. The meeting will also be Webcast live at: *http://www.nrc.gov/public-involve/public-meetings/Webcast-live.html.*

Conduct of the Meeting

Leon S. Malmud, M.D., will chair the meeting. Dr. Malmud will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Holiday at the contact information listed above. All submittals must be received by April 5, 2011, and must pertain to the topic on the agenda for the meeting.

2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the Chairman.

3. The draft transcript will be available on ACMUI's Web site (*http://www.nrc.gov/reading-rm/doc-collections/acmui/tr/)* on or about May 12, 2011. A meeting summary will be available on ACMUI's Web site *(http://www.nrc.gov/reading-rm/doc-collections/acmui/meeting-summaries/)* on or about June 26, 2011.

4. Persons who require special services, such as those for the hearing impaired, should notify Ms. Holiday of their planned attendance.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in 10 CFR part 7.

Dated: March 23, 2011.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2011–7322 Filed 3–28–11; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0260; Directorate Identifier 2010–NM–242–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

> Several reports have been received on the elevator power control units (PCUs) where the shaft (tailstock) swaged bearing liners had shown a higher than normal rate of wear. Investigation revealed that the excessive wear was due to the paint contamination between the bearing roller and bearing liner. The bearing paint contamination is known to be abrasive and could seize the bearing.
>
> This condition, if not corrected, could lead to excessive airframe vibrations and difficulties in aircraft pitch control.

* * * * *

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

DATES: We must receive comments on this proposed AD by May 13, 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 W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Q–Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; e-mail *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0260; Directorate Identifier 2010–NM–242–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation, which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2010–28, dated August 20, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Several reports have been received on the elevator power control units (PCUs) where the shaft (tailstock) swaged bearing liners had shown a higher than normal rate of wear. Investigation revealed that the excessive wear was due to the paint contamination between the bearing roller and bearing liner. The bearing paint contamination is known to be abrasive and could seize the bearing.
>
> This condition, if not corrected, could lead to excessive airframe vibrations and difficulties in aircraft pitch control.
>
> This directive mandates a free-play check of the shaft swaged bearing installed in the elevator PCU tailstock end and replacement of the shaft swaged bearings if excessive free-play is found.

The unsafe condition is loss of controllability. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier has issued Service Bulletin 84–27–52, dated May 25, 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 This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 66 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $11,220, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $33, for a cost of $288 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

(3) Will not affect intrastate aviation in Alaska, and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2011–0260; Directorate Identifier 2010–NM–242–AD.

Comments Due Date

(a) We must receive comments by May 13, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes having serial numbers (S/Ns) 4001 through 4304 inclusive; certificated in any category.

Subject

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

Reason

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

Several reports have been received on the elevator power control units (PCUs) where the shaft (tailstock) swaged bearing liners had shown a higher than normal rate of wear. Investigation revealed that the excessive wear was due to the paint contamination between the bearing roller and bearing liner. The bearing paint contamination is known to be abrasive and could seize the bearing.

This condition, if not corrected, could lead to excessive airframe vibrations and difficulties in aircraft pitch control.

* * * * *

The unsafe condition is loss of controllability.

Compliance

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

Free-Play Check and Corrective Actions

(g) At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD: Perform a free-play check for any shaft swaged bearing having part number (P/N) MS14103–7 that is installed in the tailstock end of each elevator PCU (three PCUs per elevator surface), having P/Ns 390600–1007 and 390600–1009, in accordance with paragraph 3.B., Part A, of Bombardier Service Bulletin 84–27–52, dated May 25, 2010.

(1) For airplanes that have accumulated 8,000 or more total flight hours as of the effective date of this AD: Within 2,000 flight hours after the effective date of this AD.

(2) For airplanes that have accumulated less than 8,000 total flight hours as of the effective date of this AD: Within 6,000 flight hours after the effective date of this AD or before the accumulation of 10,000 total flight hours, whichever occurs first.

(h) If, during the check required by paragraph (g) of this AD, the bearing free-play is within the limits specified in Bombardier Service Bulletin 84–27–52, dated May 25, 2010, no further action is required by this AD.

(i) If, during the check required by paragraph (g) of this AD, the bearing free-play exceeds the limits specified in Bombardier Service Bulletin 84–27–52, dated May 25, 2010: Before further flight, replace the elevator PCU with a serviceable one, in accordance with paragraph 3.B., Part B, of Bombardier Service Bulletin 84–27–52, dated May 25, 2010.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO, ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

Related Information

(k) Refer to MCAI Canadian Airworthiness Directive CF–2010–28, dated August 20, 2010; and Bombardier Service Bulletin 84–27–52, dated May 25, 2010; for related information.

Issued in Renton, Washington, on March 21, 2011.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–7289 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0259; Directorate Identifier 2010–NM–196–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault-Aviation Model FALCON 7X Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

Several occurrences of untimely radio-altimeter lock-up have been reported, where the failed radio-altimeter indicated a negative distance to the ground despite the aircraft was flying at medium or high altitude.

A locked radio-altimeter #1 leads to untimely inhibition of warnings that could be displayed along with certain abnormal conditions while the avionic system switches into landing mode during altitude cruise.

* * * * *

[Untimely radio altimeter lock-up] may cause the crew to be unaware of possible system failures that could require urgent crew's actions.

* * * * *

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

DATES: We must receive comments on this proposed AD by May 13, 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 W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

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–2011–0259; Directorate Identifier 2010–NM–196–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On December 28, 2009, we issued AD 2010–02–02, Amendment 39–16173 (75 FR 1697, January 13, 2010). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2010–02–02, new features to display a "RA miscompare" flag on both primary display units (PDU) have been developed, which accepts a commanded system reversion to the correct radio-altimeter output. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA 2009–0208R1, dated June 2, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Several occurrences of untimely radio-altimeter lock-up have been reported, where the failed radio-altimeter indicated a negative distance to the ground despite the aircraft was flying at medium or high altitude.
>
> A locked radio-altimeter #1 leads to untimely inhibition of warnings that could be displayed along with certain abnormal conditions while the avionic system switches into landing mode during altitude cruise.
>
> * * * * *
>
> [Untimely radio altimeter lock-up] may cause the crew to be unaware of possible system failures that could require urgent crew's actions.
>
> To address this unsafe condition, [EASA] AD 2009–0208 was issued on 13 October 2009 [which corresponds with FAA AD 2010–02–02]. It mandated application of a new abnormal Airplane Flight Manual (AFM) procedure when radio-altimeter #1 lock-up occurs and prohibited dispatch of the aeroplane with any radio-altimeter inoperative.
>
> Since AD 2009–0208 was issued, Easy avionics load 10 has been developed with change M0566 or Service Bulletin (SB) Falcon 7X n°100 that brings new features to display a "RA miscompare" flag on both Primary Display Units (PDU) and accepts a commanded system reversion to the correct radio-altimeter output.
>
> EASA AD 2009–0208R1 is issued to allow not deactivating radio-altimeter #1 in case lock-up conditions occur in flight for aeroplanes on which M0566 or SB Falcon 7X n°100 has been embodied.

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

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 24 products of U.S. registry.

The actions that are required by AD 2010–02–02 and retained in this proposed AD take about 1 work-hour per product, at an average labor rate of $85 per work hour. Based on these figures, the estimated cost of the currently required actions is $85 per product.

We estimate that it would take about 1 work-hour per product to comply with the new basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,040, or $85 per product.

Authority for This Rulemaking

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

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

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

Regulatory Findings

We determined that this 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, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–16173 (75 FR 1697, January 13, 2010) and adding the following new AD:

Dassault-Aviation: Docket No. FAA–2011–0259; Directorate Identifier 2010–NM–196–AD.

Comments Due Date

(a) We must receive comments by May 13, 2011.

Affected ADs

(b) This AD supersedes AD 2010–02–02, Amendment 39–16173.

Applicability

(c) This AD applies to Dassault-Aviation Model FALCON 7X airplanes, certificated in any category, all serial numbers.

Subject

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

Reason

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

Several occurrences of untimely radio-altimeter lock-up have been reported, where the failed radio-altimeter indicated a negative distance to the ground despite the aircraft was flying at medium or high altitude.

A locked radio-altimeter #1 leads to untimely inhibition of warnings that could be displayed along with certain abnormal conditions while the avionic system switches into landing mode during altitude cruise.

* * * * *

[Untimely radio altimeter lock-up] may cause the crew to be unaware of possible system failures that could require urgent crew's actions.

* * * * *

Compliance

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

Restatement of Requirements of AD 2010–02–02, With Revised Affected Airplanes

(g) For airplanes on which modification M0566 and Dassault Service Bulletin Falcon 7X–100 has not been accomplished: Within 14 days after January 28, 2010 (the effective date of AD 2010–02–02), revise the Limitations Section of the Dassault Falcon 7X Airplane Flight Manual (AFM) to include the following statement. This may be done by inserting a copy of this AD in the AFM.

"If radio-altimeter #1 lock-up conditions occur in flight, power off radio-altimeter #1, in accordance with the instructions of Falcon 7X AFM procedure 3–140–65.

Dispatch of the airplane with any radio-altimeter inoperative is prohibited."

Note 1: When a statement identical to that in paragraph (g) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

New Requirements of This AD

(h) For airplanes on which M0566 or Dassault Service Bulletin Falcon 7X–100 has been accomplished: Within 14 days after the effective date of this AD, revise the Limitations Section of the Dassault Falcon 7X AFM to include the following statement. This may be done by inserting a copy of this AD in the AFM. Doing this revision terminates the requirements of paragraph (g) of this AD.

"If radio-altimeter #1 lock-up conditions occur in flight, revert to the correct radio-altimeter output, in accordance with the instructions of Falcon 7X AFM procedure 3–140–65B and 3–140–70A.

Dispatch of the airplane with any radio-altimeter inoperative is prohibited."

Note 2: When a statement identical to that in paragraph (h) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be e-mailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

Related Information

(j) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2009–0208R1, dated June 2, 2010, for related information.

Issued in Renton, Washington, on March 21, 2011.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–7290 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

15 CFR Part 285

[Docket No: 110125063–1062–02]

RIN 0693–AB61

National Voluntary Laboratory Accreditation Program; Operating Procedures

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice of proposed rulemaking: Request for comments.

SUMMARY: The Director of the National Institute of Standards and Technology (NIST), United States Department of Commerce, requests comments on a proposed amendment to regulations pertaining to the operation of the National Voluntary Laboratory Accreditation Program (NVLAP). NIST proposes to revise the description of how NVLAP establishes laboratory accreditation programs (LAPs). The amendment is needed to clarify the original intent of this section and to improve the readability and understanding of the agency's regulations.

DATES: Submit comments on or before April 28, 2011.

ADDRESSES: Interested parties may submit comments, identified by RIN 0693–AB61, by any one of the following methods:

- *Federal eRulemaking Portal* at http://www.regulations.gov. Follow the instructions for submitting comments.
- *E-mail: NVLAP@nist.gov.*
- *Mail:* Sally S. Bruce, Chief, National Voluntary Laboratory Accreditation Program, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2140, Gaithersburg, MD 20899–2140.
- *Fax:* (301) 926–2884, Attention: Sally S. Bruce.

Instructions: All comments received must include the agency name and Regulatory Information Number (RIN 0693–AB61) for this proposed rulemaking. Comments will be posted without change to *http://www.regulations.gov,* including any personal information provided. 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. NIST will accept anonymous comments (please enter N/A in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Sally S. Bruce, Chief, National Voluntary Laboratory Accreditation Program, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2140, Gaithersburg, MD 20899–2140; telephone number: (301) 975–4016; e-mail address: *sally.bruce@nist.gov;* NVLAP Web site: *http://www.nist.gov/nvlap.*

SUPPLEMENTARY INFORMATION:

Background

Title 15 Part 285 of the Code of Federal Regulations sets out procedures and general requirements under which the National Voluntary Laboratory Accreditation Program (NVLAP) operates as an unbiased third party to accredit both testing and calibration laboratories. NVLAP establishes laboratory accreditation programs (LAPs) in response to legislation or requests from government agencies and private sector entities.

The NVLAP procedures were first published in the **Federal Register** on February 25, 1976, and have been revised several times. In 2001, major revisions to the procedures were published to ensure their consistency with certain international standards and guidance documents, and to reorganize and simplify part 285 for ease of use and understanding. While the existing regulations were accurate, the language was complex and difficult to understand; therefore, the procedures were rewritten in plain English and their subparts consolidated in order to make the regulations more user friendly.

Description and Explanation of Proposed Change

The purpose of this rule is to amend section 285.4, *Establishment of laboratory accreditation programs (LAPs) within NVLAP,* so that it conforms to the intent of the 2001 revisions to Part 285 of Title 15 of the CFR and makes the regulations easier to understand. NIST proposes to amend the last sentence in section 285.4 as follows: change the third instance of the word "and" to "or," and add the words "to ensure open participation" after the phrase "other means."

As a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), NVLAP complies with the requirements of ISO/IEC 17011, *Conformity assessment—General requirements for accreditation bodies accrediting conformity assessment bodies.* The proposed change will allow NVLAP more flexibility in determining how to best fulfill the requirements for impartiality found in ISO/IEC 17011, 4.3.2, by assuring a balanced representation of interested parties when evaluating the need for a requested LAP.

The original intent of the last sentence of section 285.4 was to allow NVLAP the flexibility to employ the most appropriate means to ensure open participation of stakeholders; however, the use of the word "and" may be misinterpreted to mean that a public workshop is required for each and every LAP request There are numerous means by which consultation with interested parties may be accomplished exclusive of a workshop, which include, but are not limited to, meeting with government and individual industry stakeholders on a frequent basis, attending consortia and conferences at which regulators, specifiers, and requesters are in attendance, and soliciting public comments via public notices, electronic communications, and news articles. Further, the use of the word "or" does not preclude the use of both workshops and other means to collect the necessary information.

Request for Comments

The Director of the National Institute of Standards and Technology, United States Department of Commerce, requests comments on the proposed amendments to regulations found at 15 CFR part 285 pertaining to the National Voluntary Laboratory Accreditation Program.

Interested parties may submit comments by any one of several methods (see **ADDRESSES**). All comments received in response to this notice will become part of the public record and will be posted without change to *http://www.regulations.gov.*

Classification

Executive Order 12866

This proposed rule is not a significant rule for the purposes of Executive Order 12866.

Executive Order 12612

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that

this proposed rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) The regulation is procedural and has no impact on any entity unless that entity chooses to participate, in which case, the cost to the participant is the same cost for any size participant; (2) access to NVLAP's accreditation system is not conditional upon the size of a laboratory or membership of any association or group, nor are there undue financial conditions to restrict participation; and (3) the technical criteria, against which individual laboratories are assessed, are not changed by this proposal.

Paperwork Reduction Act

This proposed rule does not involve a new collection of information subject to the Paperwork Reduction Act (PRA). The collection of information for NVLAP has been approved by the Office of Management and Budget (OMB) under control number 0693–0003. Notwithstanding any other provision of the law, no person is required to comply, nor shall any person be subject to 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 currently valid OMB Control Number.

National Environmental Policy Act

This proposed rule will not significantly affect the quality of the human environment. Therefore, an environmental assessment or Environmental Impact Statement is not required to be prepared under the National Environmental Policy Act of 1969.

List of Subjects in 15 CFR Part 285

Accreditation, Business and industry, Calibration, Commerce, Conformity assessment, Laboratories, Measurement standards, Testing.

For the reasons set forth in the preamble, it is proposed that title 15 of the Code of Federal Regulations be amended as follows:

PART 285—NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

1. The authority citation for 15 CFR part 285 continues to read as follows:

Authority: 15 U.S.C. 272 *et seq.*

2. Section 285.4 is amended by revising the last sentence to read as follows:

§ 285.4 Establishment of laboratory accreditation programs (LAPs) within NVLAP.

* * * * *

For requests from private sector entities and Government agencies, the Chief of NVLAP shall analyze each request, and, after consultation with interested parties through public workshops or other means to ensure open participation, shall establish the requested LAP, if the Chief of NVLAP determines there is need for the requested LAP.

Dated: March 21, 2011.

Charles H. Romine,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2011–7336 Filed 3–28–11; 8:45 am]

BILLING CODE 3510–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2010–0404; FRL–9287–4]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Determination of Termination of Section 185 Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to determine that the State of Louisiana is no longer required to submit a section 185 fee program State Implementation Plan (SIP) revision for the Baton Rouge ozone nonattainment area to satisfy anti-backsliding requirements for the 1-hour ozone standard. This proposed determination ("Termination Determination") is based on complete, quality-assured monitoring data showing attainment of the 1-hour ozone National Ambient Air Quality Standard (NAAQS), which is due to permanent and enforceable emission reductions implemented in the area.

DATES: Written comments must be received on or before April 28, 2011.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2010–0404, by one of the following methods:

Federal Rulemaking Portal: http://www.regulations.gov. Follow the on-line instructions for submitting comments.

U.S. EPA Region 6 "Contact Us" Web site: http://epa.gov/region6/r6coment.htm. Please click on "6PD"(Multimedia) and select "Air" before submitting comments.

E-mail: Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

Fax: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.

Mail: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Hand or Courier Delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2010–0404.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or e-mail that you consider to be CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an anonymous access system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is

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

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Rennie, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7367, fax (214) 665–7263, e-mail address *rennie.Sandra@epa.gov*

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

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. What action is EPA taking?
II. Background
III. What is the legal rationale for this action?
IV. What is the effect of this action?
V. What is EPA's analysis?
  a. Attainment of the 1-Hour Ozone Standard
  b. Permanent and Enforceable Emission Reductions
VI. Proposed Action
VII. Statutory and Executive Order Reviews

I. What action is EPA taking?

EPA is proposing to determine that Louisiana is no longer required to submit a Clean Air Act section 185 fee program SIP revision for the Baton Rouge 1-hour ozone nonattainment area to satisfy anti-backsliding requirements associated with the transition from the 1-hour ozone standard to the 1997 8-hour ozone standard. This proposed Termination Determination is based on EPA's belief that the area is attaining the 1-hour ozone standard due to permanent and enforceable emission reductions implemented in the area. If finalized, the effect of EPA's determination would be to terminate the area's obligation to submit a section 185 fee program SIP revision for the 1-hour ozone standard.

II. Background

In 2003, EPA determined that the Baton Rouge 1-hour ozone nonattainment area had failed to meet its 1-hour ozone serious area nonattainment date, and consequently the area was reclassified as a matter of law to severe nonattainment of the 1-hour ozone standard effective June 23, 2003. 68 FR 20077 (April 24, 2003). The reclassification of the area as severe required the State to adopt a SIP revision creating a penalty fee program under CAA section 185 that would apply if the area failed to meet the November 15, 2005 attainment date that applied to severe 1-hour ozone areas. But, by that date, EPA had revoked the 1-hour standard and designated the Baton Rouge area for the new 1997 8-hour standard as marginal nonattainment.

Section 185 1-Hour Ozone Anti-backsliding Requirements:

Although EPA revoked the 1-hour standard on June 15, 2004, during the transition from the 1-hour ozone to the 8-hour ozone standard, EPA required 1-hour nonattainment areas to remain subject to certain requirements pertaining to the area's previous 1-hour classification.

The section 185 fee program requirement applied to any ozone nonattainment area classified as Severe or Extreme under the NAAQS, including any area that was classified Severe or Extreme under the 1-hour ozone NAAQS as of the effective date of the area's 8-hour designation. Initially, in our rules to address the transition from the 1-hour to the 8-hour ozone standard, we did not include the 185 fee penalty requirement as one of the measures necessary to meet anti-backsliding requirements.[1] However, on December 23, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion determining that EPA improperly removed from its anti-backsliding requirements the application of the section 185 fee provision for Severe and Extreme nonattainment areas that failed to attain the 1-hour ozone standard by their attainment date. *South Coast Air Quality Management District* v. *EPA,* 472 F.3d 882 (DC Cir. 2006). In light of the Court's decision, on January 5, 2010 EPA issued guidance on the application of the 185 1-hour anti-backsliding requirement. EPA's guidance addressed, among other matters, alternative methods of satisfying the section 185 1-hour anti-backsliding requirement, and the circumstances under which EPA would determine that the obligation was terminated.

After the 1-hour standard was revoked, and in accordance with anti-backsliding regulations that remained unchallenged, EPA no longer reclassified areas under section 181(b) for the 1-hour standard or redesignated 1-hour nonattainment areas to attainment for that standard 69 FR 23951 (April 30, 2004). EPA continued, however to make determinations of attainment for the 1-hour standard under EPA's Clean Data Policy. On February 10, 2010 (75 FR 6570), EPA determined, pursuant to the Clean Data Policy, that the Baton Rouge area had attained the 1-hour ozone standard.[2] This determination suspended certain attainment-related severe area 1-hour ozone planning requirements for Baton Rouge, but did not affect the area's anti-backsliding obligation under the 1-hour ozone section 185 fee requirement.

III. What is the legal rationale for this action?[3]

As a result of the court decision in *South Coast Air Quality Management District* v. *EPA,* 472 F.3d 882 (DC Cir. 2006), States with areas classified as Severe or Extreme nonattainment for the 1-hour ozone standard at the time of the area's initial nonattainment designation for the 1997 8-hour standard are no longer categorically exempt from anti-backsliding requirements under section 185. As set forth in EPA's January 5, 2010 guidance[4], EPA believes that States can meet this obligation through a SIP revision containing either the fee program prescribed in section 185, or an equivalent alternative program, as further explained below. EPA believes that an alternative program may be acceptable if it is consistent with the principles of section 172(e) of the CAA, which allows EPA through rulemaking to accept alternative programs that are "not less stringent" where EPA has

[1] Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 1, 69 FR 23951 (April 30, 2004).

[2] May 10, 1995, EPA memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone Ambient Air Quality Standard."

[3] Stephen D. Page, Director, Office of Air Quality Planning and Standards. Guidance on Developing Fee Programs Required by Clean Air Act Section 185 for the 1-Hour Ozone NAAQS. January 5, 2010.

[4] *Ibid.*

revised the NAAQS to make it less stringent.

Section 172(e) is an anti-backsliding provision of the CAA that requires EPA to develop regulations to ensure that controls are "not less stringent" than those that applied prior to relaxing a standard where EPA has revised a NAAQS to make it less stringent. In the Phase 1 ozone implementation rule for the 1997 ozone NAAQS published on April 30, 2004 (69 FR 23951), EPA determined that although section 172(e) does not directly apply where EPA has strengthened the NAAQS, as it did in 1997, it was reasonable to apply the same principle for the transition from the 1-hour NAAQS to the 1997 8-hour NAAQS. As part of applying the principle in section 172(e) for purposes of the transition from the 1-hour standard to the 1997 8-hour standard, EPA can either require States to retain programs that applied for purposes of the 1-hour standard, or alternatively can allow States flexibility to adopt alternative programs, but only if such alternatives are determined through rulemaking to be "not less stringent" than the mandated program.

EPA is electing to consider alternative programs to satisfy the section 185 fee program SIP revision requirement. States choosing to adopt an alternative program to the section 185 fee program must demonstrate that the alternative program is no less stringent than the otherwise applicable section 185 fee program and EPA must approve such demonstration after notice and comment rulemaking.

As set forth in EPA's January 5, 2010 guidance, EPA believes that for an area that we determine is attaining either the 1-hour ozone or 1997 8-hour ozone NAAQS, based on permanent and enforceable emissions reductions, the area would no longer be obligated to submit a fee program SIP revision to satisfy the anti-backsliding requirements associated with the transition from the 1-hour ozone standard to the 1997 8-hour ozone standard. In such cases, an area's existing SIP could be considered an adequate alternative program. Our reasoning follows from the fact that an area's existing SIP measures, in conjunction with other enforceable Federal measures, are adequate for the area to achieve attainment, which is the purpose of the section 185 program. The section 185 fee program is an element of an area's attainment demonstration, and its object is to bring about attainment after a failure of an area to attain by its attainment date. Thus, areas that have attained the 1-hour ozone standard, the standard for which the fee program was originally required, as a result of permanent and enforceable emission reductions, would have a SIP that is not less stringent than the SIP required under section 185. Therefore, EPA concludes that the obligation to collect fees terminates once EPA determines that the area has attained the 1-hour ozone standard based on permanent and enforceable emissions reductions.

In addition, EPA's guidance states that once an area attains the 1997 8-hour ozone standard, which replaced the now revoked 1-hour ozone standard, the purpose of retaining the section 185 fee program as an anti-backsliding measure would also be fulfilled as the area would have attained the 8-hour ozone standard for which the fee program was retained as a transition measure. We believe that it would unfairly penalize sources in these areas to require that fees be paid after an area has attained the 8-hour ozone standard due to permanent and enforceable emission reductions because the fees were imposed due to a failure to meet the applicable attainment deadline for the revoked 1-hour ozone standard, not any failure to achieve the now applicable 8-hour ozone standard for which the fee program was retained as a transition matter by its attainment date.[5]

There is also an additional, independent basis for EPA's approach to determining that the anti-backsliding requirements associated with section 185 have been satisfied. Although section 185 provides that fees are to continue until the area is redesignated for ozone, EPA no longer promulgates redesignations for the 1-hour ozone standard because that standard has been revoked. Therefore, relief from the 1-hour section 185 fee program requirement under the terms of the statute is an impossibility, since the conditions the statute envisioned for relieving an area of its fee program obligation no longer can exist. There is thus a gap in the statute which must be filled by EPA. We believe that under these circumstances we must exercise our discretion under *Chevron USA, Inc.* v. *Natural Resources Defense Council,* 467 U.S. 837 (1984), to fill this gap, so as to carry out Congressional intent in the unique context of anti-backsliding requirements for a revoked standard. We believe that it is reasonable for the fee program obligation that applies for purposes of anti-backsliding to cease upon a determination, based on notice-and-comment rulemaking, that an area has attained the 1-hour ozone standard due to permanent and enforceable measures. This determination centers on the core criteria for redesignations under CAA section 107(d)(3). We believe these criteria provide reasonable assurance that the purpose of the 1-hour anti-backsliding fee program obligation has been fulfilled in the context of a regulatory regime where the area remains subject to other applicable 1-hour anti-backsliding and 8-hour measures. Under these circumstances, retention of the fee program under the anti-backsliding rule is no longer necessary for the purpose of achieving attainment of the 8-hour standard. *See* EPA's January 5, 2010 guidance. (Footnote 3).

IV. What is the effect of this action?

If this proposed determination to terminate the section 185 fee anti-backsliding requirement for the 1-hour ozone standard is finalized, the requirement for the State of Louisiana to submit a 185 penalty fee program SIP revision, which would require major stationary sources under the Baton Rouge 1-hour severe nonattainment classification to pay fees as a penalty for a failure to attain the 1-hour ozone standard by the area's 1-hour ozone attainment date, would be removed. A final approval of the Termination Determination for the 1-hour standard section 185 measures will not be rescinded based on subsequent nonattainment for the 1-hour ozone standard. After EPA has determined that an area has attained the 1-hour standard due to permanent and enforceable emission reductions, EPA believes that it would be unduly punitive, confusing, and potentially destabilizing to re-impose the years-old penalty requirements if at some point in the future the area lapses back into 1-hour nonanttainment. Moreover, EPA believes that under current circumstances, it would not be in keeping with the intent of Congress. First, we note that had the area attained the 1-hour ozone standard prior to its attainment date, no penalties at all would have been imposed even if the area subsequently lapsed into nonattainment. Second, the statute provides that penalties for failure to attain by an area's attainment date would be terminated by redesigntion of the area. Now that the 1-hour ozone standard has been revoked and EPA is no longer promulgating redesignations for that standard, relief from the 1-hour section 185 fee program requirements

[5] EPA notes that it has also finalized a determination that the Baton Rouge area has attained the 8-hour ozone standard. (75 FR 54778, September 9, 2010). A final determination of 8-hour attainment based on permanent and enforceable emissions reductions could provide another ground for termination of the section 185 1-hour anti-backsliding requirements, but we have not yet made such a determination and thus do not rely on it here.

under the terms of the statute is an impossibility—the mechanism the statute envisioned for relief no longer exists. As EPA explains in its January 5 guidance, we have reasonably concluded in these circumstances that a determination of attainment due to permanent and enforceable emissions reductions, along with the area's existing SIP and its continuing obligations to meet ever more stringent ozone standards, are a reasonable alternative means for terminating these unique antibacksliding penalty provisions. EPA believes that, given the gap in the statute, and the intent of Congress as expressed in quite different regulatory circumstances, it would be counterproductive and in conflict with that intent for EPA's determination to merely suspend rather than permanently terminate the 1-hour antibacksliding penalty fees. Requiring areas to remain subject to the threat of reviving stale penalty fees for an old revoked standard, when these areas and the sources subject to the penalties must now muster their resources to focus on meeting newer more stringent standards, would be at odds with the purposes of the act and in conflict with the principle that penalty provisions should be narrowly construed. This is all more the case when the area is subject to a host of ongoing obligations for the 1997 8-hour ozone standard as well as the future anticipated new 8-hour ozone standard,[6] and when it has already shown great improvement in meeting the 1-hour and 1997 8-hour ozone standards.

V. What is EPA's analysis?

EPA's proposed Termination Determination is based upon EPA's belief that the area is attaining the 1-hour ozone standard due to permanent and enforceable emission reductions implemented in the area. EPA has issued guidance expressing its views as to potential rationales for terminating section 185 obligations for 1-hour ozone in its January 5, 2010 guidance. This notice formally sets forth EPA's legal interpretation concerning the basis for terminating those obligations.

a. Attainment of the 1-Hour Ozone Standard

As noted above, EPA recently determined that the Baton Rouge 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS. 75 FR 6570 (February 10, 2010). This determination was based on three years of complete, quality-assured and certified ambient air monitoring data that showed monitored attainment of the 1-hour ozone standard for the 2006–2009 monitoring period. EPA is proposing to determine that the area continues in attainment, based on complete, quality-assured data for 2010 and preliminary data available to date for the 2011 ozone season.

In addition, on September 9, 2010, EPA determined that the Baton Rouge 1997 8-hour ozone nonattainment area has also attained the 1997 8-hour ozone NAAQS. (75 FR 54778) This proposed determination is based on four years of complete, quality-assured and certified ambient air monitoring data that show the area monitoring attainment of the 1997 8-hour ozone standard for the 2006–2008, 2007–2009, and 2008–2010 monitoring periods. Preliminary data available to date for the 2011 ozone season are consistent with continued attainment. Table 1 shows the fourth high 8-hour ozone average concentrations and design values for monitors in the Baton Rouge area for the 2006–2010 monitoring period.[7]

TABLE 1—FOURTH HIGHEST 8-HOUR OZONE AVERAGE CONCENTRATIONS AND DESIGN VALUES (PPM) IN THE BATON ROUGE AREA [1]

Site	4th Highest daily max					Design values three year averages		
	2006	2007	2008	2009	2010	2006–2008	2007–2009	2008–2010
Plaquemine (22–047–0009)	0.083	0.079	0.076	0.071	0.074	0.079	0.075	0.073
Carville (22–047–0012)	0.085	0.086	0.073	0.076	0.072	0.081	0.078	0.073
Dutchtown (22–005–0004)	0.087	0.088	0.074	0.074	0.078	0.083	0.078	0.075
Baker (22–033–1001)	0.091	0.077	0.071	0.071	0.075	0.079	0.073	0.072
LSU (22–033–0003)	0.085	0.085	0.072	0.084	0.080	0.080	0.080	0.078
Grosse Tete (22–047–0007)	0.086	0.084	0.071	0.070	0.074	0.080	0.075	0.071
Port Allen (22–121–0001)	0.087	0.076	0.072	0.072	0.071	0.078	0.073	0.071
Pride (22–033–0013)	0.082	0.077	0.074	0.072	0.071	0.077	0.074	0.072
French Settlement (22–063–0002)	0.079	0.084	0.075	0.075	0.076	0.079	0.078	0.075
Capitol (22–033–0009)	0.084	0.074	0.067	0.076	0.076	0.075	0.072	0.073

[1] Unlike for the 1-hour ozone standard, design value calculations for the 1997 8-hour ozone standard are based on a rolling three-year average of the annual 4th highest values (40 CFR Part 50, Appendix I).

b. Permanent and Enforceable Emission Reductions

EPA believes that the State has demonstrated that the observed air quality improvements with respect to the 1-hour ozone standard are due to permanent and enforceable emission reductions through the implementation of emission controls contained in the SIP and in Federal control measures.

Subsequent to the 1990 CAA amendments, Louisiana complied with the planning requirements of the CAA for a serious 1-hour ozone nonattainment area (67 FR 61786, October 2, 2002).[8] But because the area failed to attain that standard by the attainment date for a serious 1-hour ozone nonattainment area, in anticipation of being reclassified to

[6] EPA anticipates announcing the reconsidered 8-hour ozone standard in July 2011.

[7] As noted above, a final determination of attainment for the 8-hour standard that is due to permanent and enforceable emissions reductions would provide an additional basis for a Termination Determination for Baton Rouge, but EPA has not yet made such a determination and therefore does not rely on that ground here.

[8] A litigant challenged EPA's approval of the serious area contingency measures, but the obligation related to these measures was later suspended by EPA's determination that the area has attained the 1-hour standard (75 FR 6570, February 10, 2010).

severe, and in response to EPA's Clean Air Interstate Rule (now vacated and remanded), additional NO_X emission reductions were achieved through the implementation of NO_X control measures for stationary sources which were adopted by the State effective on February 20, 2002, and approved by EPA on September 27, 2002 (67 FR 60877). These rules were implemented between February 20, 2002, and May 1, 2005. The Baton Rouge area was reclassified as severe for the 1-hour ozone standard on April 24, 2003. (68 FR 20077)

The rules established emission factors (standards) for NO_X sources within the Baton Rouge nonattainment area. These revisions achieved approximately 40 TPD of additional NO_X reductions in the Baton Rouge nonattainment area. The specific standards are listed below.

NO_X reduction measures 2002–2008	NO_X standard
Electric Power Generating System Boilers:	
Coal-fired > 40 to < 80 MMBtu/hr	0.50 lb/MMBtu.
Coal-fired > 80 MMBtu/hr	0.21 lb/MMBtu.
No. 6 fuel oil-fired > 40 to < 80 MMBtu/hr	0.30 lb/MMBtu.
No. 6 fuel oil-fired > 80 MMBtu/hr	0.18 lb/MMBtu.
All others (gaseous or liquid) > 40 to < 80 MMBtu/hr	0.20 lb/MMBtu.
All others (gaseous or liquid) > 80 MMBtu/hr	0.10 lb/MMBtu.
Industrial Boilers > 40 to < 80 MMBtu/hr	0.20 lb/MMBtu.
Industrial Boilers > 80 MMBtu/hr	0.10 lb/MMBtu.
Process Heater/Furnaces:	
Ammonia reformers > 40 to < 80 MMBtu/hr	0.30 lb/MMBtu.
Ammonia reformers > 80 MMBtu/hr	0.23 lb/MMBtu.
All others > 40 to < 80 MMBtu/hr	0.18 lb/MMBtu.
All others > 80 MMBtu/hr	0.08 lb/MMBtu.
Stationary Gas Turbines:	
Peaking Service, Fuel Oil-fired > 5 to < 10 MW	0.37 lb/MMBtu.
Peaking Service, Fuel Oil-fired > 10 MW	0.30 lb/MMBtu.
Peaking Service, Gas-fired > 5 to < 10 MW	0.27 lb/MMBtu.
Peaking Service, Gas-fired > 10 MW	0.20 lb/MMBtu.
All Others > 5 to < 10 MW	0.24 lb/MMBtu.
All Others > 10 MW	0.16 lb/MMBtu.
Stationary Internal Combustion Engines:	
Lean-burn engines > 150 to < 320 Hp	10 g/Hp-hr.
Lean-burn engines > 320 Hp	4 g/Hp-hr.
Rich-burn engines > 150 to < 300 Hp	2 g/Hp-hr.
Rich-burn engines > 300 Hp	2 g/Hp-hr.

In addition, Louisiana adopted and implemented emission control rules requiring existing sources of VOC to meet, at minimum, RACT. These requirements apply to sources in categories covered by Control Technology Guidelines (CTGs) and other major non-CTG sources. These rules were adopted and implemented prior to 2002. (62 FR 63658, February 2, 1998; 63 FR 47429, November 8, 1998) The Baton Rouge nonattainment area control strategy is primarily NO_X-driven, therefore no major VOC rules have been adopted other than those required to meet updated CTGs as required by the Act.

Finally, implementation of the phased-in Federal Tier II light-duty vehicle rule was complete in 2006, with 100 percent of the vehicles manufactured for that model year meeting the more stringent standard. This would have contributed some small additional benefit to the Baton Rouge area during the 2006–2008 monitoring period.

EPA believes that the progress made to reduce emissions in the Baton Rouge area during the 2002–2008 timeframe resulting in achieving attainment of both the 1-hour and 1997 8-hour ozone standards is from permanent and enforceable measures which achieved significant reductions as summarized in Table 2.

TABLE 2—SUMMARY OF EMISSION REDUCTIONS

	NO_X TPD	VOC TPD
Adjusted Base Year (2002) Inventory	193.3	103.5
2008 Emissions	143.2	97.8

Emissions of both VOC and NO_X have been reduced during the time period leading up to December 31, 2008, the date when Baton Rouge reached attainment for the 1-hour standard, to an extent that there are currently excess emission reductions for both ozone standards. Even though the NOx rules were fully implemented by May of 2005, the area was prevented from attaining in 2005 by the four exceedances experienced in the 2003–2004 monitoring period.

The preceding discussion demonstrates that permanent and enforceable emission reduction measures adopted and implemented by the State have been effective in reaching attainment of both the 1-hour and 1997 8-hour ozone standards.

VI. Proposed Action

EPA is proposing to make a determination to terminate (Termination Determination) the section 185 fee penalty requirement for the Baton Rouge area for the 1-hour ozone standard. For the reasons set forth in this notice, this proposed determination is based on EPA's determination that the area has attained and continues to attain the 1-

hour ozone standard due to permanent and enforceable emissions reductions.

VII. Statutory and Executive Order Reviews

This action proposes to make a determination of termination of the CAA section 185 penalty fee requirement based on attainment of the 1-hour ozone standard due to permanent and enforceable emission reductions, and would, if finalized, result in the termination of the section 185 fee requirements for the 1-hour standard, and would not impose any additional requirements. For that reason, this proposed action:

○ Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

○ Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

○ Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

○ Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

○ Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

○ Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

○ Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

○ Is not subject to the 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.

List of Subjects in 40 CFR Part 52

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

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

Dated: March 19, 2011.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2011–7325 Filed 3–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0169; FRL–9286–9]

Approval and Promulgation of Implementation Plans; Nevada; Determination of Attainment for the Clark County 8-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to determine that the Clark County (Nevada) 8-hour ozone nonattainment area has attained the 1997 8-hour ozone national ambient air quality standards (NAAQS). This proposed determination is based upon complete, quality-assured, and certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2007 to 2009 monitoring period. Preliminary air quality monitoring data available for 2010 are consistent with continued attainment. Based on this proposed determination, the requirement for the State of Nevada to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for the Clark County ozone nonattainment area would be suspended for as long as the nonattainment area continues to meet the 1997 8-hour ozone NAAQS. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before April 28, 2011.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0169, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: kelly.johnj@epa.gov.*

3. *Fax:* (415) 947–3579.

4. *Mail:* "EPA–R09–OAR–2011–0169," Lisa Hanf, Chief, Air Planning Office, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street (Air-2), San Francisco, California 94105.

5. *Hand Delivery or Courier:* At the previously-listed EPA Region IX address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: John Kelly, (415) 947–4151, or by e-mail at *kelly.johnj@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 and related suspension of attainment planning-related SIP submittal requirements 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 determination and suspension of attainment-related SIP submittal requirements 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.

Dated: March 15, 2011.

Jared Blumenfeld,

Regional Administrator, EPA Region IX.

[FR Doc. 2011–7222 Filed 3–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA–HQ–OPP–2011–0082; FRL–8867–4]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of pesticide petitions.

SUMMARY: This notice announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before April 28, 2011.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the docket ID number and the pesticide petition number of interest as shown in the body of this document. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: A contact person, with telephone number and e-mail address, is listed at the end of each pesticide petition summary. You may also reach each contact person by mail at the Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the pesticide petition summary of interest.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

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

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

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the agency taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions described in this notice contain the data or information prescribed in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this notice, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available on-line at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), (21 U.S.C. 346a(d)(3)), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

New Tolerances

1. *PP 0E7794.* (EPA–HQ–OPP–2011–0110). BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709, proposes to establish a tolerance in 40 CFR part 180 for residues of the herbicide imazapic, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1-*H*-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid, in or on soybean at 0.5 parts per million (ppm). The proposed analytical method for detecting residues of imazapic and the metabolites M715H001 (CL 263,284) and M715H002 (CL 189,215) in soybean seed and processed fractions is a liquid chromatography-tandem mass spectrometry (LC/MS/MS) method. Enforcement methods for analysis of residues of imazapic and metabolite M715H001 (CL 263,284) in animal commodities have been previously submitted. The analytical method for analysis in meat and meat byproducts is based on capillary electrophoreses with confirmation by LC/MS. The analytical method for analysis in milk and fat is based on determination by LC/MS with confirmation by LC/MS/MS. *Contact:* Mindy Ondish, (703) 605–0723, *e-mail address: ondish.mindy@epa.gov.*

2. *PP 0E7797.* (EPA–HQ–OPP–2011–0146). Bayer CropScience, 2 T. W. Alexander Drive, Research Triangle Park, NC 27709, proposes to establish import tolerances in 40 CFR part 180 for residues of the fungicide propineb, [[[2-[(Dithiocarboxy)amino]-1-methyethyl] carbamodithioato(2-)-êS,êS']zinc], in or on apple, fruit at 2.5 ppm; apple, wet pomace at 2.5 ppm; pear, fruit at 2.5 ppm; citrus, fruit at 4.5 ppm; banana, fruit (bagged) at 1.2 ppm; banana, fruit (unbagged) at 8.0 ppm; vegetable, cucurbit, group 9 at 8.0 ppm; vegetables, fruiting, group 8 at 8.0 ppm; onion, dry bulb at 1.6 ppm; onion, green at 13 ppm; grape at 0.8 ppm; olive at 0.35 ppm; avocado; and fruit crops, including: Black sapote; canistel; mamey sapote; mango; papaya; sapodilla; and star apple at 5.0 ppm. Propineb is rapidly degraded by hydrolysis and photolysis to the main metabolite propylenethiourea (PTU), which is the toxicologically relevant metabolite. Various analytical methods have been used, but samples are now prepared and analyzed by high performance liquid chromatography (HPLC)-atmosphere pressure chemical ionization/MS/MS. The limits of quantitation LOQ) is 0.01 ppm for PTU. *Contact:* Tamue L. Gibson, (703) 305–9096, *e-mail address: gibson.tamue@epa.gov.*

3. *PP 0E7820.* (EPA–HQ–OPP–2011–0087). Interregional Research Project Number 4 (IR–4), 500 College Road East, Suite 201 W., Princeton, NJ 08540, proposes to establish tolerances in 40 CFR part 180 for residues of the insecticide spirodiclofen, 3-(2,4-dichlorophenyl)-2-oxo-1-oxaspiro[4,5]dec-3-en-4-yl 2,2-dimethylbutanoate, in or on sugar apple, cherimoya, atemoya, custard apple, ilama, soursop, biriba, guava, feijoa, jaboticaba, wax jambu, starfruit, passionfruit, persimmon and acerola at 0.45 ppm; and lychee, longan, Spanish lime, rambutan and pulasan at 3.5 ppm. Adequate analytical methodology using LC/MS/MS detection is available for enforcement purposes. *Contact:* Laura E. Nollen, (703) 305–7390, *e-mail address: nollen.laura@epa.gov.*

4. *PPs0F7714 and F7715.* (EPA–HQ–OPP–2011–0053). Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, proposes to establish tolerances in 40 CFR part 180 for residues of the fungicide prothioconazole, 2-[2-(1-chlorocyclopropyl)-3-(2-chlorophenyl-2-hydroxypropyl)]-1,2-dihydro-*3H*-1,2,4-triazole-3-thione and its desthio metabolite, in or on raw or processed agricultural commodities rice, grain at 0.25 ppm; rice, hulls at 1.0 ppm; alfalfa, forage and alfalfa, hay at 0.02 ppm; and potato, tuber at 0.02 ppm. Bayer CropScience is also proposing use of the currently established tolerances for residues of prothioconazole, 2-[2-(1-chlorocyclopropyl)-3-(2-chlorophenyl-2-hydroxypropyl)]-1,2-dihydro-*3H*-1,2,4-triazole-3-thione and its desthio metabolite, in or on the raw agricultural commodity pea and bean, dried shelled, except soybean, subgroup 6C; soybean, forage; soybean, hay; and soybean, seed to support the use of prothioconazole as a seed treatment on these crops. Bayer CropScience is also proposing that the above proposed tolerances on rice, based on foliar data, also support the use of prothioconazole as a seed treatment on rice. The analytical method for determining residues of concern in plants extracts residues of prothioconazole and JAU6476-desthio and converts the prothioconazole to JAU6476-desthio and JAU6476-sulfonic acid. Following addition of internal standards the sample extracts are analyzed by LC/MS/MS. Radiovalidation and independent laboratory validation have shown that the method adequately quantifies prothioconazole residues in treated commodities. The validated LOQ for total prothioconazole-derived residues in rice grain was 0.02 ppm. The validated LOQs were 0.01 ppm for 1H-1,2,4-triazole and 0.05 ppm for the triazole conjugates for grain. The

analytical method for analysis of large animal tissues includes extraction of the residues of concern, followed by addition of an internal standard to the extract. The extract is then hydrolyzed to release conjugates, partitioned and analyzed by LC/MS/MS as prothioconazole, JAU6476-desthio and JAU6476-4-hydroxy. The method for analysis of milk eliminated the initial extraction step in the tissue method. *Contact:* Tawanda Maignan, (703) 308–8050, *e-mail address: maignan.tawanda@epa.gov.*

5. *PP 0F7812.* (EPA–HQ–OPP–2011–0007). Nippon Soda Co., Ltd., c/o Nisso America Inc., 45 Broadway, Suite 2120, New York, NY 10006, proposes to establish a tolerance in 40 CFR part 180 for residues of the insecticide acetamiprid, N 1-[(6-chloro-3-pyridyl)methyl]-N 2-cyano-N 1-methylacetamidine, including its metabolites and degradates, in or on food/feed handling establishments at 0.05 ppm. Based upon the metabolism of acetamiprid in plants and the toxicology of the parent and metabolites, quantification of the parent acetamiprid is sufficient to determine toxic residues. As a result a method was developed that involves extraction of acetamiprid from composite meals with a solvent followed by a decantation and filtration and finally analysis by a LC/MS/MS method. The LOQ and the limit of detection (LOD) for the method are calculated to be 0.05 ppm and 0.01 ppm for composite meals, respectively. The method was reliable for composite meal analyses with an overall average recovery of 93 ± 14%. *Contact:* Jennifer Urbanski, (703) 347–0156, *e-mail address: urbanski.jennifer@epa.gov.*

6. *PP 0F7817.* (EPA–HQ–OPP–2011–0144). E.I. duPont de Nemours and Company, 1007 Market Street, Wilmington, DE 19898, proposes to establish a tolerance in 40 CFR part 180 for residues of the herbicide aminocyclopyrachlor, [6-amino-5-chloro-2-cyclopropyl-4-pyrimidinecarboxylic acid] and aminocyclopyrachlor methyl ester [methyl 6-amino-5-chloro-2-cyclopropyl-4-pyrimidinecarboxylate], expressed as aminocyclopyrachlor, in or on grass forage at 65 ppm; grass hay at 125 ppm; fat (of cattle, goat, horse and sheep) at 0.07 ppm; meat (of cattle, goat, horse and sheep) at 0.02 ppm; meat byproducts—excluding liver (of cattle, goat, horse and sheep) at 0.4 ppm; liver (of cattle, goat, horse and sheep) at 0.06 ppm; and milk at 0.035 ppm. Adequate analytical methods for enforcement purposes are available to monitor residues of aminocyclopyrachlor in grass commodities, milk, meat and meat byproducts. The analytical methods for both grass commodities and ruminant commodities use an LC/MS/MS system operating with an electrospray interface (ESI) in positive ion mode with limits of quantitation (LOQ) of 0.01 ppm. Both methods have been successfully independently validated by outside laboratories. Aminocyclopyrachlor had also been tested through the Food and Drug Administration (FDA), Multi-residue Methodology. *Contact:* Mindy Ondish, (703) 605–0723, *e-mail address: ondish.mindy@epa.gov.*

7. *PP 1F7822.* (EPA–HQ–OPP–2011–0152). E.I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, DE 19898, proposes to establish tolerances in 40 CFR part 180 for residues of the herbicide quizalofop-p-ethyl, (ethyl-2-[4-(6-chloroquinoxalin-2-yl oxy) phenoxy] propanoate), including its metabolites and degradates (DUPONT™ ASSURE® II), in or on corn, grain at 0.01 ppm; corn, forage at 0.01 ppm; and corn, stover at 0.03 ppm. The currently proposed aspirated grain fraction (AGF) tolerance of 1.0 ppm, based on sorghum AGF in PP 0E7802, will not be changed by corn AGF residues. An adequate analytical methodology (HPLC using either ultraviolet (UV) or fluorescence detection) is available for enforcement purposes in Volume II of the Food and Drug Administration Pesticide Analytical Method (PAM II, Method I). *Contact:* Mindy Ondish, (703) 605–0723, *e-mail address: ondish.mindy@epa.gov.*

Amended Tolerances

1. *PP 0E7781.* (EPA–HQ–OPP–2010–0980). BASF Corporation, P.O. Box 13528, Research Triangle Park, NC 27709, proposes to amend the tolerances in 40 CFR 180.560 by amending the tolerance expression to establish combined residues of cloquintocet-mexyl (acetic acid, [(5-chloro-8-quinolinyl)oxy]-,1-methylhexylester) (CAS Reg. No. 99607–70–2) and its acid metabolite (5-chloro-8-quinlinoxyacetic acid) when used as an inert ingredient (safener) in pesticide formulations containing either the herbicide clodinafop-propargyl or pinoxaden in a 1:4 ratio of safener to active ingredient or in combination with the registered active ingredient dicamba, in or on wheat, grain at 0.10 ppm; wheat, forage at 0.2 ppm; wheat, hay at 0.50 ppm; and wheat, straw at 0.10 ppm. A practical analytical method for the determination of cloquintocet-mexyl and its major plant metabolite CGA–153433 in wheat raw agricultural commodities (RACs) published in the **Federal Register** of April 19, 2000 (65 FR 20972) (FRL–6554–3). *Contact:* Bethany Benbow, (703) 347–8072, *e-mail address: benbow.bethany@epa.gov.*

2. *PP 0F7792.* (EPA–HQ–OPP–2011–0120). Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, proposes to amend the tolerances in 40 CFR part 180.474 for residues of the fungicide tebuconazole, alpha-[2-(4-chlorophenyl)ethyl]-alpha-(1,1-dimethylethyl)-1 H -1,2,4-triazole-1-ethanol), in or on wheat, grain and oats, grain by increasing the tolerances from 0.05 ppm to 0.15 ppm. An enforcement method for plant commodities has been validated on various commodities. It has undergone successful EPA validation and has been submitted for inclusion in Pesticide Analytical Method Volume II (PAM II). The animal method has also been approved as an adequate enforcement method. *Contact:* Tracy Keigwin, (703) 305–6605, *e-mail address: keigwin.tracy@epa.gov.*

New Tolerance Exemptions

1. *PP 0E7815.* (EPA–HQ–OPP–2011–0093). Monsanto Company, 1300 I Street NW., Suite 450 East, Washington, DC 20005, proposes to establish an exemption from the requirement of a tolerance for residues of amides, C_5-C_9, N-3-[(dimethylamino)propyl] (CAS No. 1044764–00–2) and amides C_6-C_{12}, N-3-[(dimethylamino)propyl] (CAS No. 1044754–06–8) when used as a pesticide inert ingredient (surfactant) in pesticide formulations in 40 CFR part 180.910 pre- and post-harvest uses. The petitioner believes no analytical method is needed because they are not applicable or required for the establishment of a tolerance exemption for inert ingredients. *Contact:* Deirdre Sunderland, (703) 603–0851, *e-mail address: sunderland.deirdre@epa.gov.*

2. *PP 0E7797.* (EPA–HQ–OPP–2011–0146). Bayer CropScience, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, proposes to establish an exemption from the requirement of a tolerance for residues of the fungicide propineb, [[[2-[(Dithiocarboxy)amino]-1-methyethyl] carbamodithioato(2-)-êS, êS']zinc], in or on apple, juice; citrus, juice; citrus, oil; citrus, dried pulp; tomato, puree; tomato, paste. The petitioner believes no analytical method is needed because no concentration was recovered by the maximum residue level (MRL) for these raw agricultural commodities. Also, the high performance liquid chromatography-atmosphere pressure chemical ionization/tandem mass spectrometry analytical method is available to EPA for the detection and measurement of the pesticide residues. *Contact:* Tamue

L. Gibson, (703) 305–9096, *e-mail address: gibson.tamue@epa.gov.*

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 15, 2011.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2011–6887 Filed 3–28–11; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 76, No. 60

Tuesday, March 29, 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

March 23, 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, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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.

Farm Service Agency

Title: Measurement Service Records.

OMB Control Number: 0560–0260.

Summary of Collection: This collection of information is authorized by 7 CFR part 718 and described in FSA Handbook 2–CP. If a producer requests measurement services, it becomes necessary for the producer to provide certain information which is collected on the FSA–409, Measurement Service Record. The collection of this information is necessary to fulfill the producer's request for measurement services. Producers may request acreage or production measurement services.

Need and Use of the Information: The Farm Service Agency (FSA) will collect the following information that the producer is required to provide on the FSA–409: farm serial number, program year, farm location, contact person, and type of service request (acreage or production). The collected information is used to create a record of measurement service requests and cost to the producer.

Description of Respondents: Farms.

Number of Respondents: 135,000.

Frequency of Responses: Reporting: Other (once).

Total Burden Hours: 168,750.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2011–7263 Filed 3–28–11; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 24, 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, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business-Cooperative Service

Title: Rural Business Investment Program, 7 CFR 4290.

OMB Control Number: 0570–0051.

Summary of Collection: Section 6029 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) amended the Consolidated Farm and Rural Development Act (& U.S.C. 2009cc) by adding "Subtitle H—Rural Business Investment Program (RBIP). The program is a Developmental Venture Capital program for the purpose to promote economic development and the creation of wealth and job opportunities in rural areas and among individuals living in such areas through the licensing of Rural Business Investment Companies with the mission of addressing unmet equity investment needs of small enterprises located in rural areas. USDA and Small Business Administration signed the Economy Act Agreement authorizing SBA to provide "the day to day" management and operation of the RBIP.

Need and Use of the Information: USDA will use the information to determine eligibility for participation in the RBIP and evaluate whether applicants have accomplished the objectives and fulfilled the statutory and regulatory requirements of the RBIP. Without this collection of information USDA would be unable to meet the requirements of the Act and effectively administer the RBIP, ensuring safety and soundness.

Description of Respondents: Business or other for-profit; Not-for-profit Institutions.

Number of Respondents: 1.

Frequency of Responses: Reporting: Quarterly, Annually.

Total Burden Hours: 112.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2011–7335 Filed 3–28–11; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Tree-Marking Paint Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Tree-Marking Paint Committee will meet in Missoula, Montana on June 14–16, 2011. The purpose of the meeting is to discuss activities related to improvements in, concerns about, and the handling and use of tree-marking paint by personnel of the Forest Service and the Department of the Interior's Bureau of Land Management.

DATES: The meeting will be held June 14–16, 2011, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Courtyard Missoula, 4559 North Reserve Street Missoula, Montana, 59808. Persons who wish to file written comments before or after the meeting must send written comments to Dave Haston, Chairman, National Tree-marking Paint Committee, Forest Service, USDA, San Dimas Technology and Development Center, 444 East Bonita Avenue, San Dimas, California 91773, or electronically to *dhaston@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Dave Haston, Sr. Project Leader, San Dimas Technology and Development Center, Forest Service, USDA, (909) 599–1267, extension 294 or *dhaston@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The National Tree-Marking Paint Committee comprises representatives from the Forest Service national headquarters, each of the nine Forest Service Regions, the Forest Service San Dimas Technology and Development Center, the National Federation of Federal Employees and the Bureau of Land Management. The Forest Products Laboratory and the National Institute for Occupational Safety and Health are ad hoc members and provide technical advice to the committee.

A field trip will be held on June 14 and is designed to supplement information related to tree-marking paint. This trip is open to any member of the public participating in the public meeting on June 15–16. However, transportation is provided only for committee members.

The main session of the meeting, which is open to public attendance, will be held on June 15–16. The 2011 meeting is being hosted by the Bureau of Land Management.

Closed Sessions

While certain segments of this meeting are open to the public, there will be two closed sessions during the meeting. The first closed session is planned for approximately 10 a.m. to 12 p.m. on June 15, 2011. This session is reserved for individual paint manufacturers to present products and information about tree-marking paint for consideration in future testing and use by the agency. Paint manufacturers also may provide comments on tree-marking paint specifications or other requirements. This portion of the meeting is open only to paint manufacturers, the Committee, and committee staff to ensure that trade secrets will not be disclosed to other paint manufacturers or to the public. Paint manufacturers wishing to make presentations to the Tree-Marking Paint Committee during the closed session should contact the committee chairperson at the telephone number listed at **FOR FURTHER INFORMATION CONTACT** in this notice. The second closed session is planned for approximately 9 a.m. to 11 a.m. on June 16, 2011. This session is reserved for Tree-Marking Paint Committee members only.

Any person with special access needs should contact the Chairperson to make those accommodations. Space for individuals who are not members of the National Tree-Marking Paint Committee is limited and will be available to the public on a first-come, first-served basis.

Dated: March 23, 2011.

James M. Peña,

Associate Deputy Chief, NFS.

[FR Doc. 2011–7324 Filed 3–28–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended), the Rural Utilities Service an agency delivering the U.S. Department of Agriculture (USDA) Rural Development Utilities Programs, invites comments on this information collection for which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by May 31, 2011.

FOR FURTHER INFORMATION CONTACT: Michele Brooks, Director, Program Development and Regulatory Analysis, USDA Rural Development, 1400 Independence Ave., SW., STOP 1522, Room 5162 South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078. Fax: (202) 720–8435.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (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 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. Comments may be sent to: MaryPat Daskal, Program Development and Regulatory Analysis, USDA Rural Development, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–8435 or e-mail *MaryPat.Daskal@wdc.usda.gov.*

Title: Water and Waste Loan and Grant Program.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 0572–0121.

Abstract: USDA Rural Development, through the Rural Utilities Service, is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, nonprofit corporations, and Indian Tribes to fund water and waste disposal projects serving the most financially needy rural communities through the Water and Waste Disposal loan and grant program. Financial assistance should result in reasonable user costs for rural residents, rural businesses, and other rural users. The program is limited to rural areas and small towns with a population of 10,000 or less. The Water and Waste loan and grant program is administered through 7 CFR part 1780. The items covered by this collection include forms and related documentation to support a loan application.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 hours per response.

Respondents: Not-for-profit institutions; State, Local or Tribal Government.

Estimated Number of Respondents: 6,000.

Estimated Number of Responses per Respondent: 8.

Estimated Total Annual Burden on Respondents: 132,069 hours.

Copies of this information collection can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis at (202) 720–7853. FAX: (202) 720–8435.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: March 24, 2011.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2011–7344 Filed 3–28–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: U.S.-Canada Albacore Treaty Reporting System.

OMB Control Number: 0648–0492.

Form Number(s): NA.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 100.

Average Hours per Response: Request to be on vessel list for eligibility to fish in Canadian waters under treaty, vessel identification and border crossing reports, 5 minutes; vessel logbook reports, 5 minutes per day.

Burden Hours: 158.

Needs and Uses: This request is for extension of a current information collection.

The National Marine Fisheries Service (NMFS), Southwest Region (SWR), manages the United States (U.S.)-Canada Albacore Tuna Treaty of 1981 (Treaty). Owners of vessels that fish from U.S. West Coast ports for albacore tuna will be required to notify NMFS SWR of their desire to be on the list of vessels provided to Canada each year indicating vessels eligible to fish for albacore tuna in waters under the jurisdiction of Canada. Additionally, vessel operators are required to report in advance their intention to fish in Canadian waters prior to crossing the maritime border as well as to mark their fishing vessels to facilitate enforcement of the effort limits under the Treaty. Vessel operators are also required to maintain and submit a logbook of all catch and fishing effort. The regulations implementing the reporting and vessel marking requirements under the Treaty are at 50 CFR 300.172–300.176.

Affected Public: Business or other for-profit organizations.

Frequency: Annually, daily and on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: March 24, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–7291 Filed 3–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–801]

Solid Urea From the Russian Federation: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* March 29, 2011.

FOR FURTHER INFORMATION CONTACT: Dustin Ross, 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) 482–0747.

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 solid urea from the Russian Federation for the period July 1, 2009, through June 30, 2010. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Initiation of Administrative Review,* 75 FR 53274 (August 31, 2010). The preliminary results of this administrative review are currently due no later than April 2, 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 complete the preliminary results within 245 days after the last day of the anniversary month of an order for which a review is requested and the final results within 120 days after the date on which the preliminary results are 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 results 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 April 2, 2011, because we require additional time to analyze a complex affiliation issue pertaining to the exporter subject to this administrative review. Therefore, we are extending the time period for issuing the preliminary results of this review by 75 days to June 16, 2011.

This notice is published in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: March 23, 2011.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–7361 Filed 3–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–816]

Certain Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Final Results of the Sixteenth Administrative Review

Correction

In notice document 2011–6566 beginning on page 15291 in the issue of Monday, March 21, 2010, make the following corrections:

On page 15293, in the first column, in the table at the bottom of the page, in the table column labeled "Percent margin", in the second row, "[a]9.05" should read "[a]0.05".

On the same page, in the same table, in the same column, in the fifth row, "3.0%" should read "3.01".

[FR Doc. C1–2011–6566 Filed 3–28–11; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

International Trade Administration

Battelle Memorial Institute, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated 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 Avenue., NW., Washington, DC.

Docket Number: 10–045. *Applicant:* Battelle Memorial Institute, Richland, WA 99354. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, the Netherlands. Intended Use: See notice at 76 FR 11199, March 1, 2011.

Docket Number: 10–072. *Applicant:* University of Puerto Rico, San Juan, PR 00936–5067. *Instrument:* Electron Microscope. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* See notice at 76 FR 11199, March 1, 2011.

Docket Number: 10–076. *Applicant:* Regents of the University of Minnesota, Minneapolis, MN 55455. *Instrument:* Electron Microscope. *Manufacturer:* FEI Inc., Czech Republic. *Intended Use:* See notice at 76 FR 11199, March 1, 2011.

Docket Number: 11–002. *Applicant:* Weill Cornell Medical College of Cornell University, New York, NY 10065. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 76 FR 11199, March 1, 2011.

Docket Number: 11–003. *Applicant:* Armed Forces Institute of Pathology, Washington, DC 20306–6000. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 76 FR 11199, March 1, 2011.

Docket Number: 11–004. *Applicant:* San Diego State University, San Diego, CA 92182. *Instrument:* Electron Microscope. *Manufacturer:* FEI Inc., Czech Republic. *Intended Use:* See notice at 76 FR 11199, March 1, 2011.

Docket Number: 11–005. *Applicant:* National Institute of Standards and Technology, Boulder, CO 80305–3328. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 76 FR 11199, March 1, 2011.

Docket Number: 11–006. *Applicant:* University of Vermont, Colchester, VT 65446. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 76 FR 11199, March 1, 2011.

Docket Number: 11–007. *Applicant:* University of Arkansas, Fayetteville, AR 72701. *Instrument:* Electron Microscope. *Manufacturer:* FEI Inc., the Netherlands. *Intended Use:* See notice at 76 FR 11199, March 1, 2011.

Docket Number: 11–015. *Applicant:* The Regents of the University of California, Berkeley, CA 94720. *Instrument:* Electron Microscope. *Manufacturer:* Carl Zeiss SMT, Inc., Germany. *Intended Use:* See notice at 76 FR 11199, March 1, 2011.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Dated: March 22, 2011.

Gregory W. Campbell,

Director, Subsidies Enforcement Office, Import Administration.

[FR Doc. 2011–7226 Filed 3–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA325

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee (Committee), in April, 2011, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Thursday, April 14, 2011 at 10 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200; fax: (508) 339–1040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The committee will review final cooperative research project reports, including the

"eliminator trawl" report at this meeting. The Research Steering Committee will have the opportunity to make recommendations about how to make the information collected more relevant to management, how to use research results more effectively, and also to comment on future research priorities.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 24, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–7309 Filed 3–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA326

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council will hold a meeting of its Spiny Lobster Advisory Panel (AP) in Key West, FL. See **SUPPLEMENTARY INFORMATION**.

DATES: The meeting will take place April 20, 2011. See **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the Doubletree Grand Key, 3990 S. Roosevelt Blvd., Key West, FL 33040; telephone: (305) 293–1818.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC, 29405; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; e-mail: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: Members of the Spiny Lobster AP will meet from 8:30 a.m.–4:30 p.m. on April 20, 2011.

The Spiny Lobster AP will receive an overview of Amendment 10 to the Spiny Lobster Fishery Management Plan for the Gulf and South Atlantic Regions. The amendment meets the requirements of the Magnuson-Stevens Fishery Conservation and Management Act to establish Annual Catch Limits and Accountability Measures for Caribbean spiny lobster and contains additional management alternatives addressing: modifications to the Fishery Management Unit; development or updates to framework procedure and protocol for Enhanced Cooperative Management of spiny lobster; regulations regarding the possession and handling of undersized Caribbean spiny lobsters or "shorts" as attractants for the commercial trap fishery; requirements for tailing permits, sector allocations; limiting spiny lobster fishing in some areas to protect threatened *Acropora* corals; and requirements for gear marking for trap lines. The AP will discuss the amendment and provide recommendations.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (*see* **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Dated: March 24, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–7314 Filed 3–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA329

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Tule Chinook Workgroup (TCW) will hold a meeting to review initial work products and revise future work plans relative to developing an abundance-based harvest management approach for Columbia River natural tule Chinook. This meeting of the TCW is open to the public.

DATES: The meeting will be held Wednesday, April 27, 2011, from 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Washington Department of Fish and Wildlife Region 5 Office, 2108 Grand Boulevard, Vancouver, WA 98661; telephone: (360) 696–6211.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Salmon Management Staff Officer, Pacific Fishery Management Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: This meeting of the TCW will involve review of initial work products and refining future work plans. Eventually, TCW work products will be reviewed by the Pacific Council, and if approved, would be submitted to NMFS for possible consideration in the next Lower Columbia River tule biological opinion for ocean salmon seasons in 2012 and beyond, and distributed to State and Federal recovery planning processes. In the event a usable approach emerges from this process, the Pacific Council may consider a fishery management plan (FMP) amendment process beginning after November 2011 to adopt the approach as a formal conservation objective in the Salmon FMP.

Although nonemergency issues not contained in the meeting agenda may come before the TCW for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this

notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: March 24, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–7354 Filed 3–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA328

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene meetings of the Ecosystem-Based Management Subcommittee (Subcommittee) of the Scientific and Statistical Committee and the Ecosystem Advisory Subpanel (EAS) that are open to the public.

DATES: These work sessions will be held on Tuesday, April 19, 2011 through Thursday, April 21, 2011, with each day beginning at 8:30 a.m. and concluding at 5 p.m., or when business for the day is completed. The Subcommittee will begin on Tuesday, April 19, 2011 and adjourn on Wednesday, April 20, 2011. The EAS will formally join the Subcommittee in a joint session beginning at 10:30 a.m. on Wednesday, April 20, 2011. The EAS session will continue on Thursday, April 21, 2011.

ADDRESSES: The meetings will be held at the Pacific Fishery Management Council, Large Conference Room, 7700 NE. Ambassador Place, Suite 101, Portland, OR 97220; telephone: (503) 820–2280.

FOR FURTHER INFORMATION CONTACT: Mike Burner, Staff Officer; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: Please note, this is not a public hearing; it is a work session for the primary purpose of considering recommendations to the Council on the development of an Ecosystem Fishery Management Plan (EFMP). The Subcommittee session will focus on incorporating ecosystem science into the Council management process. The joint session of the Subcommittee and the EAS will focus on the National Oceanic and Atmospheric Administration's California Current Integrated Ecosystem Assessment. The EAS will also discuss available science and its potential application with the SSC and will develop recommendations on the EFMP's purpose and need, regulatory authority, and management unit species for the June 2011 Council meeting in Spokane, WA.

Although non-emergency issues not contained in the meeting agenda may come before the Subcommittee or the EAS for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: March 24, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–7353 Filed 3–28–11; 8:45 am]

BILLING CODE 3510–22–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 May 31, 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: March 23, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Department of Education

Type of Review: Extension.

Title of Collection: Generic Plan for Customer Surveys and Focus Groups.

OMB Control Number: 1800–0011.

Agency Form Number(s): N/A.

Frequency of Responses: Annually; Once.

Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 516,021.

Total Estimated Number of Annual Burden Hours: 111,629.

Abstract: Surveys to be considered under this generic will only include those surveys that improve customer service or collect feedback about a service provided to individuals or entities directly served by the Department of Education (ED). The results of these customer surveys will help ED managers plan and implement program improvements and other customer satisfaction initiatives. Focus groups that will be considered under the generic clearance will assess customer satisfaction with a direct service, or will be designed to inform a customer satisfaction survey ED is considering. Surveys that have the potential to influence policy will not be considered under this generic clearance.

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 4515. 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. 2011–7380 Filed 3–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Carol M. White Physical Education Program

AGENCY: Office of Safe and Drug-Free Schools, Department of Education.

ACTION: Notice.

Overview Information

Carol M. White Physical Education Program Notice Inviting Applications for New Awards for Fiscal Year (FY) 2011

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215F.

DATES: *Applications Available:* March 29, 2011.

Deadline for Transmittal of Applications: May 13, 2011.

Deadline for Intergovernmental Review: July 12, 2011.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Carol M. White Physical Education Program (PEP) provides grants to local educational agencies (LEAs) and community-based organizations (CBOs) to initiate, expand, and improve physical education for students in grades K–12. Grant recipients must implement programs that help students make progress toward meeting State standards.

Priorities: This competition has four priorities—one absolute priority, two competitive preference priorities, and one invitational priority. The absolute priority and the two competitive preference priorities are from the notice of final priorities, requirements, and definitions published in the **Federal Register** on June 18, 2010 (75 FR 34892).

Absolute Priority

For FY 2011 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

The priority is:

Under this priority, an applicant is required to develop, expand, or improve its physical education program and address its State's physical education standards by undertaking the following activities: (1) Instruction in healthy eating habits and good nutrition and (2) physical fitness activities that must include at least one of the following: (a) Fitness education and assessment to help students understand, improve, or maintain their physical well-being; (b) instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every student; (c) development of, and instruction in, cognitive concepts about motor skills and physical fitness that support a lifelong healthy lifestyle; (d) opportunities to develop positive social and cooperative skills through physical activity participation; or (e) opportunities for professional development for teachers of physical education to stay abreast of the latest research, issues, and trends in the field of physical education.

Competitive Preference Priorities: There are two competitive preference priorities for this competition. 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 will award up to an additional 5 points to an application that meets these priorities.

Competitive Preference Priority 1—Collection of Body Mass Index (BMI) Measurement

Under 34 CFR 75.105(c)(2)(i), we will award an additional 2 points to an application that meets this priority.

This priority is:

We will give a competitive preference priority to applicants that agree to implement aggregate BMI data collection, and use it as part of a comprehensive assessment of health and fitness for the purposes of monitoring the weight status of their student population across time. Applicants are required to sign a Program-Specific Assurance that will commit them to:

(a) Use the Centers for Disease Control and Prevention's (CDC) BMI-for-age growth charts to interpret BMI results (*http://www.cdc.gov/growthcharts*);

(b) Create a plan to develop and implement a protocol that will include parents in the development of the applicant's BMI assessment and data collection policies, including a mechanism to allow parents to provide feedback on the policy. Applicants are required to detail the following required components in their aggregate BMI data collection protocol: The proposed method for measuring BMI, who will perform the BMI assessment (*i.e.,* staff members trained to obtain accurate and reliable height and weight measurements), the frequency of reporting, the planned equipment to be used, methods for calculating the planned sampling frame (if the applicant would use sampling), the policies used to ensure student privacy during measurement, how the data will be secured to protect student confidentiality, who will have access to the data, how long the data will be kept, and what will happen to the data after that time. Applicants that intend to inform parents of their student's weight status must include plans for notifying

parents of that status, and must include their plan for ensuring that resources are available for safe and effective follow-up with trained medical care providers;

(c) Create a plan to notify parents of the BMI assessment and to allow parents to opt out of the BMI assessment and reasonable notification of their choice to opt out. Unless the BMI assessment is permitted or required by State law, LEA applicants are required to detail their policies for providing reasonable notice of the adoption or continued use of such policies directly to the parents of the students enrolled in the LEA's schools served by the agency. At a minimum, the LEA must provide such notice at least annually, at the beginning of the school year, and within a reasonable period of time after any substantive change in such policies, pursuant to the Protection of Pupil Rights Amendment, 20 U.S.C. 1232h(c)(2)(A); and

(d) De-identify the student information (such as by removing the student's name and any identifying information from the record and assigning a record code), aggregate the BMI data at the school or district level, and make the aggregate data publicly available and easily accessible to the public annually. Applicants must describe their plan for the level of reporting they plan to use, depending on the size of the population, such as at the district level or the school level. Applicants must also detail in their application their plan for how these data will be used in coordination with other required data for the program, such as fitness, physical activity, and nutritional intake measures, and how the combination of these measures will be used to improve physical education programming and policy.

On June 18, 1991, 17 Federal departments and agencies, including the Department of Education, adopted a common set of regulations known as the Federal Policy for the Protection of Human Subjects or "Common Rule." *See* 34 CFR part 97. Applicants that engage in BMI data collection may be subject to the Department's Protection of Human Subjects regulations if the data are used in research funded by the Federal Government or for any future research conducted by an institution that has adopted the Federal policy for all research of that institution. The regulations define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities." 34 CFR 97.102(d). Information on Human Subjects requirements is found at: *http://www.ed.gov/about/offices/list/ocfo/humansub.html.*

Applications that do not provide a Program-Specific Assurance signed by an Authorized Representative committing the applicant to completing previously listed tasks (a) through (d) during their project period are not eligible for additional points under competitive preference priority 1.

In implementing this priority, we encourage applicants to consult with their partners to determine if and how any of the partners could contribute to the data collection, reporting, or potential referral processes.

Competitive Preference Priority 2—Partnerships Between Applicants and Supporting Community Entities

Under 34 CFR 75.105(c)(2)(i), we will award an additional 3 points to an application that meets this priority.

This priority is:

We will give a competitive preference priority to an applicant that includes in its application an agreement that details the participation of required partners, as defined in this notice. The agreement must include a description of: (1) Each partner's roles and responsibilities in the project; (2) how each partner will contribute to the project, including any contribution to the local match; (3) an assurance that the application was developed after timely and meaningful consultation between the required parties, as defined in this notice; and (4) a commitment to work together to reach the desired goals and outcomes of the project. The partner agreement must be signed by the Authorized Representative of each of the required partners and by other partners as appropriate.

For an LEA applicant, this partnership agreement must include: (1) The LEA; (2) at least one CBO; (3) a local public health entity, as defined in this notice; (4) the LEA's food service or child nutrition director; and (5) the head of the local government, as defined in this notice.

For a CBO applicant, the partnership agreement must include: (1) The CBO; (2) a local public health entity, as defined in this notice; (3) a local organization supporting nutrition or healthy eating, as defined in this notice; (4) the head of the local government, as defined in this notice; and (5) the LEA from which the largest number of students expected to participate in the CBO's project attend. If the CBO applicant is a school, such as a parochial or other private school, the applicant must describe its school as part of the partnership agreement but is not required to provide an additional signature from an LEA or another school. A CBO applicant that is a school and serves its own population of students is required to include another CBO as part of its partnership and include the head of that CBO as a signatory on the partnership agreement.

Although partnerships with other parties are required for this priority, the eligible applicant must retain the administrative and fiscal control of the project.

Invitational Priority: Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Projects that propose to align their programs with the goals and principles of the U.S. Department of Agriculture's (USDA) HealthierUS School Challenge (HUSSC) initiative.

Background. The USDA's HUSSC initiative was established in 2004 to recognize schools participating in the National School Lunch Program that have created healthier school environments through promotion of nutrition and physical activity. Schools can apply for recognition at four levels of performance: Bronze, Silver, Gold, and Gold of Distinction. To qualify for an award, a school must submit a formal application to the USDA's Food and Nutrition Service and demonstrate it meets basic criteria set forth by USDA. These criteria reflect the recommendations of the 2005 Dietary Guidelines for Americans and the Institute of Medicine's published recommendations for foods that should be served in schools, outside of the organized school lunch meals. HealthierUS schools must also have a local school wellness policy as mandated by Congress. We believe that the HUSSC initiative complements the priorities and requirements in this notice, as well as helps schools meet the goals established by First Lady Michelle Obama's "Let's Move!" initiative focused on improving school food. Additional information about the HUSSC initiative is available at the USDA's Web site at: *http://www.fns.usda.gov/tn/healthierus/index.html.*

Requirements

The following requirements, which are from the notice of final priorities, requirements, and definitions published in the **Federal Register** on June 18, 2010

(75 FR 34892), apply to this competition:

Requirement 1—Align Project Goals With Identified Needs Using the School Health Index (SHI)

Applicants must complete the physical activity and nutrition questions in Modules 1–4 of the CDC's SHI self-assessment tool and develop project goals and plans that address the identified needs. Modules 1–4 are School Health and Safety Policies and Environment, Health Education, Physical Activity and Other Physical Activity Programs, and Nutrition Services. LEA applicants must use the SHI self-assessment to develop a School Health Improvement Plan focused on improving these issues, and design an initiative that addresses their identified gaps and weaknesses. Applicants must include their Overall Score Card for the questions answered in Modules 1–4 in their application, and correlate their School Health Improvement Plan to their project design. Grantees must also complete the same modules of the SHI at the end of the project period and submit the Overall Score Card from the second assessment in their final reports to demonstrate SHI completion and program improvement as a result of PEP funding.

If a CBO applicant (unless the CBO is a school) is in a partner agreement with an LEA or school, it must collaborate with its partner or partners to complete Modules 1–4 of the SHI.

Alternatively, if the CBO has not identified a school or LEA partner, the CBO is not required to do Modules 1–4 of the SHI but must use an alternative needs assessment tool to assess the nutrition and physical activity environment in the community for children. CBO applicants are required to include their overall findings from the community needs assessment and correlate their findings with their project design. Grantees will be required to complete the same needs assessment at the end of their project and submit their findings in their final reports to demonstrate the completion of the assessment and program involvement as a result of PEP funding.

Requirement 2—Nutrition- and Physical Activity-Related Policies

Grantees must develop, update, or enhance physical activity policies and food- and nutrition-related policies that promote healthy eating and physical activity throughout students' everyday lives, as part of their PEP projects. Applicants must describe in their application their current policy framework, areas of focus, and the planned process for policy development, implementation, review, and monitoring. Grantees will be required to detail at the end of their project period in their final reports the physical activity and nutrition policies selected and how the policies improved through the course of the project.

Applicants must sign a Program-Specific Assurance that commits them to developing, updating, or enhancing these policies during the project period. Applicants that do not submit such a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 3—Linkage With Local Wellness Policies

Applicants that are participating in a program authorized by the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966 [1] must describe in their applications their school district's established local wellness policy and how the proposed PEP project will align with, support, complement, and enhance the implementation of the applicant's local wellness policy. The LEA's local wellness policy should address all requirements in the Child Nutrition Act of 1966. CBO applicants must describe in their applications how their proposed projects would enhance or support the intent of the local wellness policies of their LEA partner(s), if they are working in a partnership group.

If an applicant or a member of its partnership group does not participate in a program authorized by the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, it will not necessarily have a local wellness policy and, thus, is not required to meet this requirement or adopt a local wellness policy. However, we encourage those applicants to develop and adopt a local wellness policy, consistent with the provisions in the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966 in conjunction with its PEP project.

Applicants must sign a Program-Specific Assurance that commits them to align their PEP project with the district's Local Wellness Policy, if applicable. Applicants to whom this requirement applies that do not submit a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 4—Linkages With Federal, State, and Local Initiatives

If an applicant is implementing the CDC's Coordinated School Health program, it must coordinate project activities with that initiative and describe in its application how the proposed PEP project would be coordinated and integrated with the program.

If an applicant receives funding under the USDA's Team Nutrition initiative (Team Nutrition Training Grants), the applicant must describe in its application how the proposed PEP project supports the efforts of this initiative.

An applicant for a PEP project in a community that receives a grant under the Recovery Act Communities Putting Prevention to Work—Community Initiative must agree to coordinate its PEP project efforts with those under the Recovery Act Communities Putting Prevention to Work-Community Initiative.

Applicants and PEP-funded projects must complement, rather than duplicate, existing, ongoing, or new efforts whose goals and objectives are to promote physical activity and healthy eating or help students meet their State standards for physical education.

Applicants must sign a Program-Specific Assurance that commits them to align their PEP project with the Coordinated School Health program, Team Nutrition Training Grant, Recovery Act Communities Putting Prevention to Work—Community Initiative, or any other similar Federal, State, or local initiatives. Applicants that do not submit a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 5—Updates to Physical Education and Nutrition Instruction Curricula

Applicants that plan to use grant-related funds, including Federal and non-Federal matching funds, to create, update, or enhance their physical education or nutrition education curricula are required to use the Physical Education Curriculum Analysis Tool (PECAT) and submit their overall PECAT scorecard, and the curriculum improvement plan from PECAT. Also, those applicants that plan to use grant-related funds, including Federal and non-Federal matching funds to create, update, or enhance their nutrition instruction in health education

[1] The requirement to have a local school wellness policy, previously set out in section 204 of the Child Nutrition and WIC Reauthorization Act of 2004, was repealed and replaced by section 9A of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1758b, as added by section 204(a) of Public Law 111–296, the Healthy, Hunger-Free Kids Act of 2010, enacted on December 13, 2010.

must complete the healthy eating module of the Health Education Curriculum Analysis Tool (HECAT). Applicants must use the curriculum improvement plan from the HECAT to identify curricular changes to be addressed during the funding period. Applicants must also describe how the HECAT assessment would be used to guide nutrition instruction curricular changes. If an applicant is not proposing to use grant-related funds for physical education or nutrition instruction curricula, it would not need to use these tools.

Requirement 6—Equipment Purchases

Purchases of equipment with PEP funds or with funds used to meet the program's matching requirement must be aligned with the curricular components of the proposed physical education and nutrition program. Applicants must commit to aligning the students' use of the equipment with PEP elements applicable to their projects, identified in the absolute priority in this notice, and any applicable curricula by signing a Program-Specific Assurance. Applicants that do not submit a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 7—Increasing Transparency and Accountability

Grantees must create or use existing reporting mechanisms to provide information on students' progress, in the aggregate, on the key program indicators, as described in this notice and required under the Government Performance and Results Act, as well as on any unique project-level measures proposed in the application. Grantees that are educational agencies or institutions are subject to applicable Federal, State, and local privacy provisions, including the Family Educational Rights and Privacy Act—a law that generally prohibits the non-consensual disclosure of personally identifiable information in a student's education record. All grantees must comply with applicable Federal, State, and local privacy provisions. The aggregate-level information should be easily accessible by the public, such as posted on the grantee's or a partner's Web site. Applicants must describe in their application the planned method for reporting.

Applicants must commit to reporting information to the public by signing a Program-Specific Assurance. Applicants that do not submit a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 8—Participation in a National Evaluation

Applicants must provide documentation of their commitment to participate in the Department's national evaluation. An LEA applicant must include a letter from the research office or research board approving its participation in the evaluation (if approval is needed), and a letter from the Authorized Representative agreeing to participate in the evaluation.

Requirement 9—Required Performance Measures and Data Collection Methodology

Grantees must collect and report data on three GPRA measures using uniform data collection methods. Measure one assesses student physical activity levels: The percentage of students served by the grant who engage in 60 minutes of daily physical activity. Grantees are required to use pedometers for students in grades K–12 and an additional 3-Day Physical Activity Recall (3DPAR) instrument to collect data on students in grades 5–12.

Measure two focuses on student health-related fitness levels: The percentage of students served by the grant who achieve age-appropriate cardiovascular fitness levels. Grantees are required to use the 20-meter shuttle run, a criterion-referenced health-related fitness testing protocol, to assess cardiovascular fitness in middle and high school students.

Measure three focuses on student nutrition: The percentage of students served by the grant who consume fruit two or more times per day and vegetables three or more times per day. Programs serving high school students are required to use the nutrition-related questions from the Youth Risk Behavior Survey to determine the number of students who meet these goals. Programs serving elementary and middle school students are not required to use a specific measurement tool, and may select an appropriate assessment tool for their population.

For each measure, grantees are required to collect and aggregate data from four discrete data collection periods throughout each year. During the first year, grantees have an additional data collection period prior to program implementation to collect baseline data.

Definitions

The following definitions, which are from the notice of final priorities, requirements, and definitions published in the **Federal Register** on June 18, 2010 (75 FR 34892), apply to this competition:

Head of local government means the head of, or an appropriate designee of, the party responsible for the civic functioning of the county, city, town, or municipality would be considered the head of local government. This includes, but is not limited to, the mayor, city manager, or county executive.

Local public health entity means an administrative or service unit of local or State government concerned with health and carrying some responsibility for the health of a jurisdiction smaller than the State (except for Rhode Island and Hawaii, because these States' health departments operate on behalf of local public health and have no sub-State unit). The definition applies to the State health department or the State public health entity in the event that the local public health entity does not govern health and nutrition issues for the local area.

Organization supporting nutrition or healthy eating means a local public or private non-profit school, health-related professional organization, local public health entity, or local business that has demonstrated interest and efforts in promoting student health or nutrition. This term includes, but is not limited to LEAs (particularly an LEA's school food or child nutrition director), grocery stores, supermarkets, restaurants, corner stores, farmers' markets, farms, other private businesses, hospitals, institutions of higher education, Cooperative Extension Service and 4H Clubs, and community gardening organizations, when such entities have demonstrated a clear intent to promote student health and nutrition or have made tangible efforts to do so. This definition does not include representatives from trade associations or representatives from any organization representing any producers or marketers of food or beverage product(s).

Program Authority: 20 U.S.C. 7261–7261f.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99 and also with the regulations in 34 CFR part 299. (b) The notice of final eligibility requirements for the Office of Safe and Drug-Free Schools discretionary grant programs published in the **Federal Register** on December 4, 2006 (71 FR 70369). (c) The notice of final priorities, requirements, and definitions published in the **Federal Register** on June 18, 2010 (75 FR 34892).

Note: The regulations in 34 CFR part 79 apply to all applicants except Federally recognized Indian Tribes.

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's budget request for FY 2011 does not include funds for this program. In place of this and several other, sometimes narrowly targeted, programs that address students' safety, health, and drug-prevention, the Administration has proposed to create, through the reauthorization of the Elementary and Secondary Education Act of 1965, a broader Successful, Safe, and Healthy Students program that would increase the capacity of States, districts, and their partners to provide the resources and supports for safe, healthy, and successful students. However, we are inviting applications for the Physical Education program to allow enough time to complete the grant process before the end of the current fiscal year, if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards later in FY 2011 and in subsequent years from the list of unfunded applicants from this competition.

Estimated Range of Awards: $100,000–$750,000.

Estimated Average Size of Awards: $479,000.

Estimated Number of Awards: 77.

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) LEAs, including charter schools that are considered LEAs under State law, and CBOs, including faith-based organizations provided that they meet the applicable statutory and regulatory requirements.

(b) The Secretary limits eligibility under this discretionary grant competition to LEAs or CBOs that do not currently have an active grant under the PEP program. For the purpose of this eligibility requirement, a grant is considered active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

2. (a) *Cost Sharing or Matching:* In accordance with section 5506 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), the Federal share of the project costs may not exceed (i) 90 percent of the total cost of a program for the first year for which the program receives assistance; and (ii) 75 percent of such cost for the second and each subsequent year.

(b) *Supplement-Not-Supplant:* This competition involves supplement-not-supplant funding requirements. Funds made available under this program must be used to supplement, and not supplant, any other Federal, State, or local funds available for physical education activities in accordance with section 5507 of the ESEA.

3. *Other:* An application for funds under this program may provide for the participation, in the activities funded, of (a) students enrolled in private nonprofit elementary schools or secondary schools, and their parents and teachers; or (b) home-schooled students, and their parents and teachers.

IV. Application and Submission Information

1. *Address to Request Application Package:* Carlette Huntley, U.S. Department of Education, 400 Maryland Avenue, SW., Room 10071 PCP, Washington, DC 20202. Telephone: (202) 245–7871. You can also obtain an application package via the Internet. To obtain a copy via Internet, use the following address: *http://www.ed.gov/programs/whitephysed/applicant.html.*

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 under *Accessible Format* in section VIII of this notice.

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 program.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative [Part III] 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, and captions, as well as all text in 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. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section [Part III].

Our reviewers will not read any pages of your application that exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: March 29, 2011.

Deadline for Transmittal of Applications: May 13, 2011.

Applications for grants under this program, the Carol M. White Physical Education Program, 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.

Deadline for Intergovernmental Review: July 12, 2011.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* Funds may not be used for construction activities or for extracurricular activities, such as team sports and Reserve Officers' Training Corps program activities (*See* section 5503(c) of the ESEA).

In accordance with section 5505(b) of the ESEA, not more than five percent of grant funds provided under this program to an LEA or CBO for any fiscal year may be used for administrative expenses.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice. Information about prohibited activities and use of funds also is included in the application package for this competition.

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 program 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 Carol M. White Physical Education Program, CFDA number 84.215F, 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 Carol M. White Physical Education Program at *http://www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*i.e.,* search for 84.215, not 84.215F).

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 program 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 prevents 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: Carlette Huntley, U.S. Department of Education, 400 Maryland Avenue, SW., room 10071, Potomac Center Plaza (PCP), Washington, DC 20202–6450. FAX: (202)245–7166.

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 84.215F), 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 84.215F), 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 program are from 34 CFR 75.210 and are listed in the application package.

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, achievement 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).

An additional factor we consider in selecting an application for an award is equitable distribution of awards among LEAs and CBOs serving urban and rural areas. (*See* 20 U.S.C. 7261e(b).)

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) There are reporting requirements under this program, including under section 5505(a) of the ESEA and 34 CFR 75.118 and 75.720. In accordance with section 5505(a) of the ESEA, grantees under this program are required to submit an annual report that—

(1) Describes the activities conducted during the preceding year; and

(2) Demonstrates that progress has been made toward meeting State standards for physical education.

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).

This annual report must also address progress toward meeting the performance and efficiency measures established by the Secretary for this program and described in the next section of this notice.

At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. The Secretary may also require more frequent performance reports under 34 CFR 75.720. For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Secretary has established the following key performance measures for collecting data to use in assessing the effectiveness of PEP.

(a) The percentage of students served by the grant who engage in 60 minutes of daily physical activity.

(b) The percentage of students served by the grant who achieve age-appropriate cardiovascular fitness levels.

(c) The percentage of students served by the grant who consume fruit two or more times per day and vegetables three or more times per day.

(d) The cost (based on the amount of the grant award) per student who achieves the level of physical activity required to meet the physical activity measures above (percentage of students who engage in 60 minutes of daily physical activity).

These measures constitute the Department's measures of success for this program. Consequently, applicants for a grant under this program are advised to give careful consideration to these measures in conceptualizing the approach and evaluation of their proposed project. If funded, applicants will be asked to collect and report data in their performance and final reports about progress toward these measures. For specific requirements on grantee reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

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: Carlette Huntley, U.S. Department of Education, 550 12th Street, SW., room 10071, PCP, Washington, DC 20202–6450. Telephone: 202–245–7871 or by e-mail: *Carlette.Huntley@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.

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: March 23, 2011.

Kevin B. Jennings,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. 2011–7349 Filed 3–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; United States-Brazil Higher Education Consortia Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information

Applications for New Awards; International and Foreign Language Education Service (IFLE): Fund for the Improvement of Postsecondary Education (FIPSE)—Special Focus Competition: United States (U.S.)-Brazil Higher Education Consortia Program

Notice inviting applications for new awards for fiscal year (FY) 2011.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.116M.

Dates:

Applications Available: March 29, 2011.

Deadline for Transmittal of Applications: May 13, 2011.

Deadline for Intergovernmental Review: July 12, 2011.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to provide grants or enter into cooperative agreements to improve postsecondary education opportunities by focusing on problem areas in postsecondary education or approaches to improve postsecondary education.

Priorities: This competition includes one absolute priority and three invitational priorities.

Absolute Priority: This priority is from the notice of final priorities for this program, published in the **Federal Register** on December 11, 2009 (74 FR 65764). For FY 2011, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Support of the formation of educational consortia of U.S. and Brazilian institutions. To meet this priority, the applicant must propose a project that supports cooperation in the coordination of curricula; the exchange of students, if pertinent to grant activities; and the opening of educational opportunities between the U.S. and Brazil. In order to be eligible for an award under this priority, the applicant in the U.S. must be a U.S. institution and the applicant in Brazil must be a Brazilian institution. Brazilian institutions participating in any consortium proposal under this priority may apply to the Coordination of Improvement of Personnel of Superior Level (CAPES), Brazilian Ministry of Education, for additional funding under a separate but parallel Brazilian competition.

Invitational Priorities: For FY 2011, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1), we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1

This priority invites projects that include a plan to work with an institution of higher education (IHE) in another country in Latin America (in addition to Brazil) to create a partnership that would focus on key elements of international student exchange programs such as: developing cooperative bilateral arrangements, crafting inter-institutional bilateral Memorandums of Understanding (MOUs), student recruitment and selection strategies, student language and preparation requirements, tuition reciprocity agreements, student fees, curriculum development, student credit transfer or recognition, and financial sustainability.

Invitational Priority 2

In order to increase the participation of underrepresented students in international education and foreign language learning, the Secretary encourages applications from consortia that include community colleges or minority-serving institutions eligible for assistance under part A or B of title III or under title V of the HEA. (Please refer to section III.1. Eligible Applicants for additional information on applications from consortia.)

Invitational Priority 3

This priority invites applications from consortia in which the lead applicant institution has not served as a lead or partner grantee institution in a consortia funded under this program since FY 2006. (Please refer to section III.1. Eligible Applicants for additional information on applications from consortia and lead and partner applicant/grantee institutions.)

Program Authority: 20 U.S.C. 1138–1138d.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 84, 85, 86, 97, 98, and 99. (b) The notice of final priorities for this program, published in the **Federal Register** on December 11, 2009 (74 FR 65764).

Note: The regulations in 34 CFR part 79 apply to all applicants except Federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $64,036,000 for awards for the FIPSE program for FY 2011, of which we intend to use an estimated $490,000 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 these programs.

Estimated Range of Awards: $30,000–$35,000 for the first year and $210,000–$250,000 for the four-year duration of the grant.

Estimated Average Size of Awards: $35,000 for the first year and $240,000 for the four-year duration of the grant.

Estimated Number of Awards: 14.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs, other public and private nonprofit institutions and agencies, and combinations of these institutions and agencies.

Eligible parties may apply as a group for a grant (*e.g.,* one IHE and one private nonprofit institution). For purposes of this notice, we refer to such a group as a consortium. The regulations for applications from consortia are in 34 CFR 75.127 through 75.129. Consistent with these regulations, if a consortium applies for a grant, the members of the consortium must either designate one member of the consortium to apply for the grant or establish a separate, eligible legal entity to apply for the grant. The members of the consortium must enter into an agreement that details the activities that each member of the consortium plans to perform and binds each member of the consortium to every statement and assurance made by the applicant in the application. The applicant must submit the agreement with its application.

An application from a consortium should designate a lead U.S. applicant institution and a lead Brazil applicant institution and clearly specify its partner applicant institutions, both in the U.S. and Brazil.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Michelle Guilfoil, U.S.-Brazil Higher Education Consortia Program,

U.S. Department of Education, 1990 K Street, NW., Room 6098, Washington, DC 20006–8521. Telephone: (202) 502–7625.

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 (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative (Part III) to no more than 20 pages, using the following standards. If you do not use all of the allowable space on a page, it will be counted as a full page in determining the page count.

- 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, except titles, headings, footnotes, quotations, references, and captions. Charts, tables, figures, and graphs in the application narrative may be single spaced and will count toward the page limit.
- 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. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit only applies to the application narrative (Part III). It does not apply to Part I, the Application for Federal Assistance face sheet (SF 424); the supplemental information form required by the Department of Education; Part II, the budget information summary form (ED Form 524); and Part IV, the assurances, certifications, and survey forms. In addition, the page limit does not apply to the one-page abstract, appendices, line item budget, or table of contents. If you include any attachments or appendices not specifically requested, these items will be counted as part of the application narrative (Part III) for purposes of the page limit requirement. You must include your complete response to the selection criteria in the application narrative.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: March 29, 2011.

Deadline for Transmittal of Applications: May 13, 2011.

Applications for grants under this program 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.

Deadline for Intergovernmental Review: July 12, 2011.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference 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 two to five 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.

7. *Other Submission Requirements:* Applications for grants under this program 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 U.S.-Brazil Higher Education Consortia Program, CFDA number 84.116M, 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 U.S.-Brazil Higher Education Consortia Program at *http://www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the

CFDA number's alpha suffix in your search (*e.g.,* search for 84.116, not 84.116M).

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 program 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://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 upload any narrative sections and all other attachments to your application as files in a .PDF (Portable Document) format only. If you upload a file type other than a .PDF file 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: Michelle Guilfoil, U.S.-Brazil Higher Education Consortia Program, U.S. Department of Education, 1990 K Street, NW., Room 6098, Washington, DC 20006–8521. FAX: (202) 502–7860.

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 84.116M), 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 84.116M), 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 and are listed in the application package.

2. *Additional Factors:* An additional factor we consider in selecting an application for an award is whether the application demonstrates a bilateral, innovative U.S.-Brazilian approach to training and education.

3. *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, achievement 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).

4. *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 following two performance measures will be used by the Department in assessing the success of the U.S.-Brazil Higher Education Consortia Program:

(1) The extent to which funded projects are being replicated (*i.e.,* adopted or adapted by others).

(2) The manner in which projects are being institutionalized and continued after funding.

If funded, you will be asked to collect and report data from your project on steps taken toward achieving the outcomes evaluated by these performance measures (*i.e.,* institutionalization and replication). Consequently, applicants are advised to include these two outcomes in conceptualizing the design, implementation, and evaluation of their proposed projects. Institutionalization and replication are important outcomes that ensure the ultimate success of international consortia funded through this program.

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:

Michelle Guilfoil, U.S.-Brazil Higher Education Consortia Program, U.S. Department of Education, 1990 K Street, NW., Room 6098, Washington, DC 20006–8521. Telephone: (202) 502–7625.

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.

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 via the Federal Digital System at: *http://www.gpo.gov/fdsys.*

Dated: March 24, 2011.

Eduardo M. Ochoa,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2011–7356 Filed 3–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA 84.133E–1 and 84.133E–3]

Proposed Priorities: Disability and Rehabilitation Research Projects and Centers Program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes two priorities for the Disability and Rehabilitation Research Projects and Centers Program administered by NIDRR. Specifically, this notice proposes two priorities for RERCs: Low Vision and Blindness (Proposed Priority 1) and Wireless Technologies (Proposed Priority 2). The Assistant Secretary may use these priorities for competitions in fiscal year (FY) 2011 and later years. We take this action to focus research attention on areas of national need. We intend to use these priorities to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before April 28, 2011.

ADDRESSES: Address all comments about this notice to Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue, SW., room 5133, Potomac Center Plaza, Washington, DC 20202–2700.

If you prefer to send your comments by e-mail, use the following address: *Marlene.Spencer@ed.gov.* You must include the term "Proposed Priorities for RERCs" and the priority title in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer. *Telephone:* (202) 245–7532 or by *e-mail: Marlene.Spencer@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.

SUPPLEMENTARY INFORMATION: This notice of proposed priorities is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the **Federal Register** on February 15, 2006 (71 FR 8165), can be accessed on the Internet at the following site: *http://www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

This notice proposes two priorities that NIDRR intends to use for RERC competitions in FY 2011 and possibly later years. However, nothing precludes NIDRR from publishing additional priorities, if needed. Furthermore, NIDRR is under no obligation to make awards for these priorities. The decision to make an award will be based on the quality of applications received and available funding.

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the specific proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 5140, 550 12th Street, SW., Potomac Center Plaza, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities; to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities; and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Engineering Research Centers Program (RERCs)

The purpose of the RERC program is to improve the effectiveness of services authorized under the Rehabilitation Act by conducting advanced engineering research on and development of innovative technologies that are designed to solve particular rehabilitation problems, or to remove environmental barriers. RERCs also demonstrate and evaluate such technologies, facilitate service delivery system changes, stimulate the production and distribution of new technologies and equipment in the private sector, and provide training opportunities.

General Requirements of RERCs

RERCs carry out research or demonstration activities in support of the Rehabilitation Act by—

- Developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and to remove environmental barriers through studying and evaluating new or emerging technologies, products, or environments and their effectiveness and benefits; or
- Demonstrating and disseminating: (a) Innovative models for the delivery of cost-effective rehabilitation technology services to rural and urban areas; and (b) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; and
- Facilitating service delivery systems change through: (a) The development, evaluation, and dissemination of innovative, consumer-responsive, and individual- and family-centered models for the delivery to both rural and urban areas of innovative cost-effective rehabilitation technology services; and (b) other scientific research to assist in meeting the employment and independent living needs of and addressing the barriers confronted by individuals with disabilities, including individuals with severe disabilities.

Each RERC must be operated by, or in collaboration with, one or more institutions of higher education or one or more nonprofit organizations.

Each RERC must provide training opportunities, in conjunction with institutions of higher education or nonprofit organizations, to assist individuals, including individuals with disabilities, to become rehabilitation technology researchers and practitioners.

Each RERC must emphasize the principles of universal design in its product research and development. Universal design is the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design (North Carolina State University, 1997. *http://www.design.ncsu.edu/cud/about_ud/udprinciplestext.htm).*

Additional information on the RERC program can be found at: *http://www.ed.gov/rschstat/research/pubs/index.html.*

Program Authority: 29 U.S.C. 762(g) and 764(a).

Applicable Program Regulations: 34 CFR part 350.

PROPOSED PRIORITIES:

This notice contains two proposed priorities.

Proposed Priority 1—RERC on Low Vision and Blindness.

Background

Low vision and blindness affects approximately 3.4 million adults over 40 years of age in the United States (The Eye Diseases Prevalence Research Group, 2004) and according to the 2009 Annual Report from the American Printing House for the Blind, there are 59,335 legally blind children aged 0–21 in the U.S. (American Printing House for the Blind, 2009). Survey estimates of the number of individuals with low vision and blindness vary depending on the definitions used and the wording of the questions. The 2008 National Health Interview Survey Provisional Report stated that there are 25.2 million American adults aged 18 and over who report experiencing vision loss (Pleis & Lucas, 2009). As increasing numbers of premature infants survive due to advances in modern medicine and technology, the number of infants with low vision and blindness is expected to increase. In addition, the prevalence of age-related causes of low vision and blindness, such as macular degeneration, cataracts, and glaucoma, is expected to rise as the population ages.

The population of those with low vision and blindness is also changing. The elderly population of individuals with low vision and blindness is growing (The Eye Diseases Prevalence Research Group, 2004); returning veterans are experiencing low vision and blindness due to blast injuries (Thach, Johnson, Carroll, Huchun, Ainbinder, *et al.,* 2008); doctors are reporting an increase in the number of children with low vision and blindness and additional non-ophthalmic disabling conditions (Rahi, Cumberland, & Peckham, 2010); and there is a growing prevalence of deaf-blind individuals in the U.S. (Saunders & Echt, 2007).

Persons with low vision and blindness often need assistance with performing activities of daily living. While such assistance may be provided through more traditional methods such as through the assistance of family members or service animals or through the use of white canes and braille, clinicians, researchers and rehabilitation engineers are developing a growing number of technological products and interventions that assist persons with low vision and blindness as they navigate their communities and perform tasks and activities at home and work.

NIDRR has been an active participant in supporting the technological advancements in low vision and blindness assessment, therapy, and rehabilitation for 20 years. NIDRR grantees have researched and developed technologies that improve assessment of low vision and blindness and technologies for blind orientation, navigation, and wayfinding. In addition, NIDRR grantees are researching and developing infant vision screening and rehabilitation technology, educational technology, and vocational and daily living technology for individuals with low vision and blindness.

Notwithstanding this valuable research and work, new and improved vision assessment and vision rehabilitation technologies are required to meet the needs of the changing and expanding population of individuals who experience low vision and blindness. New products and technologies that detect and mitigate low vision and blindness must be researched and developed for individuals of all ages, as rehabilitation needs may vary or change with age.

With enhancements in technology in all segments of society, there is an increasing need for individuals with low vision and blindness to manipulate and produce many types of information, such as text and graphics (Arditi, 2004; Krufka, Barner, & Aysal, 2007). Thus, further research and development are needed to ensure that individuals with low vision and blindness have access to graphical information, signage, and travel information, and appliances and displays for education, employment, and daily living (Vidal-Verdu & Hafez, 2007; Marston & Church, 2005; Technology Bill of Rights for the Blind Act of 2010, 2010; Marom, 2010). In addition, in the area of education, new methods for presenting scientific information and concepts in accessible form are needed for science, technology, engineering, and mathematics.

Accordingly, NIDRR seeks to fund an RERC on low vision and blindness to research, develop, and evaluate innovative technologies that will improve the ability of individuals with low vision and blindness to function independently within their schools, communities, and workplaces.

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Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Rehabilitation Engineering Research Center (RERC) on Low Vision and Blindness. This RERC must research and develop technologies that will improve the assessment of low vision and blindness and promote independence for individuals with low vision and blindness of all ages, including those who are deaf-blind and those with multiple disabilities. Specifically, the RERC must improve vision assessment for the changing and expanding population of individuals who are at risk for experiencing low vision and blindness, including but not limited to, the elderly, returning military veterans, and prematurely born infants. The RERC must also research and develop technologies that will improve individuals' access to graphical information, signage, and travel information and devices and appliances that have digital displays and control panels. In addition, the RERC must research and develop technologies to promote the participation of individuals with low vision and blindness in science, technology, engineering, and mathematics education (STEM). Regarding participation in STEM, these technologies include but are not limited to accessible scientific measurement instruments, tools, and materials.

Proposed Priority 2—RERC on Wireless Technologies.

Background

Wireless technologies allow the connection of communication, information, and control devices to local, community, and nationwide networks. Wireless devices support a wide range of applications spanning voice and data communication, remote monitoring, and position finding, and offer tremendous potential for assisting individuals with disabilities to participate actively in the community.

Wireless technology can improve the quality of life and enhance inclusiveness for individuals with disabilities in the areas of employment, health care, education, and emergency response. For example, a new wireless system offers those with hearing difficulties the ability to caption events in real-time; for those who have difficulty seeing, new mobile applications can use smart-phone cameras to scan labels on grocery items or pill bottles; for those with communication difficulties, there are many communications applications available for cell phones that convey typed messages through voice output (Mobile Future, 2010). Cloud computing is a technology that uses the internet and central remote servers to maintain data and applications. These "cloud" applications can be used without installation to a personal computer, and data and personal files can be accessed at any computer with internet access. Cloud computing technologies may provide individuals with disabilities an additional option for access from any wireless device in a variety of settings to a shared pool of computing resources, software, and information.

The Federal Communications Commission (FCC) recognizes the importance of wireless technology for individuals with disabilities (FCC Broadband plan, 2010; FCC Working Paper: A Giant Leap & A Big Deal: Delivering on the Promise of Equal Access to Broadband for People with Disabilities, 2010). As part of its broadband plan, the FCC has included an accessibility and innovation forum and plans to modernize accessibility laws, rules, and subsidy programs.

NIDRR has been an active participant in directing the technological advancements in wireless technologies for ten years so that individuals across the range of abilities may enjoy the benefits of these technologies and participate more fully in society. NIDRR grantees have been active in research on technology use and usability, and the development of public policy influencing equitable access to wireless technologies. In addition, NIDRR grantees have developed new technologies and accessible technology applications in the areas of web accessibility, emergency communications, audio captioning, touch-screen and audible interfaces, and TTY Phone-Deaf 911. NIDRR grantees have also filed comments on and informed final FCC rules concerning wireless use of the Emergency Alert System (EAS), the Commercial Mobile Alert System (CMAS), and the broadband plan.

NIDRR recognizes the potential benefits that wireless technology has for individuals with disabilities and that wireless networking represents the future of computer and internet

connectivity. However, as wireless technology continues to advance in technical sophistication and commercial availability at a rapid pace, issues of usability continue for individuals with disabilities. The wireless industry too often fails to design products and services for use by individuals with disabilities, is unaware of the barriers faced by individuals with disabilities, and does not fully evaluate the usability of wireless products and services for individuals with disabilities before they become mainstream products and services (Designing Inclusive Futures, 2008). Technical issues in areas such as interoperability (the ability of a system or a product to work with other systems or products), speech-to-text conversion, and hearing aid compatibility have been identified as barriers that individuals with disabilities experience as they attempt to use wireless technologies (Baker & Moon, 2008). In addition, ergonomic and interface needs of individuals with disabilities are recognized barriers to use of wireless technologies (Mueller, Jones, Broderick, & Haberman, 2005).

In addition to promoting usability of emerging and existing wireless technologies, NIDRR proposes to continue research and development efforts to develop new wireless products and technologies that directly facilitate the independence and community participation of individuals with disabilities. Accordingly, NIDRR seeks to fund an RERC on Wireless Technologies to research, develop, and evaluate innovative technologies and approaches that will improve the ability of individuals with disabilities to use wireless technologies to promote independence and community participation.

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Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Rehabilitation Engineering Research Center (RERC) on Wireless Technologies. Under this priority, the RERC must research, develop, and evaluate innovative technologies and products that facilitate the use of wireless technologies for individuals with disabilities. The RERC must research and develop wireless hardware and software that will meet the needs, promote independence, and improve the quality of life and community participation of individuals with disabilities. The RERC must also work with and provide information to relevant Federal agencies, designers, and manufacturers regarding barriers to and methods for facilitating the use of wireless technologies by individuals with disabilities.

Requirements Applicable to Both Proposed Priorities

A RERC established under either of the proposed priorities in this notice must be designed to contribute to the following outcomes:

(1) Increased technical and scientific knowledge relevant to its designated priority research area. The RERC must contribute to this outcome by conducting high-quality, rigorous research and development projects.

(2) Increased innovation in technologies, products, environments, performance guidelines, and monitoring and assessment tools applicable to its designated priority research area. The RERC must contribute to this outcome through the development and testing of these innovations.

(3) Improved research capacity in its designated priority research area. The RERC must contribute to this outcome by collaborating with the relevant industry, professional associations, institutions of higher education, health care providers, or educators, as appropriate.

(4) Improved awareness and understanding of cutting edge developments in technologies within its designated priority research area. The RERC must contribute to this outcome by identifying and communicating with NIDRR, individuals with disabilities, their representatives, disability organizations, service providers, professional journals, manufacturers, and other interested parties regarding trends and evolving product concepts related to its designated priority research area.

(5) Increased impact of research in the designated priority research area. The RERC must contribute to this outcome by providing technical assistance to relevant public and private organizations, individuals with disabilities, employers, and schools on policies, guidelines, and standards related to its designated priority research area.

(6) Increased transfer of RERC-developed technologies to the marketplace. The RERC must contribute to this outcome by developing and implementing a plan for ensuring that all technologies developed by the RERC are made available to the public. The technology transfer plan must be developed in the first year of the project period in consultation with the NIDRR-funded Disability Rehabilitation Research Project, Center on Knowledge Translation for Technology Transfer.

In addition, under each priority, the RERC must—

- Have the capability to design, build, and test prototype devices and assist in the technology transfer and knowledge translation of successful solutions to relevant production and service delivery settings;
- Evaluate the efficacy and safety of its new products, instrumentation, or assistive devices;
- Provide as part of its proposal, and then implement, a plan that describes how it will include, as appropriate, individuals with disabilities or their representatives in all phases of its activities, including research, development, training, dissemination, and evaluation;
- Provide as part of its proposal, and then implement, in consultation with the NIDRR-funded National Center for the Dissemination of Disability Research, a plan to disseminate its research results to individuals with disabilities, their representatives, disability organizations, service providers, professional journals,

manufacturers, and other interested parties;

• Conduct a state-of-the-science conference on its designated priority research area in the fourth year of the project period, and publish a comprehensive report on the final outcomes of the conference in the fifth year of the project period; and

• Coordinate research projects of mutual interest with relevant NIDRR-funded projects, as identified through consultation with the NIDRR project officer.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priorities: We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these priorities, we invite applications through a notice in the **Federal Register**.

Executive Order 12866: This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed priorities justify the costs.

Discussion of Costs and Benefits

The benefits of the Disability and Rehabilitation Research Projects and Centers Programs have been well established over the years in that similar projects have been completed successfully. These proposed priorities will generate new knowledge through research and development. Another benefit of these proposed priorities is that the establishment of new RERCs will improve the lives of individuals with disabilities. The new RERCs will generate, disseminate, and promote the use of new information that will improve the options for individuals with disabilities to fully participate in their communities.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5075, PCP, Washington, DC 20202–2550. *Telephone:* (202) 245–7363. If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: March 24, 2011.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2011–7355 Filed 3–28–11; 8:45 am]

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DEPARTMENT OF EDUCATION

[CFDA: 84.133B–1]

Proposed Priorities: Interventions To Promote Community Living Among Individuals With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a funding priority for the Disability and Rehabilitation Research Projects and Centers Program administered by NIDRR. Specifically, this notice proposes a priority for an RRTC on Interventions to Promote Community Living Among Individuals with Disabilities. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2011 and later years. We take this action to focus research attention on areas of national need. We intend this priority to improve participation and community living outcomes for individuals with disabilities.

DATES: We must receive your comments on or before April 28, 2011.

ADDRESSES: Address all comments about this notice to Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

If you prefer to send your comments by e-mail, use the following address: *marlene.spencer@ed.gov.* You must include the term "Proposed Priority—RRTC on Promoting Community Living" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer. Telephone: (202) 245–7532 or by e-mail: *marlene.spencer@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.

SUPPLEMENTARY INFORMATION: This notice of proposed priority is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the **Federal Register** on February 15, 2006 (71 FR 8165), can be accessed on the Internet at the following site: *http://www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and

training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

This notice proposes a priority that NIDRR intends to use for RRTC competitions in FY 2011 and possibly later years. However, nothing precludes NIDRR from publishing additional priorities, if needed. Furthermore, NIDRR is under no obligation to make an award for this priority. The decision to make an award will be based on the quality of applications received and available funding.

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priority, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this notice. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in Room 5133, 550 12th Street, SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC, time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act) (29 U.S.C. 701 *et seq.*).

RRTC Program: The purpose of the RRTC program is to improve the effectiveness of services authorized under the Rehabilitation Act, through advanced research, training, technical assistance, and dissemination activities in general problem areas, as specified by NIDRR. Such activities are designed to benefit rehabilitation service providers, individuals with disabilities, and the family members or other authorized representatives of individuals with disabilities. In addition, NIDRR intends to require all RRTC applicants to meet the requirements of the *General Rehabilitation Research and Training Centers (RRTC) Requirements* priority that it published in a notice of final priorities in the **Federal Register** on February 1, 2008 (73 FR 6132). Additional information on the RRTC program can be found at: *http://www.ed.gov/rschstat/research/pubs/res-program.html#RRTC.*

Statutory and Regulatory Requirements of RRTCs

RRTCs must—

- Carry out coordinated advanced programs of rehabilitation research;
- Provide training, including graduate, pre-service, and in-service training, to help rehabilitation personnel more effectively provide rehabilitation services to individuals with disabilities;
- Provide technical assistance to individuals with disabilities, their representatives, providers, and other interested parties;
- Disseminate informational materials to individuals with disabilities, their representatives, providers, and other interested parties; and
- Serve as centers of national excellence in rehabilitation research for individuals with disabilities, their representatives, providers, and other interested parties.

Applicants for RRTC grants must also demonstrate in their applications how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priority

This notice contains one proposed priority.

Rehabilitation Research and Training Center (RRTC) on Interventions To Promote Community Living Among Individuals With Disabilities

Background: Laws and policies protecting the civil rights of individuals with disabilities have helped to promote the inclusion of and participation by individuals with disabilities in the home, community, and workplace. Nonetheless, an individual's functional abilities, demographic characteristics, socioeconomic status, access to personal and other supports, and a variety of environmental barriers appear to interact and result in low levels of community participation among individuals with disabilities (LaPlante and Kaye, 2010; Parish *et al.,* 2009; U.S. Department of Health and Human Services, 2010a; White *et al.*, 2010).

Barriers to independent living and community participation among individuals with disabilities include fragmented service delivery systems, lack of affordable, accessible housing and reliable, accessible transportation, and difficulty obtaining well-qualified personal attendants (National Council on Disability, 2006; Kessler Foundation & National Organization on Disability, 2010). Geographic location also affects the level of community participation experienced by individuals with disabilities. For example, individuals with disabilities living in rural America generally lack accessible public transportation and experience shortages of public health and other providers, thereby limiting their access to community-based programs and services (National Council on Disability, 2007). For individuals with disabilities living in institutional settings, these housing, transportation, health care, and long-term care barriers also limit opportunities to move out of institutions and into the community.

In 2009, the President launched "The Year of Community Living." This initiative recognized that for many individuals with disabilities there are limited choices, options, and opportunities to receive long-term services and supports in the community. Past research supported by NIDRR and others has advanced our understanding of factors that impede community living for individuals with disabilities (D'Souza *et al.,* 2009; White *et al.,* 2010), yielded valid and reliable measures of participation in important life activities (Magasi & Post, 2010), identified the effects of the built and

social environments on community participation (LaPlante & Kaye, 2010; Mojtahedi *et al.,* 2008), and developed potential environmental accommodations for individuals with disabilities (Jaeger & Xie, 2009). Building on the knowledge gained through this research, new knowledge is needed about how barriers to and experience of community participation differ across sociodemographic and geographic groups of individuals within the diverse population of individuals with disabilities. This knowledge can help policymakers and service providers target interventions more effectively.

Rigorous evaluation of interventions is also needed to identify strategies for eliminating barriers to community living. In particular, more testing of policies and programs is needed to create an evidence base for strategies that facilitate (1) participation in a wide range of community activities including but not necessarily limited to civic, cultural, social, and recreational activities, and (2) access to timely services that support continuity of community living (*i.e.,* community living without interruption due to hospitalization or institutionalization) (National Council on Disability, 2006; U.S. Department of Health & Human Services, 2010b).

Through this priority, NIDRR seeks to place particular emphasis on research on the services and supports that will enable individuals with disabilities to successfully transition from institutional settings into the community, where they will have increased options for community participation and can engage in activities of their choice in their home environments. Interventions, policies, or programs that address consumers' needs for a coordinated service delivery system will be especially useful for those at greatest risk of institutionalization (National Council on Disability, 2006). Research partnerships with consumer-operated organizations, such as centers for independent living, may facilitate new findings that can be used to work with those in transition from nursing homes or institutional settings into the community.

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Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Rehabilitation Research and Training Center (RRTC) on Interventions to Promote Community Living Among Individuals with Disabilities. The RRTC must conduct rigorous research, training, technical assistance, and dissemination activities that contribute to improved community participation and community living outcomes for individuals with disabilities, including individuals transitioning into the community from nursing homes and other health and community institutions. Under this priority, the RRTC must contribute to the following outcomes:

(a) Increased knowledge about how the barriers to and experience of community living may differ across sociodemographic and geographic groups within the diverse population of individuals with disabilities. The RRTC must contribute to the outcome by conducting research on the extent to which access to community services and supports and community participation outcomes are related to sociodemographic factors (*e.g.,* race, ethnicity, income level, education level), the geographic area in which the individuals reside (*e.g.,* rural or urban areas), or disability characteristics (*e.g.,* disability severity or type of disabling condition).

(b) Improved services and supports that provide opportunities for the population of individuals with disabilities to participate fully in the community, including the services and supports needed to transition from institutions, nursing homes, and other health and community institutions, to the community and to maintain continuity of community living. The RRTC must contribute to this outcome by identifying or developing and then testing policies, programs, or strategies that improve community living services and supports for individuals with disabilities. In this regard, the RRTC must focus its efforts on at least two of the following areas: housing; transportation; recreational, community, and civic activities. In carrying out this requirement, the RRTC must also take into account the findings from paragraph (a) of this priority. The policies, programs, or strategies to be tested under this paragraph (b) may include strategies that integrate or coordinate services from different areas.

(c) Increased incorporation of research findings into practice or policy. The RRTC must contribute to this outcome by coordinating with appropriate NIDRR-funded knowledge translation grantees to advance or add to their work by—

(1) Conducting systematic reviews and developing research syntheses consistent with standards, guidelines, and procedures established by the knowledge translation grantees;

(2) Using knowledge translation strategies identified as promising by the

knowledge translation grantees to increase the use of research findings;

(3) Collaborating with centers for independent living and other stakeholder groups to develop, implement, or evaluate strategies to increase utilization of the research findings; and

(4) Conducting training and dissemination activities to facilitate the utilization of the research findings by community-based organizations and other service providers, policymakers, and individuals with disabilities.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority: We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register.**

Executive Order 12866: This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed priority justify the costs.

Discussion of Costs and Benefits

The benefits of the Disability and Rehabilitation Research Projects and Centers Programs have been well established over the years in that similar projects have been completed successfully. This proposed priority will generate new knowledge through research and development.

Another benefit of this proposed priority is that the establishment of a new RRTC will improve the lives of individuals with disabilities. The new RRTC will generate, disseminate and promote the use of new information that will improve the options for individuals with disabilities to live in and participate in their communities.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: March 24, 2011.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2011–7357 Filed 3–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA: 84.133A–09]

Proposed Priorities: Disability in the Family

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for the Disability and Rehabilitation Research Projects and Centers Program administered by NIDRR. Specifically, this notice proposes a DRRP on Disability in the Family. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2011 and later years. We take this action to focus research attention on areas of national need. We intend this priority to contribute to increased participation and community living within the context of family life for individuals with disabilities and their families.

DATES: We must receive your comments on or before April 28, 2011.

ADDRESSES: Address all comments about this notice to Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

If you prefer to send your comments by e-mail, use the following address: *Marlene.Spencer@ed.gov.* You must include the phrase "Proposed Priority for Disability in the Family" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer.

Telephone: (202) 245–7532 or by *e-mail: Marlene.Spencer@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.

SUPPLEMENTARY INFORMATION: This notice of proposed priority is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the **Federal Register** on February 15, 2006 (71 FR 8165), can be accessed on the Internet at the following site: *http://www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine

best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

This notice proposes a priority that NIDRR intends to use for DRRP competitions in FY 2011 and possibly later years. However, nothing precludes NIDRR from publishing additional priorities, if needed. Furthermore, NIDRR is under no obligation to make an award for this priority. The decision to make an award will be based on the quality of applications received and available funding.

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priority, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 5133, 550 12th Street, SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is (1) to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and (2) to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

An applicant for assistance under this program must demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds (34 CFR 350.40(a)). The approaches an applicant may take to meet this requirement are found in 34 CFR 350.40(b). In addition, NIDRR intends to require all DRRP applicants to meet the requirements of the *General Disability and Rehabilitation Research Projects (DRRP) Requirements* priority that it published in a notice of final priorities in the **Federal Register** on April 28, 2006 (71 FR 25472).

Additional information on the DRRP program can be found at: *http://www.ed.gov/rschstat/research/pubs/res-program.html#DRRP.*

Program Authority: 29 U.S.C. 762(g) and 764(a).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priority: This notice contains one proposed priority.

DRRP on Disability in the Family.

Background

In the United States, approximately 20.9 million American families have at least one member with a disability. Non-Hispanic White families and Asian families have the lowest incidence of disability, while Black families and American Indian and Alaska Native families have a much higher incidence of disability among family members. Families with at least one member with a disability are more likely to have lower median incomes, higher poverty rates, and a higher dependency on Social Security benefits and public assistance (U.S. Census, 2005).

Individuals with disabilities often face barriers that make it difficult to fulfill family roles. Additionally, families with at least one member with a disability face a wide range of barriers to community living and community participation. Examples of these barriers include, but are not limited to: Inaccessible homes and building designs that make it difficult for a person with a disability to live with his or her family, or to participate with his or her family in community activities (National Council on Disability, 2010; Crews & Zvotka, 2006); laws, policies, and procedures that separate families, such as statutes that use disability status as grounds for terminating parental rights (Lightfoot, Hill, & LaLiberte, 2010); economic burdens associated with care-giving (*e.g.,* reduced wages and limited career options due to factors such as the need for time off work to care for family members with disabilities) (Anderson, Dumont, Jacobs, & Azzaria, 2007); health care information and treatments that are not designed to address the culture and language barriers faced by families from diverse cultures and backgrounds (Baker, Miller, Dang, Yaangh, & Hansen, 2010); and a lack of effective and coordinated family supports (*e.g.,* health care service and financing) across the lifespan of the family member with a disability (Lamar-Dukes, 2009; Reichman, Corman, and Noonan, 2008; Jokinen and Brown, 2005).

NIDRR has funded a wide spectrum of cross-disability research and development activities related to families and individuals with disabilities. NIDRR grantees have addressed family topics including, but not limited to: parenting with a disability, caring for children with disabilities who have chronic health care conditions, child custody, family care-giving, family-based and peer support networks, and technologies that address the family-related needs of individuals with disabilities.

NIDRR grantees also have produced information about the capabilities of parents with disabilities, information about how policies affect families that have members with disabilities, and technologies to assist parents with disabilities in caring for their children. This work has laid a foundation on which to base the identification, development, testing, and evaluation of interventions, programs, technologies, and products that facilitate participation and community living for individuals with disabilities and their families.

References

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U.S. Census Bureau. (2005). Disability and American families: 2000. [On-line]. *Available: http://www.census.gov/prod/2005pubs/censr-23.pdf.*

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Disability and Rehabilitation Research Project (DRRP) on Disability in the Family. The DRRP must contribute to the outcome of increased participation and community living for individuals with disabilities and their families.

To contribute to this outcome, the DRRP must:

1. Conduct research activities, development activities, or both;

2. Identify or develop, and test or evaluate interventions, programs, technologies, or products;

3. Conduct knowledge translation activities (*i.e.,* training, technical assistance, utilization, dissemination) in order to facilitate stakeholder (*e.g.,* people with disabilities, families that have at least one member with a disability) use of the interventions, programs, technologies, or products that resulted from the research activities, development activities, or both;

4. Involve key stakeholder groups in the activities described in paragraphs 1 through 3 in order to maximize the relevance and usability of the interventions, programs, technologies, or products to be developed or studied; and

5. Include families who are from traditionally underserved populations and who have at least one member with a disability as participants when conducting the activities described in paragraphs 1 through 3.

To contribute to this outcome, the DRRP may:

1. Focus its activities at the individual level, the family level, the systems level, or any combination of the three levels;

2. Include in its activities families with a person with a disability of any age and any disability;

3. Interpret the term "family" broadly; and

4. Choose from a wide range of research and development topics and approaches within any of the domains in NIDRR's currently approved Long Range Plan (*i.e.,* participation and community living, technology for access and function, health and function, employment) in order to contribute to the outcome goal of increased participation and community living for individuals with disabilities and their families.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register.**

Executive Order 12866: This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed priority justify the costs.

Discussion of Costs and Benefits

The benefits of the Disability and Rehabilitation Research Projects and Centers Programs have been well established over the years in that similar projects have been completed successfully. This proposed priority will generate and promote new knowledge through research, development, and knowledge translation activities. Another benefit of this proposed priority is that the establishment of a new DRRP will improve the lives of individuals with disabilities and their family members. The new DRRP will generate and promote the use of new information that will improve the options for individuals with disabilities with regard to community living and community participation.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202–2550. *Telephone:* (202) 245–7363. If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document

Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: March 24, 2011.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2011–7359 Filed 3–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Postponement of Public Hearing on the Draft Environmental Impact Statement for the Mountaineer Commercial Scale Carbon Capture and Storage Project, Mason County, WV

AGENCY: U.S. Department of Energy.

ACTION: Postponement of public hearing.

NOTICE: The U.S. Department of Energy (DOE) announced the availability of the *Draft Environmental Impact Statement for the Mountaineer Commercial Scale Carbon Capture and Storage Project* (DOE/EIS–0445D) for public review and comment in a **Federal Register** notice on Friday, March 11, 2011. The notice also provided the location and time for a public hearing for the Draft Environmental Impact Statement, scheduled for Wednesday, March 30, 2011. The purpose of this notice is to inform interested parties that DOE has decided to postpone the public hearing; DOE will issue another notice announcing the new date and time for this meeting.

Issued in Washington, DC on March 23, 2011.

Mark J. Matarrese,

Director, Office of Environment, Security, Safety & Health, Office of Fossil Energy.

[FR Doc. 2011–7332 Filed 3–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of Nonproliferation and International Security, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This notice is being issued under the authority of section 131a. of the Atomic Energy Act of 1954, as amended. The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the European Atomic Energy Community (EURATOM) and the United States of America and the Agreement for Cooperation between the Government of the United States of America and the Government of Norway Concerning Peaceful Uses of Nuclear Energy.

DATES: This subsequent arrangement will take effect no sooner than April 13, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Sean Oehlbert, Office of Nonproliferation and International Security, National Nuclear Security Administration, Department of Energy. Telephone: 202–586–3806 or e-mail: *Sean.Oehlbert@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION: This subsequent arrangement concerns a request for a three-year extension (April 2011 to April 2014) of the current programmatic approval for retransfer of U.S.-obligated irradiated fuel rods between Studsvik Nuclear AB, Sweden, and Institutt for Energiteknikk, Norway. The rods are being transferred for irradiation service, tests and examinations, and will be returned to Sweden for further test and final disposal. The total shipping amounts will be the same as allowed under the current approval—a maximum of 30,000 grams uranium, 400 grams U–235 and 400 grams plutonium in all shipments, combined, with a maximum of 100 grams of plutonium per shipment.

The original programmatic consent was approved in June 2006 and published in the **Federal Register** June 13, 2006, (71 FR 34080). A one-year extension was approved in January 2007 and published in the **Federal Register** January 23, 2007, (72 FR 2876). A three-year extension was approved in March 2008 and published in the **Federal Register** March 5, 2008, (73 FR 11894). The current extension is set to expire April 2011. If approved, the third extension, for three years, will extend to April 2014. Additional transactions are scheduled to occur between April 2011 and April 2014 and will be subject to the U.S.-EURATOM Agreement for Cooperation in the Peaceful Uses of Nuclear Energy.

In accordance with section 131a. of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

Dated: March 8, 2011.

For the Department of Energy.

Anne M. Harrington,

Deputy Administrator, Defense Nuclear Nonproliferation.

[FR Doc. 2011–7326 Filed 3–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of Nonproliferation and International Security, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This notice is being issued under the authority of section 131a. of the Atomic Energy Act of 1954, as amended. The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation Concerning Civil Uses of Nuclear Energy Between the Government of the United States of America and the Government of Canada and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community.

DATES: This subsequent arrangement will take effect no sooner than April 13, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Sean Oehlbert, Office of Nonproliferation and International Security, National Nuclear Security Administration, Department of Energy. Telephone: 202–586–3806 or e-mail: *Sean.Oehlbert@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION: This subsequent arrangement concerns the retransfer of 44,379 kg of U.S.-origin natural uranium hexafluoride (UF6) (67.60% U), 30,000 kg of which is uranium, from Cameco Corporation (Cameco) in Port Hope, Ontario, Canada, to URENCO in Capenhurst, Chester, United Kingdom. The material, UF6 produced from U.S.-origin concentrates, which is currently located at Cameco, will be transferred to URENCO-Capenhurst for toll-enrichment and ultimate end use in the United States by STP Nuclear Operating Co. The material was originally obtained by Cameco from Crowe Butte Resources, Inc. pursuant to export license XSOU8798.

In accordance with section 131a. of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement concerning

the retransfer of nuclear material of United States origin will not be inimical to the common defense and security.

Dated: March 8, 2011.

For the Department of Energy.

Anne M. Harrington,

Deputy Administrator, Defense Nuclear Nonproliferation.

[FR Doc. 2011–7330 Filed 3–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of Nonproliferation and International Security, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This notice is being issued under the authority of section 131a. of the Atomic Energy Act of 1954, as amended. The Department is providing notice of a proposed subsequent arrangement under Article X paragraph 3 of the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Atomic Energy and the Agreement for Cooperation Between the United States of America and the Argentine Republic Concerning Peaceful Uses of Nuclear Energy.

DATES: This subsequent arrangement will take effect no sooner than April 13, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Sean Oehlbert, Office of Nonproliferation and International Security, National Nuclear Security Administration, Department of Energy. Telephone: 202–586–3806 or e-mail: *Sean.Oehlbert@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION: This subsequent arrangement concerns the retransfer of 9.2 kilograms of U.S.-origin atomized depleted uranium-8wt. % molybdenum powder, 0.3 percent enrichment, from Korea Atomic Energy Research Institute (KAERI) in Daejeon, South Korea to Comisión Nacional de Energía Atómica (CNEA) in Buenos Aires, Argentina. The material, which is currently located at and prepared by KAERI, will be used for qualification testing of plate-type nuclear fuel as part of a Reduced Enrichment for Research and Test Reactors (RERTR) program by CNEA. The material was originally obtained by KAERI from Italy under contract number L615/0773.

In accordance with section 131a. of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement concerning the retransfer of nuclear material of United States origin will not be inimical to the common defense and security.

Dated: March 8, 2011.

For the Department of Energy.

Anne M. Harrington,

Deputy Administrator, Defense Nuclear Nonproliferation.

[FR Doc. 2011–7329 Filed 3–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of Nonproliferation and International Security, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This notice is being issued under the authority of section 131a. of the Atomic Energy Act of 1954, as amended. The Department is providing notice of a proposed subsequent arrangement under Article X paragraph 3 of the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Atomic Energy and the Agreement for Cooperation Between the United States of America and the Argentine Republic Concerning Peaceful Uses of Nuclear Energy.

DATES: This subsequent arrangement will take effect no sooner than April 13, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Sean Oehlbert, Office of Nonproliferation and International Security, National Nuclear Security Administration, Department of Energy. Telephone: 202–586–3806 or e-mail: *Sean.Oehlbert@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION: This subsequent arrangement concerns the retransfer of 9.2 kilograms of U.S.-origin atomized low-enriched uranium-8wt. % molybdenum powder, 19.734 percent enrichment, from Korea Atomic Energy Research Institute (KAERI) in Daejeon, South Korea to Comisión Nacional de Energía Atómica (CNEA) in Buenos Aires, Argentina. The material, which is currently located at and prepared by KAERI, will be used for qualification testing of plate-type nuclear fuel as part of a Reduced Enrichment for Research and Test Reactors (RERTR) program by CNEA. The material was originally obtained by KAERI from U.S. Department of Energy's National Nuclear Security Administration Y–12 National Security Complex pursuant to export license XSNM3613.

In accordance with section 131a. of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement concerning the retransfer of nuclear material of United States origin will not be inimical to the common defense and security.

Dated: March 8, 2011.

For the Department of Energy.

Anne M. Harrington,

Deputy Administrator, Defense Nuclear Nonproliferation.

[FR Doc. 2011–7327 Filed 3–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3149–000

Applicants: California Independent System Operator Corporation

Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii: 2011–03–18 CAISO Tariff Filing to be effective 3/19/2011.

Filed Date: 03/21/2011

Accession Number: 20110321–5001

Comment Date: 5 p.m. Eastern Time on Monday, April 4, 2011.

Docket Numbers: ER11–3153–000

Applicants: Carolina Power & Light Company

Description: Carolina Power & Light Company submits tariff filing per 35.13(a)(2)(iii: Rate Schedule No. 182 of Carolina Power and Light Company to be effective 2/15/2011.

Filed Date: 03/21/2011

Accession Number: 20110321–5066

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011.

Docket Numbers: ER11–3154–000

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: Revision to Attachment V, Appendix 6—Generation Interconnection Agreement to be effective 5/21/2011.

Filed Date: 03/21/2011

Accession Number: 20110321–5093

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011.

Docket Numbers: ER11–3155–000

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Queue No. U1–066 Original Service Agreement No. 2792 to be effective 2/17/2011.

Filed Date: 03/21/2011

Accession Number: 20110321–5096

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011.

Docket Numbers: ER11–3156–000

Applicants: Entergy Arkansas, Inc.

Description: Entergy Arkansas, Inc. 2011 Wholesale Rate Update for AECC.

Filed Date: 03/21/2011

Accession Number: 20110321–5116

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011.

Docket Numbers: ER11–3157–000

Applicants: Entergy Arkansas, Inc.

Description: Entergy Arkansas, Inc. 2011 Wholesale Rate Update—Arkansas Cities.

Filed Date: 03/21/2011

Accession Number: 20110321–5117

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011.

Docket Numbers: ER11–3158–000

Applicants: Louisville Gas and Electric Company

Description: Louisville Gas and Electric Company submits tariff filing per 35: OA08_27_003 OATT Att K Compliance Filing to be effective 6/22/2010.

Filed Date: 03/21/2011

Accession Number: 20110321–5133

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011.

Docket Numbers: ER11–3159–000

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 2177 Rocky Ridge Wind Project, LLC to be effective 2/18/2011.

Filed Date: 03/21/2011

Accession Number: 20110321–5134

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR11–1–000

Applicants: Nebraska Public Power District

Description: Petition of the Nebraska Public Power District For Review of NERC BOT's Denial of Transfer Request.

Filed Date: 03/18/2011

Accession Number: 20110318–5145

Comment Date: 5 p.m. Eastern Time on Monday, April 18, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–7287 Filed 3–28–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1782–001.

Applicants: Tampa Electric Company.

Description: Annual Compliance Report Regarding Operational Penalties of Tampa Electric Company.

Filed Date: 03/18/2011.

Accession Number: 20110318–5072.

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Docket Numbers: ER10–2391–001.

Applicants: Vermont Yankee Nuclear Power Corporation.

Description: Amendment to Triennial Market Power Analysis Filing in Compliance with Order No. 697 of Vermont Yankee Nuclear Power Corporation.

Filed Date: 03/18/2011.

Accession Number: 20110318–5033.

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Docket Numbers: ER11–2897–001.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.17(b): Errata to Docket No ER11–2897–000 Serv Agmt No. 2301 to correct technical issues to be effective 9/17/2010.

Filed Date: 03/18/2011.

Accession Number: 20110318–5041.

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Docket Numbers: ER11–3139–000.

Applicants: Bangor Hydro Electric Company, ISO New England Inc.

Description: Bangor Hydro Electric Company submits tariff filing per 35.13(a)(2)(iii: Schedule 21—BHE Filing to be effective 6/1/2011.

Filed Date: 03/18/2011.

Accession Number: 20110318–5001.

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Docket Numbers: ER11–3141–000.

Applicants: Viridian Energy NY LLC.

Description: Viridian Energy NY LLC submits tariff filing per 35.12: Viridian

Energy NY LLC Market Based Rate Tariff to be effective 3/18/2011.

Filed Date: 03/18/2011.

Accession Number: 20110318–5018.

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Docket Numbers: ER11–3142–000.

Applicants: New England Wire Technologies, Corp.

Description: New England Wire Technologies, Corp. submits tariff filing per 35.1: NEWT FERC Electric Baseline Tariff to be effective 3/18/2011.

Filed Date: 03/18/2011.

Accession Number: 20110318–5044.

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Docket Numbers: ER11–3143–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: SGIA WDT SERV AG PHOTON SOLAR DOMINGUEZ PV 1 PROJECT to be effective 5/18/2011.

Filed Date: 03/18/2011.

Accession Number: 20110318–5057.

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Docket Numbers: ER11–3144–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: SGIA WDT SERV AG PHOTON SOLAR MID COUNTIES PV 5 PROJECT to be effective 5/18/2011.

Filed Date: 03/18/2011.

Accession Number: 20110318–5058.

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Docket Numbers: ER11–3145–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: SGIA WDT SERV AG PHOTON SOLAR INDUSTRY PV 1 PROJECT to be effective 5/18/2011.

Filed Date: 03/18/2011.

Accession Number: 20110318–5059.

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Docket Numbers: ER11–3146–000.

Applicants: Southern California Edison Company

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: SGIA WDT SERV AG PHOTON SOLAR INDUSTRIAL PV 1 PROJECT to be effective 5/18/2011.

Filed Date: 03/18/2011.

Accession Number: 20110318–5062.

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Docket Numbers: ER11–3147–000.

Applicants: Midwest Independent Transmission System.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: J143 GIA Filing to be effective 3/19/2011.

Filed Date: 03/18/2011.

Accession Number: 20110318–5065.

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Docket Numbers: ER11–3148–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: WMPA–First Rev. Serv. Agmt. No. 2789 between CleanLight Energy and PSEG (W3–129) to be effective 3/17/2011.

Filed Date: 03/18/2011.

Accession Number: 20110318–5067

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM11–2–000.

Applicants: Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company.

Description: PURPA 210(m) Application of Pacific Gas and Electric Company, et al.

Filed Date: 03/18/2011.

Accession Number: 20110318–5090.

Comment Date: 5 p.m. Eastern Time on Friday, April 15, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–7288 Filed 3–28–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC11–53–000

Applicants: Caisse de depot et placement du Quebec T, Enbridge Inc.,

IPL System Inc., Laurentides Investissements S.A.S.

Description: Laurentides Investissements S.A.S *et al.* submits application for authorization to transfer its indirect 12.47% ownership interest in Green Mountain Power Corporation *etc.*

Filed Date: 03/21/2011

Accession Number: 20110321–0204

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1638–001

Applicants: Public Service Electric and Gas Company

Description: Public Service Electric and Gas Company submits tariff filing per 35: Compliance Filing pursuant to February 25, 2011 Order to be effective 3/21/2011.

Filed Date: 03/21/2011

Accession Number: 20110321–5114

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER10–1660–001

Applicants: PSEG Fossil LLC

Description: PSEG Fossil LLC submits tariff filing per 35: Compliance Filing pursuant to February 25, 2011 Order. To be effective 3/21/2011.

Filed Date: 03/21/2011

Accession Number: 20110321–5115

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER10–2869–001

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35: Compliance to Module B, Cross Border Out to be effective 11/22/2010.

Filed Date: 03/21/2011

Accession Number: 20110321–5119

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER11–2365–001

Applicants: Paradise Solar Urban Renewal, L.L.C.

Description: Paradise Solar Urban Renewal, L.L.C. submits tariff filing per 35.17(b): Paradise Solar Revisions to Limitations and Exemptions Tariff Language to be effective 12/15/2010.

Filed Date: 02/08/2011

Accession Number: 20110208–5165

Comment Date: 5 p.m. Eastern Time on Friday, April 01, 2011

Docket Numbers: ER11–2826–001

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.17(b): ATC Oconto D–T Amendment to be effective 1/6/2011.

Filed Date: 03/21/2011

Accession Number: 20110321–5031

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER11–3039–001

Applicants: Calvert Cliffs Nuclear Power Plant, LLC

Description: Calvert Cliffs Nuclear Power Plant, LLC submits tariff filing per 35: Compliance Triennial Filing to be effective 8/10/2010.

Filed Date: 03/21/2011

Accession Number: 20110321–5076

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER11–3040–001

Applicants: Constellation Energy Commodities Group Maine, LLC

Description: Constellation Energy Commodities Group Maine, LLC submits tariff filing per 35: Compliance Triennial Filing to be effective 8/10/2010.

Filed Date: 03/21/2011

Accession Number: 20110321–5097

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER11–3041–001

Applicants: Constellation Power Source Generation, Inc.

Description: Constellation Power Source Generation, Inc. submits tariff filing per 35: Compliance Triennial Filing to be effective 8/10/2010.

Filed Date: 03/21/2011

Accession Number: 20110321–5099

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER11–3042–001

Applicants: Criterion Power Partners, LLC

Description: Criterion Power Partners, LLC submits tariff filing per 35: Compliance Triennial Filing to be effective 9/30/2010.

Filed Date: 03/21/2011

Accession Number: 20110321–5077

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER11–3043–001

Applicants: R.E. Ginna Nuclear Power Plant, LLC

Description: R.E. Ginna Nuclear Power Plant, LLC submits tariff filing per 35: Compliance Triennial Filing to be effective 8/10/2010.

Filed Date: 03/21/2011

Accession Number: 20110321–5098

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER11–3044–001

Applicants: Handsome Lake Energy, LLC

Description: Handsome Lake Energy, LLC submits tariff filing per 35: Compliance Triennial Filing to be effective 8/10/2010.

Filed Date: 03/21/2011

Accession Number: 20110321–5078

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER11–3045–001

Applicants: Constellation Mystic Power, LLC

Description: Constellation Mystic Power, LLC submits tariff filing per 35: Compliance Triennial Filing to be effective 11/9/2010.

Filed Date: 03/21/2011

Accession Number: 20110321–5079

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER11–3046–001

Applicants: Nine Mile Point Nuclear Station, LLC

Description: Nine Mile Point Nuclear Station, LLC submits tariff filing per 35: Compliance Triennial Filing to be effective 8/10/2010.

Filed Date: 03/21/2011

Accession Number: 20110321–5080

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER11–3150–000

Applicants: Aquilon Power Ltd.

Description: Aquilon Power Ltd submits notification of change in status.

Filed Date: 03/18/2011

Accession Number: 20110321–0203

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011

Docket Numbers: ER11–3151–000

Applicants: Silverhill Investments Corp.

Description: Silverhill Investments Corp submits change in status notification.

Filed Date: 03/18/2011

Accession Number: 20110321–0202

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011

Docket Numbers: ER11–3152–000

Applicants: Silverhill Ltd.

Description: Silverhill Ltd submits change of status notification.

Filed Date: 03/18/2011

Accession Number: 20110321–0201

Comment Date: 5 p.m. Eastern Time on Friday, April 08, 2011

Docket Numbers: ER11–3160–000

Applicants: Ameren Energy Marketing Company

Description: Ameren Energy Marketing Company submits tariff filing per 35.13(a)(2)(iii): MBR Amendment 1 to be effective 5/1/2011.

Filed Date: 03/21/2011

Accession Number: 20110321–5136

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Docket Numbers: ER11–3161–000

Applicants: NorthWestern Corporation

Description: NorthWestern Corporation submits tariff filing per

35.13(a)(2)(iii): Service Agreements—LGIAs with Martinsdale to be effective 9/10/2009.

Filed Date: 03/21/2011

Accession Number: 20110321–5142

Comment Date: 5 p.m. Eastern Time on Monday, April 11, 2011

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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Dated: March 22, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–7286 Filed 3–28–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR11–5–000]

Enbridge Energy, Limited Partnership; Notice of Filing of Supplement to Facilities Surcharge Settlement

Take notice that on February 28, 2011, Enbridge Energy, Limited Partnership (Enbridge Energy) with the support of the Canadian Association of Petroleum Producers (CAPP), tendered for filing a Supplement to the Facilities Surcharge Settlement approved by the Commission on June 30, 2004, in Docket No. OR04–2–000, at 107 FERC ¶ 61,336 (2004).

Any person desiring to comment on this Supplement to the Settlement should file its intervention or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Initial comments must be filed no later than 5 p.m. Eastern time on Friday, March 25, 2011. Reply comments will be due on or before 5 p.m. Eastern time on Thursday, March 31, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–7281 Filed 3–28–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

	Project Nos.
Free Flow Power Corporation.	P–13441–001 P–13456–001 P–13455–001

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. Project Nos. 13441–001, 13456–001, and 13455–001.

c. *Dated Filed:* January 10, 2011.

d. Submitted By: Free Flow Power Corporation (Free Flow Power).

e. *Name of Projects:* Mississippi Lock & Dam No. 16 Project, P–13441–001; Mississippi Lock and Dam Project No. 17 Project, P–13456–001; and Mississippi Lock and Dam Project No. 18 Project, P–13455–001.

f. *Location:* At existing locks and dams owned and operated by the U.S. Army Corps of Engineers on the Mississippi River in Iowa and Illinois. (*See* table below for specific project locations).

Project No.	Projects	County(s)/State(s)	Township(s) name
P–13441	Mississippi Lock and Dam No. 16	Rock Island, IL	Drury, IL.
		Muscatine, IA	Sweetland, IA.
P–13456	Mississippi Lock and Dam No. 17	Mercer, IL	New Boston, IL.
		Louisa, IA	Jefferson, IA.
P–13455	Mississippi Lock and Dam No. 18	Henderson, IL	Gladstone, IL.
		Des Moines, IA	Oquawkaq, IL.
			Burlington, IA.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 808(b)(1) and 18 CFR 5.5 of the Commission's regulations.

h. *Potential Applicant Contact:* Ramya Swaminathan, Chief Operating Officer, Free Flow Power, 239 Causeway Street, Boston, MA 02114–2130; or at (978) 283–2822.

i. *FERC Contact:* Lesley Kordella at (202) 502–6406; or e-mail at *Lesley.Kordella@ferc.gov.*

j. On January 10, 2011, Free Flow Power filed its request to use the Traditional Licensing Process and provided public notice of its request. In a letter dated March 11, 2011, the Director, Division of Hydropower Licensing, approved the request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Illinois and Iowa State Historic Preservation Officers, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Free Flow Power as the Commission's non-Federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act, section 305 of the Magnuson-Stevens Fishery Conservation and Management Act, and section 106 of the National Historic Preservation Act.

m. Free Flow Power filed a Pre-Application Document (PAD), including a proposed process plan and schedule with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: March 23, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–7352 Filed 3–28–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

	Project Nos.
Free Flow Power Corporation	P–13334–001 P–13335–001 P–13336–001 P–13337–001

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. Project Nos. 13334–001, 13335–001, 13336–001, and 13337–001.

c. *Dated Filed:* January 10, 2011.

d. *Submitted By:* Free Flow Power Corporation (Free Flow Power), on behalf of its subsidiaries FFP Project 31, LLC *et al.*

e. *Name of Projects:* Mississippi Lock & Dam No. 3 Project, P–13334–001; Mississippi Lock & Dam No. 4 Project, P–13335–001; Mississippi Lock & Dam No. 6 Project, P–13336–001; and Mississippi Lock & Dam No. 7 Project, P–13337–001.

f. *Location:* At existing locks and dams owned and operated by the U.S. Army Corps of Engineers on the Upper Mississippi River in Minnesota, Iowa, and Wisconsin. (*See* table below for specific project locations.)

Project No.	Projects	County(s)/state(s)	City/town
P–13334	Mississippi Lock and Dam No. 3	Pierce, WI, Goodhue, MN	6 miles north of Red Wing, MN.
P–13335	Mississippi Lock and Dam No. 4	Buffalo, WI, Wabasha, MN	Near the city of Alma, WI.
P–13336	Mississippi Lock and Dam No. 6	Trempealeau, WI, Winona, MN	Southern shore of Trempealeau, WI.
P–13337	Mississippi Lock and Dam No. 7	LaCrosse, WI, Winona, MN, Houston, MN.	2.75 miles north of La Crescent, MN.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 808(b)(1) and 18 CFR 5.5 of the Commission's regulations.

h. *Potential Applicant Contact:* Ramya Swaminathan, Chief Operating Officer, Free Flow Power, 239 Causeway Street, Boston, MA 02114–2130; or at (978) 283–2822.

i. *FERC Contact:* Aaron Liberty at (202) 502–6862; or e-mail at *aaron.liberty@ferc.gov.*

j. On January 10, 2011, Free Flow Power filed its request to use the Traditional Licensing Process and provided public notice of its request. In a letter dated March 11, 2011, the Director, Division of Hydropower Licensing, approved the request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Minnesota, Wisconsin, and Iowa State Historic Preservation Officers, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Free Flow Power as the Commission's non-Federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act, section 305 of the Magnuson-Stevens Fishery Conservation and Management Act, and section 106 of the National Historic Preservation Act.

m. Free Flow Power filed a Pre-Application Document (PAD), including a proposed process plan and schedule with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: March 23, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–7351 Filed 3–28–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14105–000]

Kahawai Power 4, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On March 1, 2011, Kahawai Power 4, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Kekaha Waimea Water Power Project, which would utilize water flows from the existing Kekaha Ditch Irrigation System near the town of Waimea, Kauai County, Hawaii. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 30-foot by 8-foot intake structure on the existing Kekaha ditch; (2) a 2,180-foot-long, 36-inch-diameter steel penstock (sections to be buried); (3) a 40-foot-long by 55-foot-wide powerhouse containing a single 1.5-megawatt turbine generator with a maximum hydraulic capacity of 50 cubic-feet-per-second, and an adjacent substation; (4) a 35-foot-long, 10-foot-wide tailrace channel that discharges project flows to the Waimea River; (5) a new 610-foot-long, gravel road to access the powerhouse location; (6) a 2-mile-long, 69-kilovolt transmission line interconnecting the project's substation to the existing Kaumakani substation; and (7) appurtenant facilities. The estimated annual generation of the Kekaha Waimea Water Power Project would be 8.7 gigawatt-hours.

Applicant Contact: Mr. Daniel R. Irvin, Free Flow Power Corporation, 239 Causeway Street, Boston, Massachusetts 02114; Phone: (978) 252–7631; e-mail: *dirvin@free-flow-power.com.*

FERC Contact: Kenneth Hogan; phone: (202) 502–6211; e-mail: *Kenneth.hogan@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at: *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14105) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 23, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–7350 Filed 3–28–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM09–2–001]

Contract Reporting Requirements of Intrastate Natural Gas Companies; Notice of Technical Workshop on Form No. 549D

On March 9, 2011, the Office of Management & Budget (OMB) approved Form No. 549D.[1] Take notice that on April 12, 2011, a technical workshop will be convened to acquaint and assist filers in using the fillable Form No. 549D PDF and XML to file data[2] pursuant to Order Nos. 735 and 735–A.[3]

[1] Form No. 549D was assigned OMB #: 1902–0253. The OMB clearance expires on 03/31/2014.

[2] Unless changed by the Commission, the first reporting deadline is June 1, 2011, covering transactions in the first quarter of calendar year 2011.

[3] *Contract Reporting Requirements of Intrastate Natural Gas Companies,* Order No. 735, 75 FR

Continued

The technical workshop will be held in the Commission Meeting Room at the headquarters of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC from 9 a.m. to 2 p.m. (ET). The workshop will be open to the public. Although there is no registration to attend, staff is requesting some information from potential attendees to help prepare for the workshop.

The workshop will focus only on technical issues related to completing and filing the Form No. 549D, "Quarterly Transportation and Storage Report for Intrastate Natural Gas and Hinshaw Pipelines" using either a fillable Form PDF (*http://www.ferc.gov/docs-filing/forms/form-549d/form-549d.pdf*) or XML (*http://www.ferc.gov/docs-filing/forms/form-549d/form-549d-schema.xsd*) file. *This workshop is not intended to lead to any type of further order in the proceeding.* In addition, the workshop will not address any aspect of the Notice of Inquiry under Docket No. RM11–4–000. Any future clarifications regarding the use of the fillable Form, XML, and further instructions that result from discussions at the workshop will be communicated via the FERC Web site at *http://www.ferc.gov/docs-filing/forms.asp#549d.*

Attendees and their staff who will use the fillable Form No. 549D PDF or XML are requested to download and familiarize themselves with the following:

(1) Blank fillable Form 549D, at *http://www.ferc.gov/docs-filing/forms/form-549d/form-549d.pdf*

(2) Data dictionary and instructions in the Appendix of Order 735–A

(3) XML Schema (Form549D_XSD.xsd file),[4] at *http://www.ferc.gov/docs-filing/forms/form-549d/form-549d-schema.xsd*

(4) eFiling Procedures *that pertain to the fillable Form and XML files.*

Examples of a completed fillable Form 549D and XML file will also be posted on the FERC Web site at a later date.

Commission staff is requesting that potential filers send an e-mail to *form549D@ferc.gov* by March 31, 2011, informing the Commission staff of their preferences for using either the PDF or XML version of Form No. 549D as a method to eFile quarterly data and whether they intend on attending the workshop. This information will assist Staff in preparing for the Technical Workshop, but will not bind filers to a specific filing method in the future.

An agenda for the workshop will be issued in a later notice. This technical workshop will *not* be webcast and will *not* be transcribed. Those that are unable to attend in person may send questions at any time to *form549d@ferc.gov.* Because of *ex parte* concerns and pursuant to 18 CFR 3c.2 (2010), questions are subject to the same procedures and restrictions for all informal communications between regulated entities and Commission Staff.

Commission workshops and meetings are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 866–208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

For additional information, please contact James Sarikas at 202–502–6831 or *James.Sarikas@ferc.gov* of FERC's Office of Energy Market Regulation and Thomas Russo at 202–502–8792 or *Thomas.Russo@ferc.gov* of FERC's Office of Enforcement.

Dated: March 22, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–7280 Filed 3–28–11; 8:45 am]

BILLING CODE 6717–01–P

29,404, 131 FERC ¶ 61,150 (2010), *order on reh'g,* Order No. 735–A, 75 FR 80,685, 133 FERC ¶ 61,216 (2010).

[4] Users may view this file in Microsoft Excel.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2011–0280, FRL–9287–5]

Agency Information Collection Activities; Proposed Collection; Comment Request; 2011 Hazardous Waste Report, Notification of Regulated Waste Activity, and Part A Hazardous Waste Permit Application and Modification

AGENCY: Environmental Protection Agency.

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 November 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 May 31, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2011–0280, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: rcra-docket@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* RCRA Docket (28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* 1301 Constitution Ave., NW., Room 3334, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–RCRA–2011–0280. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Peggy Vyas, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone

number: 703–308–5477; fax number: 703–308–8433; e-mail address: *vyas.peggy@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–RCRA–2011–0280, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the RCRA 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 RCRA Docket is (202) 566–0270.

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.

In addition, EPA is requesting comments on some proposed changes to the Hazardous Waste Report form and instructions designed to clarify long-standing points of confusion. Some of these changes are scheduled for the 2011 booklet, some for the 2013 booklet. The proposed changes can be found in a draft Hazardous Waste Report From and Instructions booklet in the docket for this notice.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Affected entities: Entities potentially affected by this action are business or other for-profit as well as State, Local, or Tribal governments.

Title: Hazardous Waste Report, Notification of Regulated Waste Activity, and Part A Hazardous Waste Permit Application and Modification.

ICR numbers: EPA ICR No. 0976.15, OMB Control No. 2050–0024.

ICR status: This ICR is currently scheduled to expire on November 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, 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: This ICR will combine two separate ICRs into one: the "Notification of Regulated Waste Activity and 2011 Hazardous Waste Report" ICR and the "RCRA Hazardous Waste Permit Application and Modification, Part A" ICR (currently EPA ICR number 0262.11, OMB control number 2050–0034).

Both Sections 3002 and 3004 of RCRA require EPA to establish standards for recordkeeping and reporting of hazardous waste generation and management. Section 3002 applies to hazardous waste generators and Section 3004 applies to hazardous waste treatment, storage, and disposal facilities. In addition, Sections 3002 and 3004 require the submission of a report, at least every 2 years, of the quantity and nature of hazardous waste generated and managed during one year. This is mandatory reporting. The information for the required reporting year (every odd year) is collected via a mechanism known as the Hazardous Waste Report (EPA Form 8700–13 A/B). This form is also known as the "Biennial Report" form.

Section 3010 of RCRA requires any person who generates or transports regulated waste or who owns or operates a facility for the treatment, storage, or disposal of regulated waste to notify EPA of their activities, including the location and general description of activities and the regulated wastes handled. The facility is then issued an EPA Identification number. The facilities are required to use the Notification Form (EPA Form 8700–12) to notify EPA of their hazardous waste activities. This form is also known as the "Notification" form.

Section 3005 of RCRA requires treatment, storage, and disposal facilities (TSDFs) to obtain a permit. To obtain the permit, the TSDF must submit an application describing the facility's operation. There are two parts to the RCRA permit application—Part A and Part B. The RCRA Hazardous Waste Part A Permit Application form (EPA Form 8700–23) defines the processes to be used for treatment, storage, and disposal of hazardous wastes; the design capacity of such processes; and the specific hazardous wastes to be handled at the facility. This form is also known as the "Part A" form. [Part B requires detailed site specific information such as geologic, hydrologic, and engineering data. There is no form for Part B, and the burden is covered under a separate ICR.]

The information from all three forms is entered into a national database. EPA uses the information to identify the universe of regulated waste generators,

handlers, and managers and their specific regulated waste activities. EPA also uses this information to ensure that regulated waste is managed properly, that statutory provisions are upheld, and that regulations are adhered to by facility owners or operators.

Burden Statement: The annual reporting burden for the 2011 Hazardous Waste Report is estimated to average 17 hours per respondent, and includes time for reviewing instructions, gathering data, completing and reviewing the forms, and submitting the report. The recordkeeping requirement is estimated to average 4 hours per response and includes the time for filing and storing the 2011 Hazardous Waste Report submission for three years.

The annual public reporting and recordkeeping burden for the Notification of Regulated Waste Activity is estimated to average 2 hours per response for the initial notification, and 1 hour per response for any subsequent notifications.

The annual public reporting and recordkeeping burden for the Part A Permit Application is estimated to average 25 hours per response for an initial application and 13 hours per response for a revised application.

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: 56,800.

Frequency of response: Biennially, and on occasion.

Estimated total average number of responses for each respondent: Varies.

Estimated total annual burden hours: 422,633 hours.

Estimated total annual costs: $16,540,823. This includes an estimated burden cost of $16,339,984 in annualized labor cost and $200,839 for capital investment or maintenance and operational costs.

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: March 11, 2011.

Sandra L. Connors,

Acting Director, Office of Resource Conservation and Recovery.

[FR Doc. 2011–7331 Filed 3–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9287–3]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("CAA" or the "Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement to address a lawsuit filed by WildEarth Guardians and Elizabeth Crowe in the United States District Court for the Northern District of California: *WildEarth Guardians et al.* v. *Jackson,* No. 3:10-cv-04603–WHA (ND CA). On October 12, 2010, Plaintiffs filed a complaint alleging that EPA failed to issue findings of failure to submit State Implementation Plans ("SIP") regarding specified areas designated as nonattainment for the 1997 8-hour National Ambient Air Quality Standards ("NAAQS") for ozone within the States of Arizona, Nevada, Pennsylvania and Tennessee pursuant to CAA, 42 U.S.C. 7401–7671q. The proposed settlement agreement establishes a deadline for EPA to take action.

DATES: Written comments on the proposed settlement agreement must be received by *April 28, 2011.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2011–0337, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Jan Tierney, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–5598; fax number (202) 564–5603; e-mail address: *tierney.jan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement Agreement

The proposed settlement agreement would resolve a lawsuit seeking to compel action by the Administrator to make findings of failure to submit on certain SIPs under the CAA. The proposed settlement agreement requires EPA to sign for publication in the **Federal Register** no later than May 31, 2011 findings of failure to submit such SIPs for the Las Vegas, Nevada and the Pittsburgh-Beaver Valley, Pennsylvania 1997 8-hour ozone nonattainment areas. EPA will no longer be obligated to make such finding for the area if prior to May 31, 2001 it takes one of the following actions for the area: (1) EPA takes final action on its proposed rule to classify the area under Title I, part D, subpart 2 of the CAA; (2) EPA takes final action redesignating the area to attainment or unclassifiable; or (3) EPA signs a final rule making a determination that the area has attained the 1997 8-hour ozone NAAQS. If EPA fulfills its obligations, Plaintiff has agreed to dismiss this suit with prejudice.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed

settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment submitted, that consent should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement Agreement

A. How can I get a copy of the settlement agreement?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2011–0337) contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *http://www.regulations.gov.* You may use *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select "search".

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *http://www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *http://www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through *http://www.regulations.gov,* your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: March 23, 2011.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. 2011–7328 Filed 3–28–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[IB Docket No. 04–286; DA 11–541]

Eighth Meeting of the Advisory Committee for the 2012 World Radiocommunication Conference

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, this notice advises interested persons that the eighth meeting of the WRC–12 Advisory Committee will be held at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 2012 World Radiocommunication Conference. The WRC–12 Advisory Committee will consider any preliminary views and draft proposals introduced by the WRC–12 Advisory Committee's Informal Working Groups.

DATES: April 19, 2011, 11 a.m. to 12 noon.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–C305, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alexander Roytblat, Designated Federal Official, WRC–12 Advisory Committee, FCC International Bureau, Strategic Analysis and Negotiations Division, at (202) 418–7501.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission established the WRC–12 Advisory Committee to provide advice, technical support and recommendations relating to the preparation of United States proposals and positions for the 2012 World Radiocommunication Conference (WRC–12).

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the eighth meeting of the WRC–12 Advisory Committee. The WRC–12 Advisory Committee has an open membership. All interested parties are invited to participate in the WRC–12 Advisory Committee and to attend its meetings. The proposed agenda for the eighth meeting is as follows:

Agenda

Eighth Meeting of the WRC–12 Advisory Committee, Federal Communications Commission, 445 12th Street, SW., Room TW–C305, Washington, DC 20554, April 19, 2011, 11 a.m. to 12 noon.

1. Opening Remarks

2. Approval of Agenda
3. Approval of the Minutes of the Seventh Meeting
4. Informal Working Group Reports and Documents Relating to Preliminary Views and Draft Proposals
5. Future Meetings
6. Other Business

Federal Communications Commission.

Troy F. Tanner,

Deputy Chief, International Bureau.

[FR Doc. 2011–7385 Filed 3–28–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 22, 2011.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. VB Texas, Inc., Houston, Texas; to acquire 100 percent of the voting shares of Founders Bank, SSB, Sugar Land, Texas, and thereby indirectly acquire voting shares of Vista Bank Texas, Houston, Texas.

B. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. Mitsubishi UFJ Financial Group, Inc., Tokyo, Japan; to acquire no more than 24.9 percent of the voting shares of Morgan Stanley, and thereby indirectly acquire voting shares of Morgan Stanley Capital Management LLC, Morgan Stanley Domestic Holdings, Inc., all of New York, New York; Morgan Stanley Bank, National Association, Salt Lake City, Utah, and Morgan Stanley Private Bank, National Association, Purchase, New York. Comments regarding this application must be received not later than April 25, 2011.

Board of Governors of the Federal Reserve System, March 24, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–7315 Filed 3–28–11; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–0371]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above e-mail address within 7 days.

Proposed Project: Evaluation of SAMHSA Primary and Behavioral Health Care Integration Grant Program.—OMB No. 0990–0371—Revision—Assistant Secretary for Planning and Evaluation (ASPE).

Abstract: The Assistant Secretary for Planning and Evaluation (ASPE) and the Substance Abuse and Mental Health Services Administration (SAMHSA) are funding an independent evaluation of the Substance Abuse and Mental Health Services Administration/Center for Mental Health Services' (SAMHSA/CMHS) Primary and Behavioral Health Care Integration (PBHCI) grant program. Four-year PBHCI grants for up to $500,000 per year were awarded to thirteen grantees on September 30, 2009. A second group of nine grants and a third group of 34 grants were awarded September 30, 2010, for a total of 56 grants. The purpose of the PBHCI program is to improve the overall wellness and physical health status of people with serious mental illnesses (SMI), including individuals with co-occurring substance use disorders, by supporting communities to coordinate and integrate primary care services into publicly-funded community mental health and other community-based behavioral health settings. The information collected through the 3 year evaluation will assist SAMHSA in assessing whether integrated primary care services produce improvements in the physical and mental health of the SMI population receiving services from community-based behavioral health agencies. Data will be collected from grantee staff at all sites and from clients at up to 10 sites (client exam/survey). An Emergency Clearance Request covering the first six months of data collection starting February 15, 2011 and ending August 14, 2011 was approved February 15, 2011. This submission will cover data collection for the period starting August 15, 2011 and ending October 1, 2013.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Instrument name	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
Grantee Data Staff	Individual Service Utilization Data.	56	4	8	1,792
Grantee Data Staff	TRAC Indicators	56	1,000	5/60	4,667
Grantee Project Directors	Quarterly Reports	56	4	2	448
SMI Clients	Client Exam and Survey—Baseline.	1,000	1	45/60	750
SMI Clients	Client Exam and Survey—Follow-up.	1,667	1	45/60	1,250
Grantee Leadership	Site Visit Interview	40	1	2	80
Grantee MH Providers	Site Visit Interview	40	1	1	40
Grantee PH Providers	Site Visit Interview	40	1	1.5	60
Grantee Care Coordinators	Site Visit Interview	20	1	1.5	30
Control Site Leadership	Site Visit Interview	50	1	2	100
Grantee Key Staff	Web Survey	560	1	1.5	840
Total					10,057

Seleda M. Perryman,

Office of the Secretary, Paperwork Reduction Act Clearance Officer.

[FR Doc. 2011–7292 Filed 3–28–11; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Federal Health IT Strategic Plan: 2011–2015 Open Comment Period

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice.

SUMMARY: Section 3001(c)(3) of the Public Health Service Act, as added by the Health Information Technology for Economic and Clinical Health (HITECH) Act, requires the National Coordinator for Health Information Technology (ONC) to update the Federal Health IT Strategic Plan (developed June 3, 2008) in consultation with other appropriate Federal agencies and in collaboration with private and public entities. Work on the five-year Plan began more than a year ago and has included collaboration across federal agencies, as well with the private sector via the HIT Policy Committee. This notice serves to announce that the public comment period for the Federal Health IT Strategic Plan is open through Friday, April 22 at 11:59 p.m. (Eastern). ONC welcomes and encourages all comments from the public regarding the Plan.

In order for your comments to be read and considered, you must submit your comment via the Federal Health IT Buzz Blog: *http://www.healthit.gov/buzz-blog/.*

Dated: March 23, 2011.

Erin Poetter,

Office of Policy and Planning, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–7318 Filed 3–28–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension of Certification on Maintenance of Effort for the Title III and Minor Revisions to the Certification of Long-Term Care Ombudsman Program Expenditures

AGENCY: Administration on Aging, HHS.

ACTION: Notice

SUMMARY: The Administration on Aging (AoA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to the Certification on Maintenance of Effort under Title III and Certification of Long-Term Care Ombudsman Program Expenditures for OAA Title III and Title VII Grantees.

DATES: Submit written or electronic comments on the collection of information by May 31, 2011.

ADDRESSES: Submit electronic comments on the collection of information to: *Nichlas.Fox@aoa.hhs.gov.*

Submit written comments on the collection of information to Administration on Aging, Washington, DC 20201, attention Nichlas Fox.

FOR FURTHER INFORMATION CONTACT: Becky Kurtz, National Long Term Care Ombudsman, Administration on Aging, Washington, DC 20201.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, AoA is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, AoA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of AoA's functions, including whether the information will have practical utility; (2) the accuracy of

AoA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The Certification on Maintenance of Effort under Title III and Certification of Long-Term Care Ombudsman Program Expenditures provides statutorily required information regarding State's contribution to programs funded under the Older Americans Act and conformance with legislative requirements, pertinent Federal regulations and other applicable instructions and guidelines issued by Administration on Aging (AoA). This information will be used for Federal oversight of Title III Programs and Title VII Ombudsman Program expenditures.

AoA estimates the burden of this collection of information as follows: 56 State Agencies on Aging respond annually which should be an average burden of one half (½) hour per State agency per year or a total of twenty-eight hours for all State agencies annually. The proposed data collection tools may be found on the AoA Web site for review at *http://www.aoa.gov/AoARoot/AoA_Programs/Tools_Resources/Cert_Forms.aspx.*

Dated: March 23, 2011.

Kathy Greenlee,

Assistant Secretary for Aging.

[FR Doc. 2011–7301 Filed 3–28–11; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–11–11DU]

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 project or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at 404–639–5960 or send comments to Daniel Holcomb, CDC Reports Clearance Officer, 1600 Clifton Road, MS D–74, 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

The National Survey of Prison Healthcare (NSPH) — New—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States. This three-year clearance request includes data collection from identified respondents at the Department of Corrections within each state in the United States and the Federal Bureau of Prisons.

Few national level data exist concerning the administration of health care services in correctional facilities in the United States. National-level data from the health care providers within prison systems are important for a myriad of purposes related to improving prison health and health care. To remedy this gap in knowledge regarding the capacity of prison facilities to deliver medical and mental health services, NCHS in partnership with the Bureau of Justice Statistics (BJS) plans to conduct the National Survey of Prison Healthcare (NSPH). This collection aims to: provide an overall picture of the global structure of healthcare services in prisons in the United States; close gaps in available information about availability, location and capacity of healthcare services provided to inmates; and identify extent to which electronic medical records are utilized within the correctional healthcare system.

NSPH will be a mail survey to a prison official in the Department of Corrections (DOC) within each of the 50 States and Federal Bureau of Prisons (BOP) and will seek facility-level information on the types of healthcare services delivered and the mechanisms used to deliver these services. Following a small pilot test of the questionnaire with 9 prison officials, NSPH will be administered in Fall 2011.

NSPH will collect data on healthcare services including the extent to which services are contracted; staffing; locations (*i.e.,* on- or off-site) of healthcare services and specialty healthcare services; and the types of medical, dental, mental health, and pharmaceutical services provided to inmates. NSPH will collect data on intake physical and mental health assessments practices for inmates; credentials of staff performing screenings; vaccinations against major infectious diseases; and smoking allowances. Discharge planning data collected includes the availability of bridge medications, Medicaid re-enrollment processes, and the number of inmates with mental illness linked to housing prior to release. NSPH will also collect data on how DOCs maintain health records including the format (paper and/or electronic) of specific types of health records.

Potential users of the data collected through NSPH are policy makers, correctional healthcare researchers, mental health researchers, and corrections administrators. Valid and current data on infrastructure, capacity and utilization of healthcare are essential to supporting research and studying the effects of changes in correctional healthcare. Other potential users of these data include universities, research organizations, many in the private sector, foundations, and a variety of users in the print media. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Form	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Prison official in DOC	NSPH Questionnaire	17	1	4	68
Total					68

Daniel Holcomb,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–7300 Filed 3–28–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number NIOSH–227]

Request for Information on Conditions Relating to Cancer To Consider for the World Trade Center Health Program

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and extension of public comment period.

SUMMARY: On March 8, 2011, the Director of the National Institute of Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) published a notice in the **Federal Register** (76 FR 12740) requesting information from the public on three questions regarding conditions relating to cancer for consideration under the World Trade Center Health Program. Written comment was to be received by March 31, 2011. NIOSH has received comment about extending the request for information to include persons living and working in the affected area. In consideration of that comment, the Director of NIOSH is modifying one of the questions posed in the **Federal Register** and extending the public comment period to April 29, 2011.

DATES: Written or electronic comments must be received on or before April 29, 2011. Please refer to **SUPPLEMENTARY INFORMATION** for additional information.

ADDRESSES: You may submit comments, identified by docket number NIOSH–227, by any of the following methods:

- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.
- *Facsimile:* (513) 533–8285.
- *E-mail: nioshdocket@cdc.gov.*

All information received in response to this notice will be available for public examination and copying at the NIOSH Docket Office, 4676 Columbia Parkway, Cincinnati, Ohio 45226. The comment period for NIOSH–227 will close on April 29, 2011. All comments received will be available on the NIOSH Docket Web page at *http://www.cdc.gov/niosh/docket,* and comments will be available in writing by request. NIOSH includes all comments received without change in the docket and the electronic docket, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Dori Reissman, M.D., NIOSH, Patriots Plaza Suite 9200, 395 E. St., SW., Washington, DC 20201, telephone (202) 245–0625 or e-mail *nioshdocket@cdc.gov.*

SUPPLEMENTARY INFORMATION: The Director of the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) serves as the World Trade Center (WTC) Program Administrator for certain functions related to the WTC Health Program established by the James Zadroga 9/11 Health and Compensation Act (Pub. L. 111–347). In accordance with Section 3312(a)(5)(A) of that Act, the WTC Program Administrator is conducting a review of all available scientific and medical evidence to determine if, based on the scientific evidence, cancer or a certain type of cancer should be added to the applicable list of health conditions covered by the World Trade Center Health Program.

The WTC Program Administrator is requesting information on the following: (1) Relevant reports, publications, and case information of scientific and medical findings where exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001 terrorist attacks, is substantially likely to be a significant factor in aggravating, contributing to, or causing cancer or a type of cancer; (2) clinical findings from the Clinical Centers of Excellence providing monitoring and treatment services to WTC responders (*i.e.,* those persons who performed rescue, recovery, clean-up and remediation work on the WTC disaster sites) and community members directly exposed to the dust cloud, *gases and vapors* on 9/11/01 *and those living and working in the affected area;* and (3) input on the scientific criteria to be used by experts to evaluate the weight of the medical and scientific evidence regarding such potential health conditions.

Dated: March 22, 2011.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2011–7299 Filed 3–28–11; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No. 0980–0162]

Proposed Information Collection Activity; Comment Request

Proposed Projects/Title: State Developmental Disabilities Council 5-Year State Plan.

Description

A Plan developed by the State Council on Developmental Disabilities is required by Federal statute. Each State Council on Developmental Disabilities must develop the plan, provide for public comments in the State, provide for approval by the State's Governor, and finally submit the plan on a five-year basis. On an annual basis, the Council must review the plan and make any amendments. The State Plan will be used (1) by the Council as a planning document; (2) by the citizenry of the State as a mechanism for commenting on the plans of the Council; and (3) by the Department as a stewardship tool, for ensuring compliance with the Developmental Disabilities Assistance and Bill of Rights Act, as one basis for providing technical assistance (*e.g.,* during site visits), and

as a support for management decision making.

Respondents: 55 State Developmental Disabilities Councils.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Plan	55	1	367	20,185

Estimated Total Annual Burden Hours:

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–7157 Filed 3–28–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 12, 2011, from 8 a.m. to 6 p.m.

Location: Hilton, Washington DC North/Gaithersburg, Salons A, B, C, and D, 620 Perry Pkwy., Gaithersburg, MD 20877.

Contact Person: Margaret McCabe-Janicki, Food and Drug Administration, Center for Devices and Radiological Health, 10903 New Hampshire Ave., Bldg. 66, rm. 1535, Silver Spring, MD 20993–0002, 301–796–7029, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On May 12, 2011, the committee will discuss, make recommendations, and vote on information related to the premarket approval application (PMA) for the Augment Bone Graft, sponsored by Biomimetic Therapeutics, Inc. The intended use of the device is as an alternative bone grafting substitute to autologous bone graft in applications to facilitate fusion in the ankle and foot without necessitating an additional invasive procedure to harvest the graft.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before May 5, 2011. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 25, 2011. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 28, 2011.

Persons attending FDA's advisory committee meetings are advised that the

Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Ms. AnnMarie Williams, Conference Management Staff, 301–796–5966, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 23, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–7259 Filed 3–28–11; 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 requirements of Section 3506(c)(2)(A) of Public Law 104–13, the Paperwork Reduction Act of 1995, the Health Resources and Services Administration publishes summaries of proposed data collection projects for public comment. Comments are invited regarding the following: (a) The necessity of 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: Teaching Health Center Graduate Medical Education (GME) Program—NEW

The Teaching Health Center Graduate Medical Education (GME) program (Section 340H of the Public Health Service Act) was established by Section 5508 of Public Law 111–148, the Patient Protection and Affordable Care Act. The program supports training for primary care residents (including residents in family medicine, internal medicine, pediatrics, internal medicine-pediatrics, obstetrics and gynecology, psychiatry, general dentistry, pediatric dentistry, and geriatrics) in community-based ambulatory patient care settings.

The statute provides that eligible Teaching Health Centers receive payments for both direct and indirect costs associated with training residents in community-based ambulatory patient care centers. Direct payments are designed to compensate eligible Teaching Health Centers for those expenses directly associated with resident training, while indirect payments are intended to compensate for the additional costs of training residents in such programs. Payments are made at the beginning of the funding cycle; however, the statute provides for a reconciliation process, through which overpayments may be recouped and underpayments may be adjusted at the end of the fiscal year. This data collection instrument will gather information relating to the numbers of residents in Teaching Health Center GME training programs in order to reconcile payments for both direct and indirect costs.

The annual estimate of burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Reconciliation form	11	1	11	10	110
Total	11		11	10	110

To request more information on this proposed project or to obtain a copy of the draft data collection plans and instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1129.

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 23, 2011.

Reva Harris,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2011–7317 Filed 3–28–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Laboratory Animal Welfare: Proposed Adoption and Implementation of the Eighth Edition of the Guide for the Care and Use of Laboratory Animals

AGENCY: National Institutes of Health, HHS.

ACTION: Notice of Extension of Public Comment Period.

SUMMARY: The National Institutes of Health (NIH) is extending the period for public comments on (1) NIH's adoption of the eighth edition of the *Guide for the Care and Use of Laboratory Animals* (*Guide*) as a basis for evaluation of institutional programs receiving or proposing to receive Public Health Service (PHS) support for activities involving animals; and (2) if NIH decides to adopt the eighth edition of the *Guide,* NIH's proposed implementation plan, which would require that institutions complete at least one semiannual program and facility evaluation using the eighth edition of the *Guide* as the basis for evaluation by March 31, 2012. NIH will consider comments on (1) the adoption of the *Guide* and (2) the implementation plan. The notice on the proposed adoption and implementation plan for the eighth edition of the *Guide* was published in the **Federal Register** on February 24, 2011 (76 FR 10379). The comment period is extended by 30 days and thus will end on April 24, 2011.

DATES: Written comments on the adoption and implementation of the eighth edition of the *Guide* must be received by NIH on or before April 24, 2011 in order to be considered.

ADDRESSES: Public comments may be entered at: *http://grants.nih.gov/grants/olaw/2011guidecomments/add.htm.* Comments will be made publicly available. Personally identifiable information (except organizational affiliations) will be removed prior to making comments publicly available.

FOR FURTHER INFORMATION CONTACT: Office of Laboratory Animal Welfare, Office of Extramural Research, NIH, RKL1, Suite 360, 6705 Rockledge Drive, Bethesda, MD 20892–7982; telephone 301–496–7163.

SUPPLEMENTARY INFORMATION:

I. Background

The *Guide,* first published in 1963, is a widely accepted primary reference on animal care and use. Recommendations in the *Guide* are based on published data, scientific principles, expert opinion, and experience with methods and practices that are determined to be consistent with high quality, humane animal care and use. The eighth edition of the *Guide* was published in January 2011 following a study by the Institute for Laboratory Animal Research of the National Academy of Sciences (NAS). The NAS study process began in 2008 and followed the requirements of Section 15 of the Federal Advisory Committee Act. The NAS study process is described at the NAS Web site: *http://www.nationalacademies.org/studyprocess/index.html.*

Since 1985, the PHS Policy on Humane Care and Use of Laboratory Animals, authorized by Public Law 99–158, 42 U.S.C. 289d, and incorporated by reference at 42 CFR 52.8 and 42 CFR 52a.8, has required that institutions receiving PHS support for animal activities base their animal care and use programs on the current edition of the *Guide* and comply, as applicable, with the Animal Welfare Act and other Federal statutes and regulations relating to animal activities. The PHS Policy is applicable to all PHS-conducted or -supported activities (including research, research training, experimentation or biological testing, or related purposes) involving live vertebrate animals.

The eighth edition of the *Guide* contains substantive changes and additions from the previous edition. To gain insight from institutions on the impact of changes to the *Guide* on their animal care and use programs, NIH seeks comments on whether it should adopt the eighth edition of the *Guide.* NIH simultaneously proposes an implementation plan for the eighth edition of the *Guide* and seeks comments on the proposed plan.

The implementation plan proposed by NIH would require institutions to complete at least one semiannual program and facility evaluation, using the eighth edition of the *Guide* as the basis for evaluation, by March 31, 2012. For such an evaluation to be considered complete by NIH, it would need to include reasonable and specific plans and schedules for corrections of deficiencies where appropriate.

II. Electronic Access

The eighth edition of the *Guide* is available on the NIH Office of Laboratory Animal Welfare Web site at *http://olaw.nih.gov.*

Dated: March 23, 2011.

Francis S. Collins,

Director, National Institutes of Health.

[FR Doc. 2011–7316 Filed 3–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2011–0009]

President's National Security Telecommunications Advisory Committee

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Committee Management; Notice of an open Federal Advisory Committee Meeting.

SUMMARY: The President's National Security Telecommunications Advisory Committee (NSTAC) will meet on Tuesday, April 19, 2011, via a conference call. The meeting will be open to the public.

DATES: The NSTAC will meet Tuesday, April 19, 2011, from 2 p.m. to 3 p.m. Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held via a conference call. For access to the conference bridge, contact Ms. Sue Daage at (703) 235–4964 or by e-mail at *sue.daage@dhs.gov* by 5:00 p.m. April 12, 2011.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the "Summary" section below. Associated briefing materials that will be discussed on the conference call will be available at *http://www.ncs.gov/nstac* for review as of April 8, 2011. Written comments must be received by the Deputy Manager no later than April 12, 2011, identified by **Federal Register** Docket Number DHS–2011–0009 and may be submitted by any *one* of the following methods:

- *;Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting written comments.
- *E-mail: NSTAC@hq.dhs.gov.* Include the docket number in the subject line of the email message.
- *Fax:* (703) 235–4981.
- *Mail:* Deputy Manager, National Communications System, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane, Mail Stop 0615, Arlington, VA 20598–0615.

Instructions: All written submissions received must include the words "Department of Homeland Security" and the docket number for this action. Written comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket, background documents or comments received by the NSTAC, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: James Madon, NSTAC Designated Federal Officer, Department of Homeland Security, telephone (703) 235–4900.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463). The NSTAC advises the President on matters related to national security and emergency preparedness telecommunications policy.

The NSTAC Chair, Mr. James Crowe, will call the meeting to order and provide opening remarks. The NSTAC members will discuss and vote on the Communications Resiliency Report and receive an update on the cloud computing scoping effort.

Meeting Agenda:

I. Opening Remarks and Introductions
II. Discussion and Vote on the Communications Resiliency Report
III. Update on the Cloud Computing Scoping Effort
IV. Closing Remarks

Dated: March 18, 2011.

James Madon,

Designated Federal Officer for the NSTAC.

[FR Doc. 2011–7386 Filed 3–28–11; 8:45 am]

BILLING CODE 9110–09–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0010]

National Fire Academy Board of Visitors

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Open Federal Advisory Committee Meeting.

SUMMARY: The National Fire Academy Board of Visitors will meet on April 6–7, 2011. The meeting will be open to the public.

DATES: The meeting will take place Wednesday, April 6, 2011, from 8:30 a.m. to 5 p.m., EST; and Thursday, April 7, 2011, 8:30 a.m. to 1 p.m., EST. Please note that the meeting may end early if all business is completed.

ADDRESSES: The meeting will be held at the National Emergency Training Center, Building H, Room 300, Emmitsburg, Maryland. The public may contact Ruth MacPhail at (301) 447–1117 for details on how to gain access to the facility.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please contact Ruth MacPhail as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the **SUMMARY** section below. Comments must be submitted in writing no later than April 5, 2010, and must be identified by FEMA–2008–0010 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: FEMA–RULES@dhs.gov.* Include the docket ID in the subject line of the message.
- *Fax:* 703–483–2999.
- *Mail:* Ruth MacPhail, 16825 South Seton Avenue, Emmitsburg, Maryland 21727.

Instructions: All submissions received must include the docket ID for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the National Fire Academy Board of Visitors, go to *http://www.regulations.gov.*

A public comment period will be held during the meeting on April 6, 2011, from 3 p.m. to 3:30 p.m. Each person will be afforded 5 minutes to make comments. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact the individual listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Ruth MacPhail, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, telephone (301) 447–1117, fax (301) 447–1173, and e-mail *ruth.macphail@dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The purpose of the Board of Visitors for the National Fire Academy is to review annually the programs of the Academy and advise the Administrator, Federal Emergency Management Agency (FEMA), through the United States Fire Administrator, regarding the operation of the Academy and any improvements therein that the Board deems appropriate. The Board shall make interim advisories to the Administrator, FEMA, through the United States Fire Administrator, whenever there is an indicated urgency to do so in fulfilling its duties. In carrying out its responsibilities, the Board shall include in its review an examination of Academy programs to determine whether these programs further the basic missions which are approved by the Administrator, FEMA; an examination of the physical plant of the Academy to determine the adequacy of the Academy facilities; and, an examination of the funding levels for the Academy programs. The Board shall submit its annual report through the United States Fire Administrator to the Administrator, FEMA, in writing. The report shall provide detailed comments and recommendations regarding the operation of the Academy. The Board shall submit interim reports through the United States Fire Administrator to the Administrator, FEMA, whenever there is an indicated need to do so in the fulfillment of its duties.

The National Fire Academy Board of Visitors will hold a meeting to review National Fire Academy Program activities, including a new template for the NFA student manual, and to receive updates on the Harvard Fellowship application, mobile learning applications, curriculum management system, and NFA course pilot of the new residential sprinkler policy course, new courses under design and courses under revision, NFA course pilot of the new residential sprinkler policy course, Applicant Outreach Subcommittee will discuss current and future approaches to recruitment of students from women and minority firefighter communities, FESHE/Professional Development Subcommittee will report on progress on efforts to coalesce traditional training and higher education programs and articulation, TRADE Review Subcommittee will report on current and future approaches to state and metro fire service training and how NFA can assist. The committee will discuss the status of Subcommittees, NFA vacant position updates, National Professional Development Model and Matrix revision update, launch of Fire and Emergency Services Higher Education Recognition and Certificate Program, roll-out of "webmaster" project, NFA online course update, preparation of the NFA BOV FY 2010 Annual Report, the status of deferred maintenance and capital improvements on the NETC campus, to include FY 2011 Budget Request/FY 2012 Budget Planning, National Fire Program developments in data collection, public education and firefighter deployment initiatives, as well as a public comment period. The Board of Visitors will review and consider reports from the subcommittees. After consideration, the Board of Visitors will recommend action to the Superintendent and Administrator. This meeting is open to the public.

Dated: March 22, 2011.

Kirby E. Kiefer,

Acting Superintendent, National Fire Academy, United States Fire Administration, Federal Emergency Management Agency.

[FR Doc. 2011–7269 Filed 3–28–11; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Entry of Articles for Exhibition

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651–0037.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork

Reduction Act: Entry of Articles for Exhibition (19 CFR 147.11(c)). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (76 FR 4929) on January 27, 2011, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 28, 2011.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Entry of Articles for Exhibition.

OMB Number: 1651–0037.

Form Number: None.

Abstract: Goods entered for exhibit at fairs, or for constructing, installing, or maintaining foreign exhibits at a fair may be free of duty under 19 U.S.C. 1752. In order to substantiate that goods qualify for duty-free treatment, the consignee of the merchandise must provide information about the imported goods, which is specified in 19 CFR 147.11(c).

Current Actions: CBP proposes to extend the expiration date of this information collection with a change to the burden hours based on updated estimates. There is no change to the information being collected.

Type of Review: Extension (with change)

Affected Public: Businesses.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 50.

Estimated Number of Total Annual Responses: 2,500.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 832.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

Dated: March 24, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–7365 Filed 3–28–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Application for Waiver of Passport and/or Visa (Form I–193)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0107.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Waiver of Passport and/or Visa (Form I–193). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before (May 31, 2011), to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, *Attn:* Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Application for Waiver of Passport and/or Visa.

OMB Number: 1651–0107.

Form Number: CBP Form I–193.

Abstract: The data collected on CBP Form I–193, Application for Waiver of Passport and/or Visa, is used by CBP to determine an applicant's eligibility to enter the United States under 8 CFR parts 211.1(b)(3) and 212.1(g). This form is filed by aliens who wish to waive the documentary requirements for passports and/or visas due to an unforeseen emergency such as an expired passport, or a lost, stolen, or forgotten passport or permanent resident card. This information collected on CBP Form I–193 is authorized by Section 212(a)(7)(B) of the Immigration and

Nationality Act. This form is accessible at *http://forms.cbp.gov/pdf/CBP_Form_i193.pdf.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Individuals.

Estimated Number of Respondents: 25,000.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 25,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 4,150.

Estimated Total Annual Cost: $14,625,000.

Dated: March 24, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–7363 Filed 3–28–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–26]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Homelessness Prevention Study

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 is a new information collection request. The Department of Housing and Urban Development is seeking emergency review of the Paperwork Reduction Act requirements associated with HUD's Homelessness Prevention Study. This information collection request includes a survey instrument that will be administered to a nationally-representative sample of Homelessness Prevention and Rapid Re-housing Program (HPRP) grantees, as well as the site visit interview guide that will serve as the protocol for 15–18 site visits to be conducted to select HPRP grantees.

DATES: *Comments Due Date:* April 28, 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 (2528—Pending) 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: Homelessness Prevention Study.

OMB Approval Number: 2528—Pending.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: This is a new information collection request. The Department of Housing and Urban Development is seeking emergency review of the Paperwork Reduction Act requirements associated with HUD's Homelessness Prevention Study. This information collection request includes a survey instrument that will be administered to a nationally-representative sample of Homelessness Prevention and Rapid Re-housing Program (HPRP) grantees, as well as the site visit interview guide that will serve as the protocol for 15–18 site visits to be conducted to select HPRP grantees.

Frequency of Submission: On occasion.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of responses: The estimated number of respondents to the survey instrument is 500 HPRP grantees and subgrantees; the frequency of response is once; and the total reporting burden will be approximately 150 hours. The estimated number of respondents who will participate in the site visit is approximately 124 individuals; the frequency of the response is once; and the total reporting burden will be approximately 93 hours.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 22, 2011.

Colette Pollard,

Departmental Reports Management Officer.

[FR Doc. 2011–7270 Filed 3–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–24]

Notice of Submission of Proposed Information Collection to OMB; Floodplain Management and Protection of Wetlands

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.

HUD grant recipients proposing to use HUD funds for projects within floodplains or wetlands provide information indicating compliance with relevant requirements. Respondents must publish notifications of intent and inform affected private parties (potential purchasers, *etc.*).

DATES: *Comments Due Date:* April 28, 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 (2506–0151) 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: Floodplain Management and Protection of Wetlands.

OMB Approval Number: 2506–0151.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: HUD grant recipients proposing to use HUD funds for projects within floodplains or wetlands provide information indicating compliance with relevant requirements. Respondents must publish notifications of intent and inform affected private parties (potential purchasers, *etc.*).

Frequency of Submission: On occasion.

	Number of responses	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	300	0.111		9		300

Total Estimated Burden Hours: 300.

Status: Reinstatement with change of previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 22, 2011.

Colette Pollard,

Departmental Reports Management Officer.

[FR Doc. 2011–7273 Filed 3–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–25]

Notice of Submission of Proposed Information Collection to OMB Rehabilitation Mortgage Insurance Underwriting Program Section 203(K)

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 information collection covers application, qualification, and certification processes for participants in HUD–FHA's 203(K) Rehabilitation Mortgage Insurance Program.

DATES: *Comments Due Date: April 28, 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 (2502–0527) 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: Rehabilitation Mortgage Insurance Underwriting Program Section 203(K).

OMB Approval Number: 2502–0527.

Form Numbers: HUD–92700, HUD–92700–A, HUD–9746–A, HUD–92577.

Description of the Need for the Information and Its Proposed Use:

This information collection covers application, qualification, and certification processes for participants in HUD–FHA's 203(K) Rehabilitation Mortgage Insurance Program.

Frequency of Submission: On occasion, Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden:	144,455	0.839		0.0678		8,225

Total Estimated Burden Hours: 8,225.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 22, 2011.

Colette Pollard,

Departmental Reports Management Officer.

[FR Doc. 2011–7272 Filed 3–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5374–N–25]

Buy American Exceptions Under the American Recovery and Reinvestment Act of 2009

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

ACTION: Notice.

SUMMARY: In accordance with the American Recovery and Reinvestment Act of 2009 (Public Law 111–05, approved February 17, 2009) (Recovery Act), and implementing guidance of the Office of Management and Budget (OMB), this notice advises that certain exceptions to the Buy American requirement of the Recovery Act have been determined applicable for work using Capital Fund Recovery Formula and Competition (CFRFC) grant funds. Specifically, an exception was granted to the Mankato Economic Development Authority of Mankato, MN for the purchase and installation of water closets that comply with the Americans with Disabilities Act (ADA-compliant water closets) at the Orness Plaza Apartments project.

FOR FURTHER INFORMATION CONTACT: Donald J. LaVoy, Deputy Assistant Secretary for Office of Field Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4112, Washington, DC 20410–4000, telephone number 202–402–8500 (this is not a toll-free number); or Dominique G. Blom, Deputy Assistant Secretary for Public Housing Investments, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4130, Washington, DC 20410–4000, telephone number 202–402–8500 (this is not a toll-free number). 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.

SUPPLEMENTARY INFORMATION: Section 1605(a) of the Recovery Act provides that none of the funds appropriated or made available by the Recovery Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Section 1605(b) provides that the Buy American requirement shall not apply in any case or category in which the head of a Federal department or agency finds that: (1) Applying the Buy American requirement would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality, or (3) inclusion of iron, steel, and manufactured goods will increase the cost of the overall project by more than 25 percent. Section 1605(c) provides that if the head of a Federal department or agency makes a determination pursuant to section 1605(b), the head of the department or agency shall publish a detailed written justification in the **Federal Register**.

In accordance with section 1605(c) of the Recovery Act and OMB's implementing guidance published on April 23, 2009 (74 FR 18449), this notice advises the public that, on March 11, 2011, upon request of the Mankato Economic Development Authority, HUD granted an exception to applicability of the Buy American requirements with respect to work, using CFRFC grant funds, in connection with the Orness Plaza Apartments project. The exception was granted by HUD on the basis that the relevant manufactured goods (ADA-compliant water closets) are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality.

Dated: March 22, 2011.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 2011–7278 Filed 3–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5501–N–01]

Notice of FHA Debenture Call

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice announces a debenture call of certain Federal Housing Administration (FHA) debentures, in accordance with authority provided in the National Housing Act.

FOR FURTHER INFORMATION CONTACT: Yong Sun, Federal Housing Administration, Financial Reporting Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5148, Washington, DC 20410, telephone (202) 402–4778. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Pursuant to section 207(j) of the National Housing Act, 12 U.S.C. 1713(j), and in accordance with HUD's regulation at 24 CFR 207.259(e)(3), the Assistant Secretary for Housing—Federal Housing Commissioner, with the approval of the Secretary of the Treasury, announces the call of all FHA debentures, with a coupon rate of 4.5 percent or above, except for those debentures subject to "debenture lock agreements," that have been registered on the books of the Bureau of the Public Debt, Department of the Treasury, and are, therefore, "outstanding" as of March 31, 2011. The date of the call is July 1, 2011.

The debentures will be redeemed at par plus accrued interest. Interest will cease to accrue on the debentures as of the call date. At redemption, final interest on any called debentures will be paid along with the principal. Payment of final principal and interest due on July 1, 2011, will be made automatically to the registered holder.

During the period from the date of this notice to the call date, debentures

that are subject to the call may not be used by the mortgagee for a special redemption purchase in payment of a mortgage insurance premium.

No transfer of debentures covered by the foregoing call will be made on the books maintained by the U.S. Department of the Treasury on or after June 10, 2011. This debenture call does not affect the right of the holder of a debenture to sell or assign the debenture on or after this date.

Dated: March 22, 2011.

David H. Stevens,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2011–7279 Filed 3–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

[Docket No. BOEM–2010–0040]

BOEMRE Information Collection Activities: 1010–0172, Open and Nondiscriminatory Access to Oil and Gas Pipelines; Comment Request

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice of a renewal of an information collection (1010–0172).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to the Office of Management and Budget (OMB) an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR Part 291. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by April 28, 2011.

ADDRESSES: Submit comments by either fax (202) 395–5806 or e-mail (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0172). Please also submit a copy of your comments to BOEMRE by any of the means below.

- *Electronically:* go to *http://www.regulations.gov.* In the entry titled, "Enter Keyword or ID," enter "BOEM–2010–0040," then click search. Follow the instructions to submit public comments and view supporting and related materials available for this collection. BOEMRE will post all comments.
- *E-mail arlene.bajusz@boemre.gov.* Mail or hand-carry comments to the Department of the Interior; Bureau of Ocean Energy Management, Regulation and Enforcement; *Attention:* Arlene Bajusz; 381 Elden Street, MS–4020; Herndon, Virginia 20170–4817. Please reference ICR 1010–0172 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Policy and Management Improvement at (703) 787–1025. To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov* (Information Collection Review, Currently Under Review, Department of the Interior, DOI–BOEM).

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 291, Open and Nondiscriminatory Access to Oil and Gas Pipelines under the OCS Lands Act.

OMB Control Number: 1010–0172.

Abstract: The Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331 *et seq.*), as amended, requires the Secretary of the Interior to preserve, protect, and develop OCS oil, gas, and sulphur resources; make such resources available to meet the Nation's energy needs; balance orderly energy resources development with protection of the human, marine, and coastal environments; ensure the public a fair and equitable return on the resources offshore; and preserve and maintain free enterprise competition.

Section 1334(f)(1) states "Except as provided in paragraph (2), every permit, license, easement, right-of-way, or other grant of authority for the transportation by pipeline on or across the outer Continental Shelf of oil or gas shall require that the pipeline be operated in accordance with the following competitive principles: (A) The pipeline must provide open and nondiscriminatory access to both owner and non-owner shippers* * *."

Ensuring open and nondiscriminatory access to pipelines is among the responsibilities delegated to BOEMRE, which replaced the Minerals Management Service on June 18, 2010. In order to provide shippers with a methodology to file complaints alleging denial of access or that access is discriminatory access, the BOEMRE promulgated regulations at 30 CFR Part 291. The BOEMRE will use the information submitted during the complaint process to determine whether the shipper has been denied such access or to initiate a more detailed investigation into the specific circumstances of the complainant's allegation. The complaint information will be provided to the alleged offending party. The BOEMRE may request additional information upon completion of the initial investigation.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR Part 2). No items of a sensitive nature are collected. Responses are required to obtain a benefit.

Frequency: The frequency is on occasion.

Description of Respondents: Shippers that do business on the OCS and companies that pay royalties on the OCS.

Estimated Annual Reporting and Recordkeeping Hour Burden: The estimated annual hour burden for this collection is 51 hours. Refer to the table below for a break down of the complete burden. This includes the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information.

Citation 30 CFR 291	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
105, 106, 108, 109, 111 ...	Submit complaint (with fee) to BOEMRE and affected parties. Request confidential treatment and respond to BOEMRE decision.	50 $7,500 processing fee	1	50 $7,500
106(b), 109	Request waiver or reduction of fee	1	1	1
104(b), 107, 111	Submit response to a complaint. Request confidential treatment and respond to BOEMRE decision.			0

Citation 30 CFR 291	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
110	Submit required information for BOEMRE to make a decision.	Information required after an investigation is opened against a specific entity is exempt under the PRA (5 CFR 1320.4)		
114, 115(a)	Submit appeal on BOEMRE final decision			
Total Burden			2	51

Estimated Annual Reporting and Recordkeeping Non-Hour Cost Burden: We have identified a "non-hour" cost burden of $7,500, which is a nonrefundable fee for each complaint submitted to recover the Federal Government's processing costs.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency " * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on September 20, 2010, we published a **Federal Register** notice (75 FR 57285) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. The PRA (5 U.S.C. 1320) informs the public that they may comment at any time on the collection of information and BOEMRE provides the address to which they should send comments. We received one comment, but it did not pertain to the information collection; therefore, no change was made in the burden estimate.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by April 28, 2011.

Public Availability of Comments: Before including your address, phone number, email 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.

BOEMRE Information Collection Clearance Officer: Arlene Bajusz (703) 787–1025.

Dated: March 18, 2011.

George F. Triebsch,

Associate Director, Policy and Management Improvement.

[FR Doc. 2011–7257 Filed 3–28–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

[Docket ID No. BOEM–2010–0055]

BOEMRE Information Collection Activity: 1010–0149, Subpart I, Platforms and Structures, Renewal of a Collection; Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice of renewal of an information collection (1010–0149).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR part 250, subpart I, Platforms and Structures, and related documents. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by April 28, 2011.

ADDRESSES: Submit comments by either fax (202) 395–5806 or e-mail (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0149). Please also submit a copy of your comments to BOEMRE by any of the means below.

- Electronically: go to *http://www.regulations.gov.* In the entry titled, "Enter Keyword or ID," enter BOEM–2010–0055 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this collection. BOEMRE will post all comments.
- E-mail *cheryl.blundon@boemre.gov.* Mail or hand-carry comments to: Department of the Interior; Bureau of Ocean Energy Management, Regulation and Enforcement; Attention: Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ICR 1010–0149 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch, (703) 787–1607. To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov* (select Information Collection Review, Currently Under Review).

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart I, Platforms and Structures.

OMB Control Number: 1010–0149.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to manage the mineral resources of the OCS. Such rules and regulations apply to all operations conducted under a lease, right-of-use and easement, or pipeline right-of-way. Operations on the OCS must preserve,

protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Section 43 U.S.C. 1356 requires the issuance of "* * * regulations which require that any vessel, rig, platform, or other vehicle or structure * * * (2) which is used for activities pursuant to this subchapter, comply * * * with such minimum standards of design, construction, alteration, and repair as the Secretary * * * establishes * * * ." Section 43 U.S.C. 1332(6) also states "operations in the [O]uter Continental Shelf should be conducted in a safe manner * * * to prevent or minimize the likelihood of * * * physical obstruction to other users of the water or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health."

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and OMB Circular A–25, authorize Federal agencies to recover the full cost of services that confer special benefits. Under the Department of the Interior's implementing policy, BOEMRE is required to charge fees for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those that accrue to the public at large. Platform applications are subject to cost recovery, and BOEMRE regulations specify service fees for these requests.

These authorities and responsibilities are among those delegated to BOEMRE to ensure that operations in the OCS will meet statutory requirements; provide for safety and protection of the environment; and result in diligent exploration, development, and production of OCS leases. This ICR addresses the regulations at 30 CFR part 250, subpart I, Platforms and Structures, and the associated supplementary notices to lessees and operators (NTLs) intended to provide clarification, description, or explanation of these regulations.

Responses are mandatory or required to obtain or retain a benefit. No questions of a sensitive nature are asked. BOEMRE will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2), 30 CFR 250.197 (Data and information to be made available to the public or for limited inspection), and 30 CFR part 252 (OCS Oil and Gas Information Program).

BOEMRE uses the information submitted under Subpart I to determine the structural integrity of all OCS platforms and floating production facilities and to ensure that such integrity will be maintained throughout the useful life of these structures. We use the information to ascertain, on a case-by-case basis, that the fixed and floating platforms and structures are structurally sound and safe for their intended use to ensure safety of personnel and prevent pollution. More specifically, we use the information to:

- Review data concerning damage to a platform to assess the adequacy of proposed repairs.
- Review applications for platform construction (construction is divided into three phases—design, fabrication, and installation) to ensure the structural integrity of the platform.
- Review verification plans and third-party reports for unique platforms to ensure that all nonstandard situations are given proper consideration during the platform design, fabrication, and installation.
- Review platform design, fabrication, and installation records to ensure that the platform is constructed according to approved applications.
- Review inspection reports to ensure that platform integrity is maintained for the life of the platform.

Frequency: On occasion.

Description of Respondents: Potential respondents comprise Federal oil and gas OCS lessees and their Certified Verification Agents and/or other third-party reviewers of production facilities.

Estimated Reporting and Recordkeeping Hour Burden: The estimated annual hour burden for this information collection is a total of 116,341 hours. The following table details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 Subpart I and related NTLs	Reporting and/or recordkeeping requirement	Non-Hour cost burdens*		
		Hour burden	Average No. of annual reponses	Annual burden hours
General Requirements for Platforms				
900(b), (c), (e); 905; 906; 910(c), (d); 911(c), (g); 912; 913; 919; NTL(s)	Submit application, along with reports/surveys and relevant data, to install new platform or floating production facility or significant changes to approved applications, including use of alternative codes, rules, or standards; CVA changes; and Platform Verification Program (PVP) plan for design, fabrication and installation of new, fixed, bottom-founded, pile-supported, or concrete-gravity platforms and new floating platforms. Consult as required with BOEMRE and/or USCG. Re/Submit application for major modification(s)/repairs to any platform; and related requirements.	102	105 applications	10,710
		$21,075 x 1 PVP = $21,075 $3,018 x 15 fixed structure = $45,270 $1,536 x 27 Caisson/Well Protector = $41,472 $3,601 x 62 modifications/repairs = $223,262		
900(b)(4)	Submit application for approval to convert an existing platform to a new purpose.	60	5 applications	300
900(b)(5)	Submit application for conversion of the use of an existing mobile offshore drilling unit.	120	2 applications	240

Citation 30 CFR 250 Subpart I and related NTLs	Reporting and/or recordkeeping requirement	Non-Hour cost burdens*		
		Hour burden	Average No. of annual reponses	Annual burden hours
900(c)	Notify BOEMRE within 24 hours of damage and emergency repairs and request approval of repairs. Submit written completion report within 1 week upon completion of repairs.	4 20	12 notices/requests; reports	48 240
900(e)	Submit platform installation date and the final as-built location data to the Regional Supervisor within 45 days after platform installation.	20	140 submittals	2,800
900(e)	Resubmit an application for approval to install a platform if it was not installed within 1 year after approval (or other date specified by BOEMRE).	50	5 applications	250
903	Record original and relevant material test results of all primary structural materials; retain records during all stages of construction. Compile, retain, and provide location/make available to BOEMRE for the functional life of platform, the as-built drawings, design assumptions/analyses, summary of nondestructive examination records, inspection results, and records of repair not covered elsewhere.	160	130 lessees	20,800
903(c); 905(k)	Submit certification statement [a certification statement is not considered information collection under 5 CFR 1320.3(h)(1); the burden is for the insertion of the location of the records on the statement and the submittal to BOEMRE].	This statement is submitted with the application.		0
905(i)	Provide a summary of safety factors utilized in the design of the platform.	.25	331 summaries	83 (rounded)
			730 responses	35,471 hours
	Subtotal		$331,079 Non-Hour Cost Burdens	
	Platform Verification Program			
911(c-e); 912(a-c); 914;	Submit complete schedule of all phases of design, fabrication, and installation with required information; also submit Gantt Chart with required information and required nomination/documentation for CVA.	130	5 schedules	650
912(a)	Submit design verification plans with your DPP or DOCD	Burden covered under 1010–0151.		0
913(a)	Resubmit a changed design, fabrication, or installation verification plan for approval.	60	2 plans	120
916(c)	Submit interim and final CVA reports and recommendations on design phase.	250	10 reports	2,500
917(a), (c)	Submit interim and final CVA reports and recommendations on fabrication phase, including notices to BOEMRE and operator/lessee of fabrication procedure changes or design specification modifications.	150	10 reports	1,500
918(c)	Submit interim and final CVA reports and recommendations on installation phase.	130	10 reports	1,300
	Subtotal		37 responses	6,070 hours
	Inspection, Maintenance, and Assessment of Platforms			
919(a)	Develop in-service inspection plan and keep on file. Submit annual (November 1 of each year) report on inspection of platforms or floating production facilities, including summary of testing results.	130	130 lessees	16,900
919(b) NTL	After an environmental event, submit to Regional Supervisor initial report followed by updates and supporting information.	25 (initial) 15 (update)	150 reports 90 reports	3,750 1,350
919(c) NTL	Submit results of inspections	150	200 results	30,000
920(a)	Demonstrate platform is able to withstand environmental loadings for appropriate exposure category.	30	400 occurrences	12,000
920(c)	Submit application and obtain approval from the Regional Supervisor for mitigation actions (includes operational procedures).	40	200 submittals	8,000
920(e)	Submit a list of all platforms you operate, and appropriate supporting data, every 5 years or as directed by the Regional Supervisor.	100	130 operators/5 years = 26 per year	2,600
920(f)	Obtain approval from the Regional Supervisor for any change in the platform.	50	2	100

Citation 30 CFR 250 Subpart I and related NTLs	Reporting and/or recordkeeping requirement	Non-Hour cost burdens*		
		Hour burden	Average No. of annual reponses	Annual burden hours
Subtotal			1,198 responses	74,700 hours
General Departure				
900 thru 921	General departure and alternative compliance requests not specifically covered elsewhere in Subpart I regulations.	10 hours	10 requests	100 hours
			1,975 Responses	116,341 Hours
TOTAL BURDEN			$331,079 Non-Hour Cost Burdens	

* The non-hour cost burdens associated with this ICR relate to cost recovery fees. These fees are based on actual monies received in FY2010 thru the Pay.gov system.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified four paperwork non-hour cost burdens associated with the collection of information. The costs are specifically broken out in the burden table. The non-hour costs are for: installation under the Platform Verification Program; installation of fixed structures under the Platform Approval Program; installation of Caisson/Well Protectors; and modifications and/or repairs. We have not identified any other non-hour cost burdens associated with this collection of information. We estimate a total reporting non-hour cost burden of $331,079.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on November 9, 2010, we published a **Federal Register** notice (75 FR 68814) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR part 250 regulations. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received one comment in response to these efforts. The comment received was from another government agency, and it did not affect the paperwork burden, but was in support of the collection of such information.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by April 28, 2011.

Public Availability of Comments: Before including your address, phone number, email 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.

BOEMRE Information Collection Clearance Officer: Arlene Bajusz, (703) 787–1025.

Dated: February 15, 2011.

Doug Slitor,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2011–7254 Filed 3–28–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA020

Receipt of Application for an Endangered Species Act Incidental Take Permit

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

ACTION: Notice of receipt of submissions of applications for incidental take permits; availability of a draft habitat conservation plan, a preliminary draft environmental impact statement prepared by the Applicant, and a draft implementation agreement.

SUMMARY: The Lewis County, Washington, Board of Commissioners (Applicant) has submitted applications to the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (together, the Services) for incidental take permits (ITPs) under the Endangered Species Act of 1973, as amended (ESA). The Applicant requests ITPs to cover the take of 7 listed and 70 other covered species under the Services' jurisdictions in conjunction with forest management activities on a class of private lands in Lewis County, Washington. The ITP

application submission includes: A draft Habitat Conservation Plan (HCP) describing the Applicant's proposed actions and the proposed measures the Applicant would implement to minimize, mitigate, and monitor take of listed and other covered species; a preliminary draft Environmental Impact Statement (EIS); and a draft Implementation Agreement (IA). The Services are making the ITP submission package available for public review and comment consistent with a request from the Applicant. The public is invited to submit comments and any other relevant information regarding: the adequacy of the mitigation, minimization, and monitoring measures proposed under the draft Lewis County HCP, particularly with respect to proposed riparian forest buffers, in relation to measures and buffers required under Washington State forest practices regulations; and the adequacy of the draft IA provisions.

DATES: All comments from interested parties must be received on or before May 31, 2011.

ADDRESSES: Please address written comments to Ken Berg, Project Leader, by U.S. mail to the Washington Fish and Wildlife Office, FWS, 510 Desmond Drive SE., Suite 102, Lacey, WA 98503–1273; by facsimile at (360) 753–9405; or by electronic mail (e-mail) at *LewisCountyHCP@fws.gov.* Alternatively, you may send comments to Steve Landino, Washington State Director, Habitat Division, NMFS, 510 Desmond Drive SE., Suite 103, Lacey, WA 98503–1273.

FOR FURTHER INFORMATION CONTACT: Jim Michaels, at the FWS address above or by telephone at (360) 753–9440, or Dan Guy, at the NMFS address above or by telephone at (360) 534–9342.

SUPPLEMENTARY INFORMATION:

Statutory Authority

Section 9 of the ESA (16 U.S.C. 1538) and implementing regulations prohibit the taking of animal species listed as endangered or threatened. The term "take" is defined under the ESA (16 U.S.C. 1532(19)) to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. "Harm" is defined by FWS regulation to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). NMFS' definition of "harm" includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (64 FR 60727; November 8, 1999).

Section 10 of the ESA and implementing regulations specify requirements for the issuance of ITPs to non-Federal landowners for the take of endangered and threatened species caused by actions these landowners propose to implement. Any anticipated take must be incidental to otherwise lawful activities, and it must not appreciably reduce the likelihood of the survival and recovery of the species in the wild; also, ITP holders must minimize and mitigate the impacts of such take to the maximum extent practicable. The applicant must prepare a HCP describing the impact that will likely result from such taking, the strategy for minimizing and mitigating the take, the funding available to implement such steps, alternatives to such taking, and the reasons such alternatives are not being implemented.

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. Under NEPA, a reasonable range of alternatives to the proposed Federal action is developed and considered in the Services' environmental review. Alternatives considered for analysis in an EIS may include: variations in the scope of covered activities; variations in the location, amount, and type of conservation activities; variations in ITP duration; or a combination of these elements. In addition, an EIS will identify potentially significant direct, indirect, and cumulative impacts on biological resources, land use, air quality, water quality, water resources, socioeconomics, and other environmental issues that could occur with implementation of the proposed Federal actions and alternatives. For potentially significant impacts, an EIS may identify avoidance, minimization, or mitigation measures to reduce these impacts, where feasible, to a level below significance. In this instance, the Applicant has provided a preliminary draft EIS to the Services. The Applicant's preliminary draft EIS is being made available to the public. You may request a copy of the preliminary draft EIS by contacting the FWS's Washington Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** above).

For reasons stated in detail below, the preliminary draft EIS was not prepared under the Services' oversight or involvement and does not represent the Services' analysis or environmental review of the proposed submission.

This notice is provided under section 10(c) of the ESA. This notice does not initiate a public comment period under NEPA. The Services will provide an opportunity for public comment under NEPA, based on a Services-endorsed draft NEPA document, if we determine it is appropriate to continue processing the ITP application.

Background

On July 25, 2005, the Services published a notice (70 FR 42533) of the intent to conduct scoping meetings and to gather information to prepare an EIS related to Lewis County seeking ITPs from the Services that would provide increased regulatory certainty for small forest landowners making long-term commitments to forest resource protection. The notice stated that Lewis County believed the assurances embodied in such regulatory certainty might encourage family forest landowners in Lewis County to maintain their property in forest management instead of converting lands to non-forest uses. The notice affirmed that Lewis County was seeking ITPs under which it would in turn provide certificates of inclusion to certain forest landowners, after verifying they meet eligibility criteria and agree to comply with the Lewis County HCP. Eligible landowners would be those that hold lands below the elevation of 1,250 feet within the Chehalis and Cowlitz River watersheds in Lewis County, and harvest less than 2 million board feet of timber per calendar year. As of 2004, approximately 133,000 acres were owned by small forest landowners who met these criteria in Lewis County.

If issued, the ITPs would provide incidental take coverage for activities on a maximum of 200,000 acres in Lewis County. Should Lewis County seek to exceed that acreage, it would need to obtain an ITP amendment, which could be subject to additional analysis, including additional NEPA review. The notice stated that the Washington Department of Natural Resources (DNR) would verify compliance with the Lewis County HCP concurrent with harvest activities, and Lewis County and the Services would conduct additional compliance monitoring at other times. Annual implementation reports would be provided by Lewis County to the Services.

Forestry activities that Lewis County is now proposing for ITP coverage, and for which minimization and mitigation

measures were developed, include the following:

- All activities involved in timber management and harvest, including: mechanical site preparation, prescribed burning, reforestation, vegetation management (other than with herbicides), precommercial thinning, commercial thinning, timber salvage, other commercial harvest (felling, bucking, limbing, yarding, skidding, processing, loading, and hauling) of timber, fire prevention, fire suppression (including mop-up activities), and nonchemical pest control;
- Construction, reconstruction, improvement, maintenance, abandonment, closure, and use of logging roads, spurs, landings, and decking areas;
- Quarrying, processing, and transporting of stone, gravel, and/or dirt for use in roads;
- Administrative activities, such as land surveying, timber cruising, and other resource inventorying;
- All activities required by the HCP or ITP; and
- Entering into and administering access rights, utility rights of way, and recreational and hunting leases.

Species for which Lewis County seeks coverage include 33 species of fish and up to 44 species of wildlife. Seven of the species are currently listed as threatened under the ESA: the Lower Columbia River Chinook salmon (*Oncorhynchus tshawytscha*), Lower Columbia River coho salmon (*O. kisutch*), Columbia River chum salmon (*O. keta*), Lower Columbia River steelhead (*O. mykiss*), marbled murrelet *(Brachyramphus marmoratus*), northern spotted owl (*Strix occidentalis caurina*), and the gray wolf (*Canis lupus*). Fourteen species proposed for coverage are unlisted species for which take authorization would become effective concurrent with their listing, should the species be listed under the ESA during the permit term.

The draft Lewis County HCP provided with the submission includes a description of the impacts of take on proposed covered species, and proposes a conservation strategy that Lewis County asserts will minimize and mitigate those impacts on each covered species to the maximum extent practicable. In the submission, Lewis County asserts that streams would be protected by a combination of no-harvest and partial-harvest buffers; roads would be designed, constructed, and maintained to minimize erosion and mass wasting; specified numbers of snags, logs, and residual live trees would be retained in uplands; and timber harvest unit size would be restricted to a maximum of 60 acres to minimize potential cumulative effects. Protection of steep and unstable slopes, road construction, and road maintenance would follow Washington State Forest Practices Rules, including any changes made to those rules through the adaptive management process associated with the Washington State Forest Practices Habitat Conservation Plan, which is currently applicable to all lands subject to this submission.

The conservation strategy in the draft HCP provided with the Lewis County submission deviates from the strategies for habitat conservation, including riparian area protection, employed in current Washington State Forest Practices regulations and five other forestry HCPs already approved and operating in Washington State (West Fork Timber Co., Port Blakely Tree Farms, Plum Creek Timber, Washington State Lands DNR, and Green Diamond Timber Co.). Proposed riparian buffers on streams vary by stream width, but are smaller than those in any previously approved forestry HCP in Washington State and those in the current Washington State Forest Practices regulations (which also are the subject of an ITP) as displayed in Table 1.

Riparian buffers are essential landscape features needed to provide important ecological functions integral to the survival and recovery of salmon and other aquatic species. Appropriately sized riparian buffers facilitate the delivery of adequate amounts of large woody debris to the channel, provide shade to moderate stream temperature, and maintain bank stability by providing root strength. For the buffers proposed in the Lewis County HCP to be found adequate, persuasive evidence would be required to ensure that they would provide a functional supply of recruitable large wood over time, that the wood in the buffer actually does recruit over time to streams in a manner similar to recruitment in a late-seral forest (late-successional, mature or old-growth forest), and that the riparian tree stands moderate stream temperature on the covered lands.

The existing Washington State Forest Practices regulations for riparian buffering provide context for comparison with and analysis of those buffers proposed in the draft Lewis County HCP, because the provisions of the State's regulations and the Washington State Forest Practices Habitat Conservation Plan associated with them are the substance of another ITP, that already is applicable to the proposed covered lands for the Lewis County HCP. In contrast to the riparian buffers proposed in the draft Lewis County HCP provided with the submission, the buffer widths for the Washington State Forest Practices regulations are based on a combination of factors, including water type, fish presence, and the types of practices (such as thinning) that might be employed, depending on a variety of site-determined factors.

Forest Practices Rules/HCP Riparian Buffer Widths

Stream Class		Buffer Zone	Buffer Width* (ft) Min	Max
Fish-Bearing	>10'	Total Buffer	140	200
		No-Cut Zone	50	133
	≤10'	Total Buffer	140	200
		No-Cut Zone	50	80
Non-fish	Perennial	Total Buffer	50+	
		No-Cut Zone	50	
	Seasonal	No Buffer	0	

Proposed Lewis County HCP Riparian Buffer Widths

Stream Class		Buffer Zone	Buffer Width (ft)
Fish-Bearing Perrenial	>20'	Total Buffer	100
		No-Cut Zone	40
	5-20'	Total Buffer	80
		No-Cut Zone	40
	<5'	Total Buffer	35
		No-Cut Zone	35
Non-Fish Ephemeral	5'-10'	Total Buffer	15
		No-Cut Zone	15
	<5'	No Buffer	0

*Forest Practice Buffer widths are presented for site classes I-III because these are deemed to be the most comparable sites to the majority of lands to be covered by the Proposed Lewis County HCP.

+For non-fish bearing perennial streams over 300 feet long, the 50-foot buffer is retained along approximately 50% of stream length.

Table 1. Comparison of riparian buffer widths in the riparian conservation strategies of the proposed Lewis County HCP and the Forest Practices Rules, which are the implementation procedures for the Forest Practices HCP. A variety of silvicultural prescriptions could be applied within the buffer widths shown above.

As required by the ESA, the Services are responsible for determining whether a sufficient application for an ITP under section 10 of the ESA meets permit issuance criteria. The conservation strategy and measures in the draft Lewis County HCP provided with the submission have been the subject of extensive consultation and discussion between Lewis County and the Services. Throughout the HCP discussions, the Services have expressed concerns about the adequacy of the riparian prescriptions and the sufficiency of the scientific rationale provided in the applicant's plan, a rationale that now is used in the draft Lewis County HCP. Among measures taken in an effort to remove these concerns, the Services analyzed the results of three separate peer reviews, two of which were independent and one of which NMFS conducted. The general focus of the inquiry was to validate that the applicant was properly modeling the attributes of a late-seral forest for the covered lands and, as a result, properly mimicking those attributes in its proposal for a riparian buffer regime. All of the reviews addressed the metrics, methodology, assumptions, and models that went into the preparation of the draft Lewis County HCP that the applicant provided with this submission. The first review was provided to the Family Forest Foundation on December 2, 2004, and the second was provided in the fall 2006. The third review was provided on October 5, 2007. These reviews are discussed below and are available upon request by contacting the FWS's Washington Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** above).

The first two peer reviews were conducted by the Sustainable Ecosystems Institute (SEI) in Portland, Oregon, on behalf of the applicant. In the first of the SEI reviews, four reviewers responded to a series of questions relative to natural (unmanaged) forest conditions in Lewis County and the use of Forest Inventory and Analysis (FIA) data plots as inputs to model these conditions. The objective of the modeling was to inform the development of forest management prescriptions in the Lewis County HCP that result in managed, mature riparian forest stands that closely mimic natural, mature riparian forest stand conditions in Lewis County. While SEI summarized the reviewers as "unequivocal" in their support of using FIA data to model natural, mature riparian forest stand conditions in Lewis County, the Services perceived considerable uncertainty associated within their individual responses. For example, two of the four SEI reviewers could not agree that Lewis County had used the appropriate forest stand parameters to describe the FIA integrated database. The Applicant used the FIA database to identify mature, natural forest stands of approximately 120 years of age that could be used as reference stands. The purpose of these reference stands was to develop target stand conditions to be achieved under the proposed HCP. After further discussion between NMFS and the SEI reviewers about their responses, significant concerns remained that the data used were inappropriate to model unmanaged, natural, mature riparian forest stand conditions.

The second SEI review asked a series of questions of three respected forest ecologists from Oregon about the model being used to predict available large woody debris. SEI summarized their reviews as "somewhat critical," adding that "The panel felt the model used an inappropriate definition of functional wood." The synopsis of panel responses was that the model was combined with unrealistic assumptions relative to the timing of tree fall.

One of the three reviewers cautioned against "developing sweeping conclusions about regional management

based on an untested model." The reviewer also noted that "the model does not consider several fundamental characteristics of streams and riparian areas." The reviewer also noted that "another aspect of the report that is misleading is the assertion that this model reduces or eliminates uncertainties that are associated with other models. * * * In many ways, uncertainty is increased by more simple and narrow representations." This reviewer ended by saying, "The conclusions are overly simplistic, place enormous weight on the evidence from this single model, and fail to provide context for the possible uncertainties associated with this assessment."

Another reviewer noted: "The output of this model is number and volume of trees that would intersect the nearest bank assuming all the trees within the riparian zone fell at the same time. This is an unrealistic assumption." The reviewer found that the model "produced un-interpretable results." This reviewer found that "[t]his model has limited usefulness in evaluating the relative performance of various riparian management strategies on wood recruitment to the stream, which requires a dynamic model framework." The final reviewer found the model to be very detailed and sophisticated mathematically, but ecologically naive, and noted that the model appeared to ignore current science about the delivery of wood into fish habitat.

The NMFS conducted the third review through its Northwest Fisheries Science Center (Science Center) in Seattle, Washington. The Science Center review found fault with a variety of issues concerning estimates of recruitable large wood that Lewis County asserted would be available following the provisions of the draft Lewis County HCP. Specifically, the Science Center review acknowledged that the Available Functional Large Woody Debris (AFLWD) model relied on in the draft Lewis County HCP does not produce output data that could be translated into estimates of instream wood loads, and pointed out that the model's effectiveness therefore relied upon assumptions that wood recruitment would occur on the riparian tree stands addressed by the draft HCP as it did in a late-seral stand (*i.e.,* reference conditions), or, in the alternative, that differences in anticipated recruitment would be explained. The Science Center review also concluded it could not be verified that the FIA stand data used to provide input to the AFLWD model are representative of late-seral forest conditions (*i.e.,* reference conditions) for the covered lands. For example, it was determined that several FIA plots selected for intensive review by the Science Center were not an accurate representation of unmanaged, late-seral forest conditions and probably had been managed for timber harvest. Many of the "reference" stands the applicant selected consisted of stands much less than 120 years of age. To illustrate the problem, the Science Center reviewed data from 17 of the subplots comprising 4 of the 179 data plots used. Some of the subplots had stand ages as young as 20 years. The mean age of all 17 subplots was 72 years, much younger than the targeted 120-year-old natural stand age.

Following this finding, the Applicant removed these and other stand data it found to be inappropriate and asserted that there was no change of significance in the model outputs as a result. Unfortunately, the Services are unable to verify that the remaining plot data used in the model overcome the above concerns and are appropriate, because the locations of the FIA plots are confidential and, as a result, it is not possible to determine what forest attributes (for example, late-seral or managed) are reflected in the data.

In addition, the model used by the Applicant included an assumption of 472 existing conifers per acre on average in the proposed "no-cut" portion of riparian areas on covered lands. Non-random visits in October 2008 to dozens of accessible riparian sites on covered lands by Science Center staff found that most had few conifers within the proposed no-cut buffer and many had no conifers at all. Many of the no-cut buffers observed were dominated by alders, with an understory of grasses, often reed canary grass, with little indication of conifer regeneration. In addition to the three reviews, the Services received another outside review of the conservation strategy contained in the draft Lewis County HCP that was critical of the strategy. On June 2, 2008, the Quinault Indian Nation, through its consultant ARC Consultants, presented NMFS with "A Critical Review of the Family Forest Habitat Conservation Plan" (Quinault review). The Quinault review supported the Services' continuing concerns that the draft Lewis County HCP is not based on the best available science and that it develops riparian targets that are not representative of unmanaged riparian forests. The Quinault review refers to Washington's Cooperative Monitoring, Evaluation, and Research Committee "Desired Future Condition (DFC) Validation Study" (DFC Study) (Schuett-Hames *et al.,* 2005). This report is available at *http://www.dnr.wa.gov/Publications/fp_cmer_05_507.pdf.* It was prepared under a process supporting the implementation of the Washington State Forest Practices HCP. The peer-reviewed DFC Study focuses on data from fully stocked riparian stand plots and establishes an appropriate standard by which to measure mature riparian stand conditions (in which at least 30 percent of the sites are occupied by crowns of dominant and co-dominant conifers between 80 and 200 years of age and show no past harvest activity).

Finally, many of the proposed covered lands are within the Chehalis River Basin, which currently is "water quality impaired" for temperature under the Clean Water Act. The Washington State Department of Ecology, based on a review of the draft Lewis County HCP prescriptions related to water quality, submitted a memo to the Services on August 4, 2010, that includes the following findings: The draft Lewis County HCP (1) is based on a combination of selective weak outdated statistical models with optimistic assumptions on riparian input conditions that do not match the riparian conditions that will be encountered on the ground or that are permitted during the life of the HCP; (2) is not based on attributes that are unique to Lewis County or small landowners, but only on the interpretation of models and assumptions that are neither calibrated nor validated for that purpose; (3) lacks robust adaptive management and effectiveness monitoring components and feedback processes to ensure that the requirements of the HCP are tested and changed to meet protective assumptions; and (4) allows extensive tree removal adjacent to narrow, no-harvest zones immediately adjacent to streams that will decrease shade and degrade riparian microclimate for the stream.

These reviews and discussions with the peer reviewers and other commenters have highlighted the Services' concerns about the adequacy of the draft Lewis County HCP to appropriately conserve the habitat requirements of covered species, particularly the covered aquatic species. The Services continue to be concerned about the information in the draft HCP relating to the amount of large woody debris produced in the covered riparian areas over time. Under the draft HCP, the amount of large woody debris produced in these areas would not be adequate and would not meet requirements for wood produced by the riparian buffers in any of the other six approved HCPs in Washington. While

this fact alone is not fatal to the proposal, the applicant's reliance on the FIA data does not justify the reduced buffer size proposed under the draft HCP by sufficiently differentiating the late-seral forest conditions on proposed covered lands in Lewis County from late-seral conditions on covered lands in these other HCPs. While the volume of information provided by the Applicant to support its assertions is substantial, the type and quality of the information is insufficient to allow analysts to clearly and fully understand how the conclusions reached in the draft Lewis County HCP are supported.

The base mitigation strategy, or initial minimization and mitigation measures that are implemented in any HCP, should be sufficiently vigorous so that the Services may reasonably determine they will be successful. The adaptive management program should address uncertainties associated with that determination and improve knowledge over time. In this instance, and as described above, the Services question whether the proposed conservation regime in the Lewis County HCP meets statutory criteria for issuance of an ITP. As currently written, the conservation regime contains substantial biological risk that is not addressed adequately through the adaptive management provisions in the draft HCP. By contrast, the Washington Forest Practices HCP contains an initial mitigation strategy that the Services determined was sufficient, and an extensive adaptive management program.

Typically, HCPs include an IA that, among other things, provides for enforcement of the measures in the HCP, and also for remedies, should any party fail to perform its obligations. A draft IA was among the documents in the applicant's submission; each page of the draft IA contains a statement that the provisions are "subject to change based on the Services' review." The Services believe they have previously and clearly indicated to the applicant that some provisions in the draft IA are inconsistent with the criteria for issuance of an ITP. For example, the Services have advised the Applicant that the draft IA lacks a provision for potential mitigation upon early termination of the ITP (the draft IA suggests, in fact, that the Services make a finding that such mitigation would never be required), lacks compliance details including for enforcement, and omits provisions that establish the accountability of Lewis County for performance of its responsibilities as ITP holder. The draft IA submitted to the Services by the Applicant does not address these concerns.

The Services also believe the preliminary draft EIS provided by Lewis County with the submission is inadequate for the Services' environmental review required under the NEPA for an ITP application submission. The analysis was prepared by the Applicant and does not accurately reflect the views of the Services regarding the effects of the proposal on the human environment. While it is customary for an applicant to prepare the preliminary draft NEPA document for the Services, the Services are responsible for ensuring that the published draft EIS discloses the environmental impacts as determined by the Services. The preliminary draft EIS currently stands only as the Applicant's analysis, and is not a Federal environmental review meeting the statutory and regulatory requirements in NEPA. Typically, the Services work with an applicant to address our concerns; in this case, the Applicant has chosen not to modify the draft EIS in response to the Services' concerns.

On February 12, 2008, the Services met with the Family Forest Foundation, policy representatives from the Washington Department of Ecology, Washington Department of Fish and Wildlife, and the Washington DNR. At that meeting, the State of Washington verbally indicated it did not support the science in the draft HCP and it did not believe that the Lewis County HCP would qualify as an "alternate plan" under the existing Washington State forest practices regulations by providing equivalent or better ecological function than existing forest practices regulations.

Availability of Documents

The ITP application submission—which includes a draft HCP, preliminary draft EIS provided by the Applicant, and a draft IA—is available for public inspection, by appointment, between the hours of 8 a.m. and 5 p.m. at the FWS's Washington Fish and Wildlife Office (*see* **ADDRESSES** above). You may also request copies of the documents by contacting the FWS's Washington Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** above). The public is invited to submit comments and any other relevant information regarding: The adequacy of the mitigation, minimization, and monitoring measures proposed under the draft Lewis County HCP, particularly with respect to proposed riparian forest buffers in relation to those required under Washington State forest practices regulations; and the adequacy of the draft IA provisions.

All comments received will become part of the public record for this proposed action. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal information—may be made publicly available at any time. While you can ask in your comment to withhold your personal identifying information from public review, this cannot be guaranteed.

Dated: March 21, 2011.

Richard Hannan,

Deputy Regional Director, Region 1, U.S. Fish and Wildlife Service.

Dated: March 22, 2011.

Therese Conant,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–7238 Filed 3–28–11; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R6–ES–2011–0022; 92220–1113–0000–C3]

Nonessential Experimental Populations of Gray Wolves in the Northern Rocky Mountains; Lethal Take of Wolves in the West Fork Elk Management Unit of Montana; Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft environmental assessment (EA) of the Montana Department of Fish, Wildlife, and Parks (MFWP) proposal to lethally take wolves in the West Fork Elk Management Unit (EMU) in western Montana in response to impacts on elk populations. The MFWP's proposal was submitted under the Endangered Species Act (ESA) and our special regulations under the ESA for the central Idaho and Yellowstone area nonessential experimental populations of gray wolves in the Northern Rocky Mountains. The draft EA describes the environmental effects of two alternatives: (1) The preferred alternative, which would approve the

MFWP proposal to reduce the wolf population in the West Fork EMU to a minimum of 12 wolves in 2 to 3 packs for a period of 5 years, in response to impacts on elk populations; and (2) a no-action alternative, which would deny the proposal to reduce the wolf population in the West Fork EMU. Under the no-action alternative, wolves in the West Fork EMU would continue to be managed as a nonessential experimental population and could be removed by the Service or its designated agents when livestock, stock animals, or dogs are killed by wolves.

DATES: To ensure consideration, we must receive your written comments on the draft EA no later than April 12, 2011. Please note that if you are using the Federal eRulemaking Portal (*see* **ADDRESSES** section), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Time on this date.

ADDRESSES: *Documents:* The draft EA is available electronically at *http://www.regulations.gov* under Docket Number FWS–R6–ES–2011–0022. Alternatively, you may request the document by writing to: Ed Bangs, Attn: West Fork EMU Wolf 10(j) proposal, USFWS Montana Field Office, 585 Shepard Way, Helena, MT 59601.

Comments: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the "Select Document Type" pull-down list, select "Search All." In the "Enter Keyword or ID" field, type FWS–R6–S–2011–0022, which is the docket number for this action. Then click the "Search" button. Once you have found the document, you may submit a comment by clicking on "Submit a Comment."
- *By hard copy:* Submit by U.S. mail or hand deliver to: Public Comments Processing, Attn: FWS–R6–ES–2011–0022; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (*see* Public Comment Procedures and Public Availability of Comments under **SUPPLEMENTARY INFORMATION** for more information).

FOR FURTHER INFORMATION CONTACT: Ed Bangs, NRM Wolf Coordinator, U.S. Fish and Wildlife Service, USFWS Montana Field Office (*see* **ADDRESSES**), at 406–449–5225; or *ed_bangs@fws.gov* (e-mail). Individuals who are hearing impaired or speech impaired may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

We are evaluating whether or not to authorize lethal take of wolves in an ESA-designated nonessential experimental population in the West Fork EMU in the State of Montana. The West Fork EMU is 1 of 35 elk management units in Montana. The proposed action is in response to a proposal from MFWP to reduce gray wolf predation on the wild elk population in the West Fork EMU for a period of 5 years.

In 1974, Northern Rocky Mountain gray wolves (*Canis lupus irremotus*), as well as three other gray wolf subspecies, were listed as endangered under the authority of the Endangered Species Act of 1973 (ESA; U.S.C. 1531 *et seq.*) (January 4, 1974; 39 FR 1171). In 1978, the listing was changed from listing subspecies to a species-level listing in the contiguous U.S., with wolves in Minnesota listed as threatened and wolves in the rest of the contiguous U.S. listed as endangered (March 9, 1978; 43 FR 9607).

The ESA Amendments of 1982 (Pub. L. 97–304) made significant changes to the ESA, including the creation of section 10(j), which provides for the designation of specific populations of listed species as experimental. Under previous authorities in the ESA, the Service was authorized to reintroduce a listed species into unoccupied portions of its historical range for conservation and recovery purposes. However, in some cases, local opposition to reintroduction efforts from parties concerned about potential restrictions under sections 7 and 9 of the ESA, made reintroductions contentious or even socially unacceptable.

Under ESA section 10(j), a listed species reintroduced outside of its current range may be designated, at the discretion of the Secretary of the Interior, as experimental. This designation increases the Service's flexibility and discretion in managing reintroduced endangered species, because the Service treats experimental populations as threatened species (with a few exceptions) and may promulgate special regulations that provide exceptions to the take prohibitions under section 9 of the ESA.

On November 22, 1994, we designated portions of Idaho, Montana, and Wyoming as two nonessential experimental population areas for the gray wolf under section 10(j) of the ESA: the Yellowstone Experimental Population Area (November 22, 1994; 59 FR 60252) and the Central Idaho Experimental Population Area (November 22, 1994; 59 FR 60266). These designations, which are found in the Code of Federal Regulations (CFR) at 50 CFR 17.40(i), assisted us in initiating gray wolf reintroduction projects in central Idaho and in the Greater Yellowstone Area (GYA). At that time, special regulations under section 10(j) allowed, among other things, livestock producers to lethally remove wolves that were in the act of killing, wounding, or biting livestock, and allowed the Service to lethally remove problem wolves. The 1994 designation did not contemplate lethally removing wolves to protect wild game species.

After being reintroduced to central Idaho and the GYA in 1995 and 1996 as nonessential experimental populations under section 10(j), wolves achieved biological recovery objectives in 2002 in Idaho, Montana, and Wyoming. Following biological recovery, the 1994 section 10(j) rule was amended in 2005 to give State and Tribal governments with Service-approved post-delisting management plans a role in gray wolf management and to allow such States and Tribes to lethally take wolves in response to "unacceptable impacts" to wild ungulate populations (January 6, 2005; 70 FR 1286). The 10(j) rule was amended again in 2008 to clarify the definition of "unacceptable impact" and the factors the Service must consider when a State or Tribe with Service-approved post-delisting management plans requests an exception from the take prohibitions of the ESA in response to wolf impacts on wild ungulate populations (January 28, 2008; 73 FR 4720).

Under the 2008 10(j) rule, States or Tribes with Service-approved post-delisting management plans may lethally take wolves within the experimental population areas if wolf predation is having an unacceptable impact on wild ungulate populations (deer, elk, moose, bighorn sheep, mountain goats, antelope, or bison) as determined by the respective State or Tribe, provided that the State or Tribe prepares a science-based document that: (1) Describes the basis of ungulate population or herd management objectives, which data indicate that the ungulate population or herd is below management objectives, which data indicate that wolves are a major cause of the unacceptable impact to the ungulate population or herd, why wolf removal is a warranted solution to help restore the ungulate population or herd to State or Tribal management objectives, the level and duration of wolf removal being proposed, and how

ungulate population or herd response to wolf removal will be measured and control actions adjusted for effectiveness; (2) demonstrates that attempts were and are being made to address other identified major causes of ungulate herd or population declines, or the State or Tribe commits to implement possible remedies or conservation measures in addition to wolf removal; and (3) provides for an opportunity for peer review and public comment on their proposal prior to submitting it to the Service for written authorization of the proposal. In conducting peer review, the State or Tribe must: (i) Conduct the peer review process in conformance with the Office of Management and Budget's Final Information Quality Bulletin for Peer Review (January 28, 2008; 70 FR 2664), and include in their proposal an explanation of how the Bulletin's standards were considered and satisfied; and (ii) obtain at least five independent peer reviews from individuals with relevant expertise; these individuals must not be staff employed by the State, Tribal, or Federal agency directly or indirectly involved with predator control or ungulate management in Idaho, Montana, or Wyoming.

Before authorizing such lethal removal of wolves proposed by a State or Tribe, the Service must determine whether an unacceptable impact to wild ungulate populations or herds has occurred. We also must determine that the proposed lethal removal is science based, will not contribute to reducing the wolf population in the State below 20 breeding pairs and 200 wolves, and will not impede wolf recovery.

Draft Environmental Assessment

We are announcing the availability of a draft EA that was prepared to evaluate potential environmental effects associated with our authorization or denial of MFWP's proposal to lethally take wolves in the West Fork EMU in an effort to reduce wolf populations to a minimum of 12 wolves in 2 to 3 packs and reduce predation pressure on the elk population in that zone. We describe a no-action alternative and a preferred action, and analyze the environmental consequences of each alternative.

No-Action Alternative (Deny Requested Authorization). Under the no-action alternative, the Service would deny MFWP's 10(j) proposal to remove wolves in the West Fork EMU, and current management direction for wolves would continue. In the West Fork EMU, wolves would be managed by the Service or their designated agent and could be removed when livestock, stock animals, or dogs are killed by wolves as currently provided for in the 2008 10(j) rule (73 FR 4720, January 28, 2008). The management strategy for the no-action alternative would not include lethal removal of wolves in response to predation on wild ungulate populations.

Under the no-action alternative State and Tribal governments would continue to use their management activities to address major causes of elk declines other than wolf predation. Past management activities have included changes in elk hunting seasons and harvest strategies, changes in black bear and mountain lion seasons to address low calf survival, and efforts to improve elk habitat. These management activities would not be affected under the no-action alternative.

Preferred Alternative (Approve Requested Authorization). Under the preferred alternative, the Service would approve the MFWP 10(j) proposal to remove wolves in the West Fork EMU to reduce wolf predation on elk populations over a 5-year period. This alternative would provide an adaptive management strategy to reduce the wolf population. Wolves would be removed to manage for a minimum of 12 wolves in 2 to 3 packs. Based on the 2009 year-end wolf population estimate of 24 wolves residing in the West Fork EMU, the initial removal is estimated to be a minimum of 12 wolves. Levels of wolf removal in subsequent years are expected to be lower, and would be based on wolf-population monitoring. Management activities would be intended to protect the elk population in West EMU while maintaining wolf populations that meet recovery objectives. This alternative includes monitoring both wolf and elk populations yearly to determine elk response to the implementation of management activities and whether adaptive changes in wolf removal are needed based on yearly monitoring results.

Wolf removal would be accomplished by MFWP personnel and other approved agents of the State of Montana. Wolves that inhabit the West Fork EMU would be targeted for removal. Removal would be accomplished using legal means approved by the Service under provisions of the Service's 2008 10(j) rule. Wolf control would occur through fair chase hunting or trapping by the public, control actions by agency personnel or designees, or any combination of these. The MFWP is not proposing to use poison or other chemical means to control wolves. The goal of the removal would be to reduce pack sizes and, when appropriate, to remove entire packs. The primary removal effort would occur during the winter months. Most wolf control would occur on U.S. Forest Service lands outside of designated wilderness. The MFWP is not proposing to use aircraft to remove wolves from within designated wilderness. Wolf carcasses would be recovered from the field, when possible, and processed for collection of biological data. Hides and skulls would be used for educational purposes.

Next Steps

After the comment period ends, we will analyze comments received and determine whether to: (1) Prepare a final EA and Finding of No Significant Impact and authorize lethal take of wolves in West Fork EMU under section 10(j) of the ESA in response to wolf impacts on elk populations, (2) reconsider our preferred alternative and deny MFWP's proposal, or (3) determine that an Environmental Impact Statement should be prepared prior to authorizing or denying MFWP's proposal.

Public Comment Procedures

To ensure that any final action on the proposal will be as accurate and as effective as possible, we request that you send relevant information for our consideration. The comments that will be most useful and likely to influence our decisions are those that you support by quantitative information or studies and those that include citations to, and analyses of, the applicable laws and regulations. Please make your comments as specific as possible and explain the bases for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

You must submit your comments and materials concerning the proposed action by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov*, your entire comment—including any personal identifying information, such as your address, telephone number, or e-mail address—will be posted on the Web site. Please note that comments submitted to this Web site are not immediately viewable. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

If you mail or hand-carry a hardcopy comment directly to us that includes personal information, you may request at the top of your document that we

withhold this information from public review. However, we cannot guarantee that we will be able to do so. To ensure that the electronic docket for this rulemaking is complete and all comments we receive are publicly available, we will post all hardcopy comments on *http://www.regulations.gov.*

In addition, comments and materials we receive, as well as supporting documentation used in preparing this proposed rule, will be available for public inspection in two ways:

(1) You can view them on *http://www.regulations.gov.* In the Enter Keyword or ID box, enter FWS–R6–ES–2011–0022, which is the docket number for this action. Then, in the Search panel at the top of the screen, select the type of documents you want to view under the Document Type heading.

(2) You can make an appointment, during normal business hours, to view the comments and materials in person at the location in the **ADDRESSES** section.

Public Availability of Comments

As stated above in more detail, 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.

Authorities

The Environmental Review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*); NEPA Regulations (40 CFR parts 1500–1508); Department of the Interior NEPA regulations (43 CFR part 46); other appropriate Federal laws and regulations; Executive Order 12996; and Service policies and procedures for compliance with those laws and regulations.

Dated: March 3, 2011.

Richard A. Coleman,

Acting Regional Director, Denver, Colorado.

[FR Doc. 2011–6935 Filed 3–28–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–EA–2011–N065]

Wildlife and Hunting Heritage Conservation Council Teleconference

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of teleconference.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a public teleconference of the Wildlife and Hunting Heritage Conservation Council (Council).

DATES: We will hold the teleconference on Tuesday, April 12, 2011, 12 p.m. to 3 p.m. (Eastern Daylight Time). If you wish to listen to or participate in the teleconference proceedings, or submit written material for the Council to consider during the teleconference, notify Joshua Winchell by Thursday, April 7, 2011. See instructions under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Joshua Winchell, Council Coordinator, 4401 N. Fairfax Dr., Mailstop 3103–AEA, Arlington, VA 22203; (703) 358–2639 (phone); (703) 358–2548 (fax); or *joshua_winchell@fws.gov* (e-mail).

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we give notice that the Council will hold a teleconference (*see* **DATES**).

Background

Formed in February 2010, the Council provides advice about wildlife and habitat conservation endeavors that:

(a) Benefit recreational hunting;

(b) Benefit wildlife resources; and

(c) Encourage partnership among the public, the sporting conservation community, the shooting and hunting sports industry, wildlife conservation organizations, the States, Native American Tribes, and the Federal Government.

The Council advises the Secretary of the Interior (DOI) and the Secretary of Agriculture (USDA), reporting through the Director, U.S. Fish and Wildlife Service (Service), in consultation with the Director, Bureau of Land Management (BLM); Chief, Forest Service (USFS); Chief, Natural Resources Service (NRCS); and Administrator, Farm Services Agency (FSA). The Council's duties are strictly advisory and consist of, but are not limited to, providing recommendations for:

(a) Implementing the Recreational Hunting and Wildlife Resource Conservation Plan—A Ten-Year Plan for Implementation;

(b) Increasing public awareness of and support for the Sport Wildlife Trust Fund;

(c) Fostering wildlife and habitat conservation and ethics in hunting and shooting sports recreation;

(d) Stimulating sportsmen and women's participation in conservation and management of wildlife and habitat resources through outreach and education;

(e) Fostering communication and coordination among State, Tribal, and Federal Government; industry; hunting and shooting sportsmen and women; wildlife and habitat conservation and management organizations; and the public;

(f) Providing appropriate access to Federal lands for recreational shooting and hunting;

(g) Providing recommendation to improve implementation of Federal conservation programs that benefit wildlife, hunting, and outdoor recreation on private lands; and

(h) When requested by the agencies' designated ex officio members, or the Designated Federal Officer in consultation with the Council Chairman, performing a variety of assessments or reviews of policies, programs, and efforts, through the Council's designated subcommittees or workgroups.

Background information on the Council is available at *http://www.fws.gov/whhcc.*

Meeting Agenda

The Council will convene to: (1) Discuss DOI and USDA's 2012 proposed budgets as they relate to programs relevant to the Council's charge, and (2) discuss the National Wildlife Refuge System Vision document. We will post the final agenda on the Internet at *http://www.fws.gov/whhcc.*

Procedures for Public Input

Interested members of the public may listen to or present relevant oral information, or submit a relevant written statement for the Council to consider during the public meeting. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements or those who had wished to speak but could not be accommodated on the agenda are invited to submit written statements to the Council.

Individuals or groups can listen to or make an oral presentation at the public Council teleconference. Oral presentations will be limited to 2 minutes per speaker, with no more than

a total of 30 minutes for all speakers. In order to listen to or participate in this teleconference, you must register by close of business on April 7, 2011. Please submit your name, e-mail address, and phone number to Joshua Winchell, Council Coordinator (*see* **FOR FURTHER INFORMATION CONTACT**).

Written statements must be received by April 7, 2011, so that the information may be made available to the Council for their consideration prior to this meeting. Written statements must be supplied to the Council Coordinator in both of the following formats: One hard copy with original signature, and one electronic copy via e-mail. Please submit your statement to Joshua Winchell, Council Coordinator (*see* **FOR FURTHER INFORMATION CONTACT**).

The Council Coordinator will maintain the teleconference's summary minutes, which will be available for public inspection at the location under **FOR FURTHER INFORMATION CONTACT** during regular business hours within 30 days after the teleconference. You may purchase personal copies for the cost of duplication.

Dated: March 22, 2011.

Rowan W. Gould,

Acting Director.

[FR Doc. 2011–7333 Filed 3–28–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–11–L19100000–BJ0000–LRCME0R04646]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plat 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 April 28, 2011.

DATES: Protests of the survey must be filed before April 28, 2011 to be considered.

ADDRESSES: Protests of the survey should be sent to the 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. 28 N., R. 53 E.

The plat, in two sheets, representing the dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of sections 28, 29, and 34, the adjusted original meanders of the former left bank of the Missouri River, downstream through sections 28 and 29, and the subdivision of sections 28, 29, and 34, and the survey of an informative traverse and the meanders of the present left bank of the Missouri River, downstream through a portion of sections 28 and 29, an informative traverse and the limits of erosion, through a portion of section 29, and certain division of accretion lines, Township 28 North, Range 53 East, Principal Meridian, Montana, was accepted March 17, 2011.

T. 28 N., R. 54 E.

The plat, in two sheets, representing the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, a portion of the subdivision of sections 31, 32, and 33, and the adjusted original meanders of the former left bank of the Missouri River, downstream through sections 31 and 32, the subdivision of sections 31, 32, and 33, and the survey of the meanders of the present left bank of the Missouri River, downstream through sections 31, 32, and 33, Township 28 North, Range 54 East, Principal Meridian, Montana, was accepted March 17, 2011.

We will place a copy of the plats, in four sheets, 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 these plats, in four sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file these plats, in four sheets, 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: March 22, 2011.

Steven G. Schey,

Acting Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2011–7298 Filed 3–28–11; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON06000–L16100000–DP0000]

Notice of Resource Advisory Council Meetings for the Dominguez-Escalante Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Dominguez-Escalante Advisory Council (Council) will meet as indicated below.

DATES: Meetings will be held; May 18, 2011; June 1 and 15, 2011; July 6 and 20, 2011; and August 3 and 17, 2011. All meetings will begin at 3 p.m. and will adjourn at 6 p.m.

ADDRESSES: Meetings on June 1, July 6 and August 3 will be held at the Delta Performing Arts Center, 822 Grand Ave., Delta, Colorado. Meetings on May 18, June 15, July 20 and August 17 will be held at the Mesa County Courthouse Annex, Training Room A, 544 Rood, Grand Junction, Colorado.

FOR FURTHER INFORMATION CONTACT: Katie Stevens, Advisory Council Designated Federal Official, 2815 H Road, Grand Junction, CO 81506. Phone: (970) 244–3049. E-mail: *kasteven@blm.gov.*

SUPPLEMENTARY INFORMATION: The 10-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the resource management planning process for the Dominguez-Escalante National Conservation Area and Dominguez Canyon Wilderness. Topics of discussion during the meeting may include informational presentations from various resource specialists working on the resource management plan, as well as Council reports relating to the following topics: recreation, fire management, land-use planning process, invasive species management, travel management, wilderness, land exchange criteria, cultural resource management, and other resource

management topics of interest to the Council raised during the planning process.

These meetings are anticipated to occur monthly, and may occur as frequently as every two weeks during intensive phases of the planning process. Dates, times and agendas for additional meetings may be determined at future Advisory Council Meetings, and will be published in the **Federal Register**, announced through local media and on the BLM's Web site for the Dominguez-Escalante planning effort, *http://www.blm.gov/co/st/en/nca/denca/denca_rmp.html.*

These meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will have time allocated at the beginning and end of each meeting for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual, oral comments may be limited at the discretion of the chair.

Helen M. Hankins,

State Director.

[FR Doc. 2011–7297 Filed 3–28–11; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Colorado Historical Society (History Colorado), Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession and control of the Colorado Historical Society (History Colorado), Denver, CO. The human remains were removed from Howiri Ruin (LA 71), Taos County, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Colorado Historical Society (History Colorado) professional staff in consultation with representatives of the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico. The Kew Pueblo, New Mexico (formerly the Pueblo of Santo Domingo); Pueblo of Sandia, New Mexico; and Pueblo of San Felipe, New Mexico, were contacted for consultation purposes, but did not attend the consultation meetings.

In 1958, human remains representing a minimum of one individual were removed from Howiri Ruin (LA 71), in Taos County, NM, by J.H. Gerault and Eugene Stigall. The remains were donated to the Huerfano County Museum in Colorado. In November 1989, the individual was transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

Howiri Ruin is a large 15th century multi-storied Pueblo village near Ojo Caliente, NM. In 1958, Howiri Ruin had multiple owners, including private citizens and the State of New Mexico. It is not known if the individual was removed from private or public land within Howiri Ruin. Colorado Historical Society has accepted NAGPRA responsibilities for this individual. Osteological analysis by Colorado State University confirmed that the remains are of a Native American infant. Oral tradition and archeological evidence indicate the site was occupied by ancestors of present-day Northern Tewa-speaking Pueblos.

Officials of the Colorado Historical Society have determined, pursuant to 25 U.S.C. 3001(9), that the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Colorado Historical Society also have determined, pursuant to 25 U.S.C. 3001(2), that there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Ohkay Owingeh, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Clara, New Mexico; and Pueblo of Tesuque, New Mexico.

Representatives of any other Indian Tribe that believes itself to be culturally affiliated with the human remains should contact Bridget Ambler, Curator of Material Culture, Colorado Historical Society (History Colorado), 1560 Broadway, Suite 400, Denver, CO 80202, telephone (303) 866–2303, before April 28, 2011. Repatriation of the human remains to the Ohkay Owingeh, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Clara, New Mexico; and Pueblo of Tesuque, New Mexico, may proceed after that date if no additional claimants come forward.

The Colorado Historical Society (History Colorado) is responsible for notifying the Hopi Tribe of Arizona; Kewa Pueblo, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico, Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: March 23, 2011.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2011–7319 Filed 3–28–11; 8:45 am]

BILLING CODE 4312–50–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–768]

In the Matter of Certain Vaginal Ring Birth Control Devices; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 25, 2011, under section 337 of the Tariff Act of 1930, as amended, 19

U.S.C. 1337, on behalf of Femina Pharma Incorporated of Miami, Florida. Letters supplementing the complaint were filed on March 11 and 15, 2011. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain vaginal ring birth control devices by reason of infringement of claim 1 of U.S. Patent No. 6,086,909 ("the '909 patent"). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2010).

Scope Of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 23, 2011, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain vaginal ring birth control devices that infringe claim 1 of the '909 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Femina Pharma Incorporated, 3470 E. Coast Ave., Suite H502, Miami, FL 33137.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Merck & Co., Inc., One Merck Drive, Whitehouse Station, NJ 08889;
Schering Plough Corporation, 2000 Galloping Hill Road, Kenilworth, NJ 07033;
Organon USA, Inc., 100 Rodolphe Street, Durham, North Carolina 27712;
N.V. Organon, Molenstraat 110, Oss, Netherlands, 5340 BH;
CVS Caremark Corporation, One CVS Drive, Woonsocket, RI 02895;
CVS Pharmacy, Inc., One CVS Drive, Woonsocket, RI 02895;
Wal-Mart Stores, Inc., 702 S.W. 8th St., Bentonville, AR 72716;
Walgreens Co., 200 Wilmont RD, Deerfield, IL 60015;
The Canamerican Drugs Inc., d/b/a, *http://www.77Canadapharmacy.com. http://www.medcentercanada.com. http://www.tigerdrugs.com* . 77 Canada Pharmacy, 8–1421 St. James Street, Winnipeg, MB, R3H 0Y9, Canada.
The Canamerican Global Inc., d/b/a, *http://www.canamericanglobal.com,* 77 Canada Pharmacy, 8–1421 St. James Street, Winnipeg, MB, R3H 0Y9, Canada;
Canadian Med Service, d/b/a, *http://www.canadianmedservices.com,* 77 Canada Pharmacy, 8–1421 St. James Street, Winnipeg, MB, R3H 0Y9, Canada;
Panther Meds Inc., d/b/a, *http://www.panthermeds.com,* 77 Canada Pharmacy, 8–1421 St. James Street, Winnipeg, MB, R3H 0Y9, Canada;
Canada Drugs Online, d/b/a, *http://www.Canadadrugsonline.com,* Unit #202A, 8322–130th Street, Surrey, British Columbia, Canada V3W 8J;
Drug World Canada, d/b/a, *http://www.drugworldcanada.com,* Unit #202A, 8322–130th Street, Surrey, British Columbia, Canada V3W 8J9;
CanDrug Health Solutions Inc., d/b/a, *http://www.candrug.com,* Unit #202A,, 8322–130th Street, Surrey, British Columbia, Canada V3W 8J9;
Big Mountain Drugs, d/b/a, *http://www.bigmountaindrugs.com,* Unit #202A, 8322–130th Street, Surrey, British Columbia, Canada V3W 8J9;
BestBuyRx.com, d/b/a, *http://www.bestbuyrx.com,* Unit #202A, 8322–130th Street, Surrey, British Columbia, Canada V3W 8J9;
Blue Sky Drugs, d/b/a, *http://www.Blueskydrugs.com,* Unit #202A, 8322–130th Street, Surrey, British Columbia, Canada V3W 8J9;
ABC Online Pharmacy, d/b/a, *http://www.abconlinepharmacy.com,* 200–7382 Winston Street, Burnaby, British Columbia, V5A 2G9 Canada;
Canadadrugs.com LP, d/b/a, *http://www.Canadadrugs.com,* 24 Terracon Place, Winnipeg, Manitoba, Canada R2J 4G7.
North Drug Store, d/b/a, *http://www.northdrugstore.com,* 266 Graham Avenue, P.O. Box 1074 Station Main, Winnipeg, Manitoba, R3C 2X4 Canada;
Canada Pharmacy, d/b/a, *http://www.CanadaPharmacy.com,* 477 Peace Portal Dr Suite #180, Blaine, WA 98230;

(c) The Commission investigative attorney, party to this investigation, is the Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the

complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 23, 2011.

James R. Holbein,

Acting Secretary to the Commission.

[FR Doc. 2011–7295 Filed 3–28–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Alleged Safety or Health Hazards

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, "Notice of Alleged Safety or Health Hazards," 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 April 28, 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,* on the day following publication of this notice 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: Respondents use the Notice of Alleged Safety or Health Hazards, Form OSHA–7, to report unhealthful and/or unsafe conditions in the workplace to the OSHA. OSHAct section 8(f)(1) authorizes employee reports. The OSHA uses this information to evaluate the alleged hazards and to schedule an inspection.

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 1218–0064. The current OMB approval is scheduled to expire on March 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 January 13, 2011 (76 FR 2417).

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 help ensure appropriate consideration, comments should reference OMB Control Number 1218–0064. 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: Notice of Alleged Safety or Health Hazards, Form OSHA–7.

OMB Control Number: 1218–0064.

Affected Public: Individuals and Households.

Total Estimated Number of Respondents: 50,715.

Total Estimated Number of Responses: 50,715.

Total Estimated Annual Burden Hours: 13,414.

Total Estimated Annual Costs Burden: $1,116.

Dated: March 24, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–7362 Filed 3–28–11; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,090]

Wausau Daily Herald Advertising Production Division, a Subsidiary of Gannett Co., Inc.; Wausau, WI; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated March 1, 2011 (received March 7, 2011), the petitioner requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Wausau Daily Herald, Advertising Production Division, a subsidiary of Gannett Co., Inc., Wausau, Wisconsin (subject firm). The determination was issued on February 11, 2011. The Department's Notice of Determination will soon be published in the **Federal Register**. The workers produce newspaper advertisements.

The negative determination was based on the findings that, during the period

under investigation, there were no increased imports or an acquisition of services from a foreign country by the workers' firm. The negative determination stated that the worker separations are due to a shift of services to other locations within the United States and the firm did not produce an article or supply a service that was used by a firm with TAA-certified workers in the production of an article or supply of a service that was the basis for TAA-certification.

In the request for reconsideration, the petitioner alleged that "Gannett is outsourcing ads in order to reduce the workforce throughout Gannett Newspapers." The request also focused on a Gannettoid newsletter, dated August 20, 2009, that stated "Outsourcing will increase from 10% to about 30% being outsourced" and a newsletter, dated November 23, 2009, that stated "we have reinstated outsourcing * * * outsourcing will be setting up visits to those sites who have already accomplished some local area consolidations such as * * * Wisconsin." The request also referred to other, previously-submitted articles that mention out-sourcing by the subject firm.

The Department has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the petitioning workers meet the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 18th day of March, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–7266 Filed 3–28–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,897]

Penske Logistics LLC a Subsidiary of General Electric/Penske Corporation Including On-Site Leased Workers From Kelly Temporary Services and Manpower; El Paso, TX; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated February 18, 2011, the petitioners requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Penske Logistics LLC, a subsidiary of General Electric/Penske Corporation, El Paso, Texas (subject firm). The determination was issued on January 7, 2011. The Department's Notice of Determination was published in the **Federal Register** on January 26, 2011 (76 FR 4729). The subject firm supplies warehousing services which includes storage, processing, and shipping services for the automotive industry.

The negative determination was based on the findings that, during the period under investigation, subject firm sales and/or production did not decline during the relevant period and the subject firm did not shift to another country the supply of storage, processing and shipping services (or like or directly competitive services).

In the request for reconsideration, the petitioners alleged that "All departments have been impacted in the outsourcing of our work requirements into Mexico Delphi Plant locations" and identified specific functions that have allegedly shifted abroad "since 2009 (maybe 2008)" due to "X-dock implementation needs into Mexico" and specific locations in Mexico to where the services allegedly shifted—"Mochis Sinaloa, Meoqui Chihuahua, Juarez Chih, and * * * Chihuahua Chihuahua who is currently on hold due to plant transitioning into Durango."

The Department has carefully reviewed the workers' request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the petitioning workers meet the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 18th day of March, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–7268 Filed 3–28–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 8, 2011.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 8, 2011.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 18th day of March 2011.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[10 TAA Petitions Instituted between 3/7/11 and 3/11/11]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80028	Affiliated Computer Services, Inc (State/One-Stop)	Hillsboro, OR	3/07/11	3/01/11
80029	Photronics, Inc (Company)	Allen, TX	3/08/11	3/07/11
80030	Excel Berger (State/One-Stop)	New Brunswick, NJ	3/08/11	3/07/11
80031	Thomson Reuters (Worker)	Creve Coeur, MO	3/08/11	3/05/11
80032	NL Fashion (Workers)	New York, NY	3/08/11	2/27/11
80033	Photronics, Inc. (Company)	Brookfield, CT	3/09/11	3/07/11
80034	Tennessee Valley Parts (Company)	Fort Payne, AL	3/09/11	3/08/11
80035	Ericsson Services Incorporated (State/One-Stop)	Kentwood, MI	3/10/11	3/07/11
80036	Jabil (Workers)	McAllen, TX	3/10/11	3/01/11
80037	Boralex Ashland LP (Workers)	Ashland, ME	3/11/11	3/10/11

[FR Doc. 2011–7267 Filed 3–28–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0034]

Subpart A ("General Provisions") and Subpart B ("Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment"); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in 29 CFR part 1915, subpart A ("General Provisions") and subpart B ("Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment").

DATES: Comments must be submitted (postmarked, sent, or received) by May 31, 2011.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0034, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA–2011–0034). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.*, copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the

Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The following is a description of the requirements in subparts A and B that pertain to the collection and retention of information:

Designation (§ 1915.7(b)); and Recordkeeping (§ 1915.7(d))

Paragraph (b)(2) states that employers must designate one or more competent persons to perform required inspections and tests, unless a Marine Chemist will do so. The paragraph also requires that employers maintain a roster of designated competent persons or a statement that a Marine Chemist will perform all required inspections and tests. In addition, employers are to ensure that the rosters contain, at a minimum, the employer's name, the name of the designated competent persons, and the date the worker completed training as a competent person. If requested, employers must make the roster or statement available to workers, their representatives, OSHA compliance officers, and representatives from the National Institute for Occupational Safety and Health (NIOSH).

Paragraph (d)(1) specifies that employers ensure that competent persons, Marine Chemists, and Certified Industrial Hygienists (CIHs) make a record of each inspection and test they conduct. The record of the inspection or test must contain the employer's location; time, date, and location of the inspected space; the operations performed; test results; and any instructions. Paragraph (d)(2) requires that employers post the record in the immediate vicinity of the inspected space while workers are working in the space. Employers must maintain the record in a file for at least three months after work in the space is complete. In addition, paragraph (d)(3) requires that employers make inspection and test records available, upon request, to workers, their representatives, OSHA compliance officers, and NIOSH.

Oxygen Content (§ 1915.12(a)(1) and (a)(2)); Flammable Atmospheres (§ 1915.12(b)(1) and (b)(2)); and Toxic, Corrosive, Irritant or Fumigated Atmospheres and Residues (§ 1915.12(c)(1), (c)(2), and (c)(3))

Before a worker initially enters a space, paragraph (a)(1) requires employers to ensure that a competent person visually inspects and tests it to determine its atmospheric oxygen content. Spaces subject to this requirement include:

Sealed spaces, such as, but not limited to, coated and closed-up spaces, and freshly painted non-ventilated spaces;

Spaces that contain materials or residues of material that can cause it to become oxygen deficient; spaces and adjacent spaces that contain or have contained combustible or flammable liquids or gases, or that contain or previously contained toxic, corrosive, or irritant liquids, gases, or solids; and

Fumigated and adjacent spaces.

If the space has an oxygen-deficient atmosphere, paragraph (a)(2) specifies that employers must label the space "Not Safe for Workers." For oxygen-enriched spaces, the label must read "Not Safe for Workers—Not Safe for Hot Work." Employers must ventilate these spaces with a sufficient volume and flow rate to maintain the oxygen content at or above 19.5 percent and below 22.0 percent by volume, at which point they may remove the warning label.

Under paragraph (b)(1), employers must have a competent person visually inspect a space or adjacent space for combustible or flammable liquids or gases. If such liquids or gases are present, the competent person must test the atmospheric concentration prior to worker entry. If the concentration is equal to or greater than 10 percent of the lower explosive limit (LEL), paragraph (b)(2) specifies that the employer must label the space "Not Safe for Workers—Not Safe for Hot Work." Employers must provide ventilation at a volume and flow rate that maintains the concentration of flammable vapors below 10 percent of the LEL; the employer may remove the warning label when the vapors reach this level.

Paragraph (c)(1) mandates that if a space or adjacent space contains or previously contained liquids, gases, or solids that are toxic, corrosive, or an irritant, employers must have a competent person visually inspect the space to determine whether these substances are present. If so, the competent person must test the atmospheric concentration before a worker may enter the space. Under paragraph (c)(2), employers must label the space "Not Safe for Workers" if the air concentration of these substances exceeds the permissible exposure limit (PEL), specified by 29 CFR 1915, subpart Z ("Toxic and Hazardous Substances"), or is immediately dangerous to life or health (IDLH). Employers must provide a sufficient ventilation volume and flow rate to maintain the atmospheric concentration at or below the PEL or below the IDLH if there is no PEL, after which they may remove the warning labels. Paragraph (c)(3) specifies that if, after ventilation, the concentrations are not at or below the PEL or below the IDLH, employers must have a Marine Chemist or CIH retest the space until they can certify it as "Enter with Restrictions" or "Safe for Workers."

Training of Employees Entering Confined and Enclosed Spaces or Other Dangerous Atmospheres and Training Certification Records (§ 1915.12(d))

Paragraphs (d)(1) through (d)(4) require employers to train workers who enter a confined and enclosed space or other dangerous atmospheres so they can perform their duties safely. Workers must receive the required training before they begin to work in a confined space, and if a change in operations or their duties results in a new hazard not previously addressed by the training. Employers must train workers to recognize the characteristics of the confined space; anticipate and be aware of the hazards that may be present in the space; recognize the adverse health effects that exposure to these hazards may cause; understand the physical signs and reactions that may result from exposure to these hazards; know what personal protective equipment is needed for safe entry into and exit from the space; and be aware of and know the proper use of barriers that may be needed to protect workers from the hazards. In addition, paragraph (d)(3) specifies that workers be trained to exit the space if the employer or employer representative orders an evacuation, an evacuation signal or alarm is activated, or the worker perceives that a dangerous condition exists.

Under paragraph (d)(5), employers must certify that each worker received the required training in accordance with paragraphs (d)(1) through (d)(4). The certification is to contain the worker's

name, the name of the certifier, and the certification date, and be available for inspection by OSHA compliance officers, NIOSH, and workers and their representatives.

Rescue Teams (§ 1915.12(e))

Under paragraph (e), employers must establish a shipyard rescue team, or arrange for an outside rescue team that will respond promptly to a request for rescue service. For shipyard-based rescue teams, paragraph (e)(1) specifies that employers must provide and train team members to use personal protective equipment necessary to make a rescue, train each team member to perform his/her rescue functions, ensure that the team practices its skills at least annually, and have at least one person on a team maintain current first-aid certification. If employers use an outside rescue team, paragraph (e)(2) requires the employer to inform the members of the team of the hazards they may encounter when called to rescue workers from confined and enclosed spaces or other dangerous atmospheres at the shipyard facility.

Exchanging Hazard Information Between Employers (§ 1915.12(f))

If an employer has workers who work in confined and enclosed spaces or other dangerous atmospheres, this paragraph requires the employer to inform other employers whose workers may enter the same space, about the hazards, safety rules, and emergency procedures concerning those spaces and atmospheres.

Requirements for Performing Cleaning and Cold Work (§ 1915.13(b)(10))

Paragraph (b)(2) requires that a competent person test the concentration of flammable, combustible, toxic, corrosive, or irritant vapors within the confined or enclosed space prior to workers beginning cleaning or cold work. Paragraph (b)(3) specifies that continuous ventilation must be provided at volumes and flow rates sufficient to ensure that the concentration of flammable vapor is maintained below 10 percent of the LEL, and toxic, corrosive, or irritant vapors are maintained within the PELs and below IDLH levels. Paragraph (b)(4) requires that the competent person conduct testing of the confined or enclosed space as often as necessary during cleaning or cold work to ensure that air concentrations remain at the levels specified in paragraph (b)(3).

Paragraph (b)(7) requires that the competent person test ventilation discharge areas and other areas where discharge vapors may collect to determine whether those vapors are accumulating in concentrations that are hazardous to workers. If accumulations are hazardous, all work in the contaminated areas must be stopped until the vapors have dissipated or been removed.

Paragraph (b)(10) requires that employers post signs in a prominent location that prohibit sources of ignition within or near a space that previously contained flammable or combustible liquids or gases in bulk quantities. Employers must post these signs at the entrance to the space, in adjacent spaces, and in the open area adjacent to those spaces.

Hot Work Requiring Testing by a Marine Chemist or Coast Guard Authorized Person (§ 1915.14(a)(1) and (a)(2))

Under paragraph (a)(1), employers must have a Marine Chemist or a U.S. Coast Guard authorized person test and certify a work area as safe for hot work if the area is in or on any of the following confined and enclosed spaces and other dangerous atmospheres, boundaries of spaces, or pipelines: within, on, or immediately adjacent to spaces that contain or previously contained combustible or flammable liquids or gases or fuel tanks that contain or previously contained fuel; or pipelines, heating coils, pump fittings, or other accessories connected to spaces that contain or previously contained fuel. Under paragraph (a)(2), employers must post the certificate in the immediate vicinity of the hot work operation while the operation is in progress. On completion of the operation, they must file the certificate for at least three months.

Hot Work Requiring Testing by a Competent Person (§ 1915.14(b)(1) and (b)(2))

Paragraph (b)(1) specifies that before starting any hot work in or on the following spaces or adjacent spaces or other dangerous atmospheres, employers must have a competent person test and determine that the space does not contain concentrations of flammable vapors equal to or greater than 10 percent of the LEL: Dry cargo holds; bilges; engine rooms; boiler spaces; vessels and vessel sections; land-side confined and enclosed spaces; or other dangerous atmospheres not requiring certification by a Marine Chemist or Coast Guard authorized person. If the concentration of flammable vapors or gases is equal to or greater than 10 percent of the LEL in these or adjacent spaces, paragraph (b)(2) specifies that the employer must label the space "Not Safe for Hot Work." Employers must provide ventilation in the space at a volume and flow rate that maintains the concentration of flammable vapors below 10 percent of the LEL, after which they may remove the warning label.

Alteration of Existing Conditions (§ 1915.15(b))

If a change occurs that may alter the atmospheric conditions within a previously tested confined or enclosed space or other dangerous atmosphere (*e.g.,* opening a manhole or other closures, adjusting a valve that regulates the flow of hazardous materials), paragraph (b)(2) requires employers to stop work in the affected space or work area. Work may only resume after the affected space or area is visually inspected and retested and found to comply with the requirements of the subpart (§§ 1915.12, 1915.13, 1915.14).

Tests To Maintain the Conditions of a Marine Chemist's or Coast Guard Authorized Person's Certificates (§ 1915.15(c))

This paragraph requires employers to ensure that a competent person visually inspect and test each space certified as "Safe for Workers" or "Safe for Hot Work" as often as necessary to ensure that the atmospheric conditions in the space are maintained within the conditions established by the issued certificate.

Change in the Conditions of a Marine Chemist's or Coast Guard Authorized Person's Certificates (§ 1915.15(d))

If a competent person finds that the atmospheric conditions in a certified space fail to meet the applicable requirements of the subpart, employers must stop work in the space until a Marine Chemist or Coast Guard authorized person retests the space and issues a new certificate.

Tests To Maintain a Competent Person's Findings (§ 1915.15(e)); and Changes in the Conditions Determined by a Competent Person's Findings (§ 1915.15(f))

Paragraph (e) specifies that after a competent person conducts the required initial visual inspection and tests and determines that a space is safe for worker entry, employers must ensure that the required atmospheric conditions are being maintained by having a competent person continue to test and visually inspect the space as often as necessary. Paragraph (f) specifies that if the atmospheric conditions do not meet the requirements of the subpart, employers must stop

work in the space until conditions in the space are brought into compliance.

Warning Signs and Labels (§ 1915.16)

This paragraph establishes protocols for preparing signs and labels required in previous paragraphs.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the collection of information (paperwork) requirements necessitated by Subpart A ("General Provisions") and Subpart B ("Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment") of 29 CFR part 1915. The Agency is requesting an adjustment decrease of 10 burden hours (from 312,774 to 312,764 hours). This decrease is due to a drop in the job opening and labor turnover rate from 3.7 percent to 3.2 percent. The Agency will summarize the comments submitted in response to this notice and will include this summary in its request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Subpart A ("General Provisions") and Subpart B ("Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment") (29 CFR part 1915).

OMB Number: 1218–0011.

Affected Public: Business or other for-profits; Not-for-profit organizations; Federal Government; State, Local or Tribal Government.

Frequency: On occasion.

Average Time per Response: Varies from 10 minutes (.17 hour) for a secretary to maintain a training certification record to 10 minutes (.17 hour) for a supervisory shipyard production worker to update, maintain and post either the required roster or statement at each shipyard.

Estimated Total Burden Hours: 312,764.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2011–0034). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 4–2010 (75 FR 55355).

Signed at Washington, DC on March 23, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2011–7261 Filed 3–28–11; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Online OSHA Outreach Training Programs

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of competition and request for applications for online occupational safety and health training providers.

SUMMARY: The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) seeks to ensure high quality online OSHA Outreach Training Program training courses for all participants. This notice announces the opportunity for interested organizations to submit applications to be authorized to deliver 10-hour and/or 30-hour OSHA Outreach Training Program courses in the construction industry, general industry, and maritime industry in an online format. Current OSHA-authorized online training providers must submit an application in order to be considered to offer online Outreach Training Program courses. Past performance will be considered as a factor in the selection process. Applications will only be accepted during the solicitation period and will be rated on a competitive basis. Complete application instructions are contained in this notice.

DATES: The Outreach Training Program online training provider applications for the delivery of online training must be received by the OSHA Directorate of Training and Education no later than 4:30 p.m., Central Time, on June 27, 2011. Requests for extension to this application deadline will not be granted.

A proposal conference will be held on April 19, 2011, at the OSHA Directorate of Training and Education, 2020 S. Arlington Heights Rd., Arlington Heights, Illinois 60005–4102. Attendees are required to register for this conference. Specific details are discussed in the Proposal Conference section of this notice.

Applicants selected to be OSHA Outreach Training Program online providers must attend a mandatory orientation meeting at the OSHA Directorate of Training and Education, 2020 S. Arlington Heights Rd., Arlington Heights, Illinois 60005–4102 at a time and date to be provided.

ADDRESSES: Submit applications to the attention of Don Guerra, Program Analyst, Office of Training and Educational Programs, OSHA Directorate of Training and Education, 2020 S. Arlington Heights Rd., Arlington Heights, Illinois 60005–4102.

FOR FURTHER INFORMATION CONTACT: Any questions regarding this opportunity should be directed to Don Guerra, Program Analyst, e-mail address *guerra.don@dol.gov*, or Jim Barnes, Director, Office of Training and Educational Programs, OSHA Directorate of Training and Education, e-mail address *barnes.jim@dol.gov*. Both can be reached at 847–759–7700.

SUPPLEMENTARY INFORMATION:

Overview of the OSHA Outreach Training Program

The OSHA Outreach Training Program was established during the early years of the Agency to provide an overview of OSHA and to rapidly disseminate basic occupational safety and health workplace hazard information to workers using independent authorized trainers. Courses are intended to provide information on worker rights, employer responsibilities, and how to file a complaint as well as focusing on work-related hazards. Outreach Training Program courses do not focus on or teach OSHA standards. Workers who complete the construction industry, general industry, maritime industry, or disaster site worker courses receive OSHA course completion cards from the authorized trainer who conducted the training.

The Outreach Training Program is a voluntary program. OSHA recommends Outreach Training Program courses as an introduction to worker rights, employer responsibilities, how to file a complaint and occupational safety and health hazard recognition for workers. However, some States have enacted laws mandating the training. In addition, some employers, unions, organizations or other jurisdictions may also require this training. Please note that Outreach Training Program courses do not meet specific training requirements contained in OSHA standards. Employers are responsible for training their workers on specific hazards of their job, as noted in many OSHA standards. A list of standards requiring training is found in OSHA Publication 2254 "Training Requirements in OSHA Standards and Training Guidelines" located at: *http://www.osha.gov/pls/publications/publication.athruz?pType=Types&pID=1*.

The OSHA Outreach Training Program guidelines contain instructions and assistance information for Outreach Trainers. Among the issues addressed in the guidelines are course topic requirements, minimum lengths for course topics, advertising restrictions, records retention, and reporting requirements. OSHA Outreach Training Program guidelines are located at: *http://www.osha.gov/dte/outreach/construction_generalindustry/guidelines.html* and *http://www.osha.gov/dte/outreach/maritime/guidelines.html*. The application must incorporate and comply with *all* of the requirements in these guidelines. OSHA periodically updates these guidelines. Online providers will be required to keep informed regarding changes to OSHA standards and Outreach Training Program guidelines and all courses must be updated in accordance with these changes. OSHA reserves the right to specify required content for inclusion in all online training modules including topics, course learning objectives, training goals, content, interactive activities, and exams. For example, OSHA recently mandated a 2-hour "Introduction to OSHA" module that must be included in all 10-hour and 30-hour courses. The Occupational Safety and Health Act covers private sector employers and their employees in the 50 States and certain territories and jurisdictions under Federal authority. Those jurisdictions include the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Northern Mariana Islands, Wake Island, Johnston Island, and the Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act. OSHA training programs such as the Outreach Training Program are intended for workers covered under the Occupational Safety and Health (OSH) Act of 1970, and within the Agency's jurisdiction. In addition, distribution of promotional materials for online training outside OSHA jurisdiction is prohibited.

The OSHA 10- and 30-hour training courses can be delivered by OSHA-authorized trainers either in person or through Web-based distance learning. In recent years, OSHA has sought to make this training more readily available to workers by authorizing a number of training providers to provide Web-based courses. OSHA has received many more requests for authorization to deliver online outreach training than can feasibly be granted, given the OSH Act's requirement that OSHA supervise the training programs it initiates. Today's **Federal Register** notice invites individuals or entities that currently maintain authorized-trainer status to submit applications for specific authorization to provide online training.

To provide an orderly process for evaluating the comparative strengths of entities that wish to be authorized online trainers, OSHA has decided to invite proposals. Although this competitive process is in some ways similar to that used in procurement, no products or services are sought for OSHA's use; the present **Federal Register** notice is not a contract or procurement action.

OSHA will enter into 5-year, nonfinancial cooperative agreements with successful applicants. These authorization agreements are intended solely to facilitate the ongoing monitoring and evaluation of worker safety training provided by authorized online trainers. These cooperative agreements will not constitute a grant or financial assistance instrument, and OSHA will provide no compensation to authorized trainers.

Selection Guidelines

OSHA does not have a predetermined number of organizations to be selected as authorized online trainers for the OSHA Outreach Training Program courses. Rather, the number of organizations selected will be determined according to the qualifications of the applicant organizations, their ability to provide quality interactive online training, their ability to conduct online OSHA Outreach Training Program courses for workers, and their compliance with the program guidelines. Training must be delivered in a manner that employees receiving it are capable of understanding.

Applicant Eligibility

Applicant organizations must be headquartered within the United States in order to be eligible to apply for this opportunity. Both for profit and nonprofit training organizations are eligible to apply. Nonprofit organizations, including qualifying labor unions and community-based and faith-based organizations that are not an agency of a State or local government are eligible to apply. State or local government-supported institutions of higher education are eligible to apply.

Each organization must demonstrate that:

(1) Training or education is part of its mission and more than 50% of its staff and dollar resources are devoted to training or education to be eligible to apply;

(2) It has the appropriate infrastructure and experience in developing, conducting, and evaluating online training;

(3) It has experience in developing, delivering, updating and evaluating occupational safety and health training;

(4) It has or will contract with one or more authorized OSHA Outreach Training Program trainers supporting each of the courses for which it is submitting an application. These trainers must demonstrate that:

(a) They each have a minimum of 3 years training experience;

(b) They each are in good standing (not on probation, suspended, or revoked *as defined in OSHA's Investigation and Review Procedures*).

Funding Provisions

OSHA provides no funding to OSHA Outreach Training Program online trainers. The OSHA Outreach Training Program online trainers will be expected to support their OSHA outreach training through their normal fee structures.

Cooperative Agreement Duration

Selected applicants will sign five year non-financial cooperative agreements with OSHA. The agency reserves the right to revoke the authorization of an online training provider for failure to comply with program guidelines and requirements, or for any illegal conduct. With satisfactory performance by the online training provider, agreements may be renewed without additional competition for an additional five years.

Proposal Conference

The proposal conference is intended to provide potential applicants with information about the OSHA Outreach Training Program, OSHA expectations for online trainers, online courses and methods of instruction, and administrative and program requirements for OSHA Outreach Training Program online trainers. The OSHA Directorate of Training and Education will hold one proposal conference.

The proposal conference is scheduled for April 19, 2011, at the OSHA Directorate of Training and Education, 2020 S. Arlington Heights Rd., Arlington Heights, Illinois 60005–4102.

It is necessary for attendees to register for this proposal conference. Applicants interested in attending this conference may contact Don Guerra, Program Analyst, or Jim Barnes, Director, Office of Training and Educational Programs, OSHA Directorate of Training and Education, 2020 S. Arlington Heights Rd., Arlington Heights, Illinois 60005–4102, telephone (847) 759–7700. Required registration information includes:

(1) Name and street address of the organization.

(2) Name, title, telephone number, and e-mail address of the attendees.

Application and Submission Information

The submission is to consist of one original and two copies of the application. Applications must be double-spaced, in 12-point font, with all pages numbered including any attachments. The program narrative must not exceed 30 single-sided pages or be bound or stapled. Attachments must only include essential documents that are relevant to this program. Attachments must also include a CD that represents an accurate sample of the required "Introduction to OSHA" module the applicant would include in the proposed Outreach Training Program; the corresponding storyboard for the sample module; and screenshots or CD of other types of interactive screens not included in the sample module. Applicants must address each of the following program points in their application.

(1) *Identifying and Eligibility Information.* Applicants must provide details for each of the following points:

(a) Provide the name, address and DUNS number of the organization.

(b) Provide the street address of the organization. A post office box will not be accepted.

(c) Provide the name, title, telephone number, and e-mail address of the project director who can answer questions regarding the application.

(d) Demonstrate that training or education is part of the mission and more than 50% of staff and dollar resources are devoted to training or education.

(e) Show appropriate infrastructure and experience in developing, conducting, and evaluating online training.

(f) Clearly demonstrate experience in developing, updating, conducting and evaluating occupational safety and health training.

(g) Demonstrate that one or more authorized OSHA Outreach Training Program trainers will support each of the courses for which an application is submitted. Demonstrate that each trainer:

(i) has a minimum of 3 years training experience;

(ii) is in good standing (not on probation, suspended, or revoked as defined in OSHA's Investigation and Review Procedures).

(2) *Authority to Apply.* Provide a copy of the resolution by the Board of Directors, Board of Regents, company president, Chief Executive Officer (CEO) or other governing body of the organization approving the submittal of an application to OSHA to become an OSHA Outreach Training Program online provider.

(3) *Program Summary.* The program summary is a brief one-to-two page single-sided, double-spaced abstract that succinctly summarizes the proposed project and provides information about the applicant organization along with key staff contact information. It must also include information on which Outreach Training Program course would be offered online, and any relevant language or target audience information. Submissions that are not in accordance with this submission requirement will not be fully considered.

(4) *Program Narrative.* The program narrative must not exceed 30 single-sided, double-spaced pages. Attachments will not be included in the 30 page count. Specific details regarding the program narrative are discussed in the next section. Submissions that are not in accordance with this submission requirement will not be fully considered. The program narrative must be organized in the following manner:

(a) Organizational experience and qualifications in occupational safety and health training;

(b) Organizational experience in designing online worker training;

(c) Staff experience and qualifications in occupational safety and health training;

(d) Staff experience in designing online worker training;

(e) Course content;

(f) Course design and development plan;

(g) Technical capabilities;

(h) Administrative capabilities;

(i) Trainee Evaluation.

(5) *Attachments.* Attachments must only include supporting documentation that is relevant to this program such as organization charts, staff resumes, and advertising materials. Attachments must also include a CD that contains an accurate sample of the required 2-hour "Introduction to OSHA" module; the corresponding storyboard for the sample module; and screenshots or CD of other types of interactive screens not included in the sample module.

Program Narrative

The program narrative consists of information regarding organizational experience and qualifications, staff experience and qualifications, course content, course design and development, technical capabilities, administrative capabilities, and trainee satisfaction survey sections. Applicants must provide details for each of the following points:

(1) Organizational Experience and Qualifications.

(a) Describe the background and number of years experience developing, delivering, revising and evaluating worker occupational safety and health training including the number of classes offered, number of trainees taught in each class, and number of trainee contact hours for each course during the last three years. Indicate the types of occupational safety and health courses previously developed including the title and number of trainee contact hours for each.

(b) Describe the background and the number of years of experience in designing, delivering and evaluating online training including the number of classes offered, number of trainees taught in each class and number of trainee contact hours for each course during the last three years. Provide the types of online courses previously developed including the title and number of contact hours for each. Specifically note online occupational safety and health courses. Provide Web site address for verification purposes.

(c) Describe the existing capabilities for data security and privacy, technical support, and facilitation of trainee registration supporting an online training environment.

(d) Describe the current authentication process which randomly occurs throughout the course that verifies that the same person who registers for the course is the same person who participates in, completes, and receives credit for the course. Specific details are included in "Course Design."

(e) Status as a Training Organization. This section applies only to applicants that are not colleges or universities. The applicant must show that training or education is a principal activity of the organization. Through audit reports, annual reports, or other documentation, the applicant must clearly demonstrate that for the last two years more than 50% of the organization's funds have been used for training and education activities and more than 50% of staff resources have also been used for this purpose.

(f) Customer Service. Provide specific details regarding the organization's customer service capabilities:

(i) Responding to questions from trainees on technical content and accuracy of the course content;

(ii) Handling of technical questions and concerns related to issues other than occupational safety and health;

(iii) Processing and distributing Outreach Training Program course completion cards to trainees in a timely manner;

(iv) Resolving problems associated with the course, whether receiving them via trainee satisfaction surveys or direct communication from a trainee;

(v) Issuing replacement cards to trainees in a timely manner including verification of trainee identity and training completion.

(2) Staff Experience and Qualifications.

(a) Identify the authorized OSHA Outreach Training Program trainers who will be involved in the development and review of the course. For each authorized trainer provide information regarding the authorizing Outreach Training Program organization, the course taken, the date of the training, and proof of the completion of training such as a copy of their trainer course completion card.

(b) Identify the authorized OSHA Outreach Training Program trainers who will be available to respond to trainee questions. For each authorized trainer provide information regarding the authorizing Outreach Training Program organization, the course taken, the date of the training, and proof of the completion of training such as a copy of their trainer course completion card.

(c) Describe the qualifications of the staff that will develop the Outreach Training Program online course. Include occupational safety and health experience, addressing all the topical areas covered in the course, training experience with workers, adults, and experience working with the target audience.

(d) Describe staff knowledge of and experience with OSHA standards and their application to hazard recognition and hazard abatement. Include resumes of staff members who will be involved with the course.

(e) Describe the trainer's fluency or background in the online course presentation language if the training will be offered in a language other than English.

(f) Describe staff knowledge of and experience in developing interactive online training courses. Include resumes of staff members who will be involved with the course.

(g) Provide a position description and/or minimum hiring qualifications for any positions that are currently vacant.

(3) *Course Content.* This competition emphasizes ten Outreach Training Program courses that train workers on worker rights, employer responsibilities, how to file a complaint and in the recognition and prevention of occupational safety and health hazards. Please note that 10-hour courses are intended to provide entry level construction, general industry, or maritime industry workers with general awareness training on recognizing and preventing hazards on a jobsite in addition to information on workers rights, employer responsibilities and how to file a complaint. Additionally, 30-hour courses are intended to provide more in-depth training to workers with some safety responsibility. A separate application must be submitted for each different course and language. Indicate which online course would be offered and in what language. The applicant must include a list of all the topics that would be offered (mandatory, elective, and optional topics based on current program guidelines), specify the learning objectives for each topic selected, and the time associated with each topic. The minimum completion time for each topic is 30 minutes, including each of the Focus Four construction hazards (falls, struck by, caught in or between, and electrical hazards). Topic selection must comply with current OSHA Outreach Training Program guidelines. OSHA periodically modifies the topics as program requirements change. For example, OSHA recently mandated a 2-hour "Introduction to OSHA" module be included in all 10-hour and 30-hour courses. Online courses must have the capability to quickly adapt to these changes.

(a) 10-Hour Construction Course. Topics consist of mandatory, elective and optional topics for the course. The application must include a list of each mandatory, elective, and optional topic to be covered, time spent on each topic, and learning objectives for each topic. Instructional time must be a minimum of 10 hours.

(b) 30-Hour Construction Course. Topics consist of mandatory, elective and optional topics for the course. The application must include a list of each mandatory, elective, and optional topic to be covered, time spent on each topic, and learning objectives for each topic. Instructional time must be a minimum of 30 hours.

(c) 10-Hour General Industry Course. Topics consist of mandatory, elective

and optional topics for the course. The application must include a list of each mandatory, elective, and optional topic to be covered, time spent on each topic, and learning objectives for each topic. Instructional time must be a minimum of 10 hours.

(d) 30-Hour General Industry Course. Topics consist of mandatory, elective and optional topics for the course. The application must include a list of each mandatory, elective, and optional topic to be covered, time spent on each topic, and learning objectives for each topic. Instructional time must be a minimum of 30 hours.

(e) 10-Hour Maritime Industry Courses Topics consist of mandatory, elective and optional topics for each course. The application must include a list of each mandatory, elective, and optional topic to be covered, time spent on each topic, and learning objectives for each topic. Instructional time must be a minimum of 10 hours. A separate application must be submitted for each course that is proposed. Choose one or more of the following three courses:

(i) Shipyard Employment

(ii) Maritime Terminals

(iii) Longshoring

(f) 30-Hour Maritime Industry Courses Topics consist of mandatory, elective and optional topics for the course. The application must include a list of each mandatory, elective, and optional topic to be covered, time spent on each topic, and learning objectives for each topic. Instructional time must be a minimum of 30 hours. A separate application must be submitted for each course that is selected. Choose one or more of the following three courses:

(i) Shipyard Employment

(ii) Marine Terminals

(iii) Longshoring

(g) Applications for a course in a language other than English must provide details of how the course will be tailored to address the needs of the workers that speak this language. OSHA requires that all information pertinent to the course be submitted in English, even if the course will be offered in another language. Organizations proposing to develop Spanish-language training must use the OSHA Dictionaries (English-to-Spanish and Spanish-to-English) for terminology available at *http://www.osha.gov/dcsp/compliance_assistance/spanish_dictionaries.html.*

(h) If the application is for a targeted audience, provide specific details regarding the targeted audience, their need, and their interest in the course. Indicate the specific targeted audience for the course, such as roadway workers, landscapers, maintenance personnel, roofers, residential construction workers, *etc.*

(i) Course Orientation. Explain the course orientation page which must inform the trainee how to successfully complete the course. The orientation must discuss the following:

(i) Course objectives

(ii) System requirements

(iii) Course time out feature that ensures active participation

(iv) Navigational commands including help (trainer, technical, and course related), directional (forward and back), and menu/exit

(v) Time limit of three months to complete the 10-hour courses, and six months to complete the 30-hour courses

(vi) Testing policy and criteria; details are provided under "Course Design"

(vii) Identification of and contact information for the authorized trainer

(viii) Identification and contact information of technical support regarding computer-related problems

(ix) Printing or obtaining course materials on each course topic

(x) Printing an interim course completion document (certificate) at the end of the course

(xi) When and how a trainee will receive their OSHA Outreach Training Program course completion card

(xii) When and how the random trainee verification process during all phases of the course will be conducted

(4) *Course Design.* Applicants must address each of the following instructional design points in their application. Online training courses must supply effective training for participants. The use of an instructional systems design process for designing, developing, revising and evaluating online training is recommended. This methodology ensures that a course is instructionally sound and built with a structured approach throughout the entire development cycle. The following research-based instructional principles must be used when designing online training:

(a) A training needs assessment must be conducted prior to course development. The identification of training needs is the first step in a uniform method of instructional design. A training needs assessment collects data on audience knowledge, skills and attitudes regarding occupational safety and health awareness. It assists in identifying performance requirements and the gap between worker knowledge and what they need to know.

(b) Courses must have a worker focus and concentrate on occupational safety and health awareness appropriate to a worker including but not limited to hazard identification, abatement, prevention, and control. Courses must focus on familiarizing students with prevalent hazards in [construction or maritime or general industry] and with basic safety requirements; training should avoid extensive presentation of the technical requirements of OSHA standards.

(c) Training must create relevant interactive learning experiences based on learning objectives and clear training goals. Organize information to maximize concept understanding. Each topic lesson must begin with learning objectives and end with a topic summary. Instructional objectives must:

(i) Focus on the trainee rather than the instructor.

(ii) Measure the performance outcome the trainee is able to demonstrate.

(iii) Explain the condition under which the performance will take place.

(iv) State the degree or standard on which the performance will be evaluated (ex. percent of accuracy).

(d) Training must stimulate the trainee's prior knowledge and facilitate connections to new information.

(e) Training must engage the trainee with frequent interaction techniques and feedback.

(i) Provide training variety by using interactivity, high quality graphics, audio, video, animations, simulations, and forums.

(ii) Present instructional interactions that require trainee participation including problem solving and real-world case studies. Good quality interactivity includes guided practice opportunities and feedback.

(iii) OSHA requires a highly interactive, participatory online course. Interactivity Levels II–IV provide active learning for the trainee and are expected every 3–5 screens, or approximately 30% of the course. Provide examples of frequent and varied Level II–IV interactive activities which are contained in the online course such as screenshots or a CD that contains an accurate sample of one course module or multiple lessons.

(1) Level I-Passive Learning: Examples include graphics, pop-ups, graphic builds, and 2–D illustration;

(2) Level II-Limited Interaction: Examples include drag and drop, completing a statement, drill and practice, labeling, matching, sequencing, 2–D animation, video clips (ranging between 15–90 seconds in length), and performing multi-step tasks;

(3) Level III-Complex Participation: Examples include case studies, discovery/exploration, games, hidden hints, ranking, and categorizing/sorting;

(4) Level IV-Real-Time Participation: Examples include avatars, artificial simulation, practical application, role-playing, scenario branching, and 3–D animation.

(f) System capabilities must allow the trainee to print fact sheets and other supplementary materials.

(i) Provide each trainee the opportunity to print or receive a fact sheet on each topic. Fact sheets must highlight the learning objectives of each topic and emphasize hazard identification, avoidance, and control, not OSHA standards.

(ii) Provide one primary fact sheet per topic which covers the learning objectives of that topic. Make sure that the designs of the primary fact sheets are standardized.

(iii) Other fact sheets and supplementary materials may also be made available but their design does not have to be standardized.

(iv) Availability of fact sheets and other materials must be prominently displayed.

(v) Fact sheets and other materials must be easy to access.

(vi) Trainees must be given the option to print materials after passing topic tests.

(vii) The materials must be available in a general area.

(g) Testing. Applications must explain how the following elements are incorporated:

(i) Testing is mandatory at the completion of each topic and at the end of the course.

(ii) A test strategy must be developed for the online training course including linking content to test items and appropriately setting a passing score.

(iii) Test reliability must be proven by showing that it consistently yields comparable scores for trainees with comparable levels of knowledge and skills measured by the test.

(iv) Test validity must be established by showing that it measures the specific knowledge and skills that were intended to be measured.

(v) There are processes in place to ensure test integrity such as a no print feature and random test question selection.

(vi) Minimum pass rate is 70%.

(vii) A trainee is only allowed three attempts to pass a test. If a trainee has not passed a test in three attempts, the trainee is permanently excluded from retaking the training online. The training organization must have a mechanism in place to ensure that a disqualified trainee cannot retake the online course at a later date.

(viii) Minimum test length for each topic test is to be based upon the learning objectives developed for that module. The test must contain sufficient questions to adequately test the trainees learning of the material contained in each objective.

(ix) Minimum test length for the end-of-course test is to be based upon the learning objectives developed for the course. The test must contain sufficient questions to adequately test the trainees learning of the material contained in each objective.

(x) Test banks which contain a pool of potential questions for the final test (at a minimum) are required.

(xi) Test approaches must vary the questions and/or answers. Suitable options include randomizing answer choices and using a variety of test questions.

(xii) Trainees receive straightforward and effective remediation (feedback) when a question is answered incorrectly. Remediation must not over-simplify the course to where the trainee is simply given the answer. Trainees are given an opportunity to go back to the part of the lesson where the question was covered.

(xiii) Trainees cannot proceed to the end-of-course test until they pass all topic tests.

(xiv) Tests must evaluate trainees' knowledge of the learning objectives. Insignificant facts and trivial numeric data must not be tested. Negatively phrased (including use of "not") and True/False questions are strongly discouraged, and must not make up more than 10% of the questions.

(h) Explain how best practices in screen design, text language, graphics, and audio and video will be used. Examples include using consistent design, uniform spacing and adequate top/bottom, left right margins; addressing one concept, procedure, or item of instruction per screen; ensuring copyright permissions; and using language that is simple, active, direct, *etc.*

(i) Explain how the course navigation is structured to be intuitive, transparent, and sequential and how it will guide each trainee to the next step whether taking a test, proceeding to the next lesson, or completing the evaluation.

(j) Describe the design for trainees who have minimal levels of computer-related skills and computer technical abilities.

(k) Indicate where the following notice is located at the beginning of the course: *OSHA recommends Outreach Training Program courses as an orientation to occupational safety and health for workers. Workers must receive additional training, when required by OSHA standards, on the specific hazards of their job.*

(5) *Technical Capabilities.* Applicants must provide specific details for each of the following technical points in their application.

(a) Data Security and Privacy. Specific data security principles are dependent upon the provider's business requirements for security services. All guardians of data are expected to manage, access, and utilize data in a manner that maintains and protects the security and confidentiality of that information. Documentation is required to enable the day-to-day efforts necessary to enforce data security policy and ensure policy is implemented on all platforms.

(i) Explain the management of all user IDs on all platforms.

(ii) Describe the authentication process which randomly verifies throughout each module that the trainee who registers for the course is the same trainee who participates and completes the training. Trainees must be told about any additional charges associated with random trainee verification during all phases of the course at the time of registration or enrollment. Secure login, unique ID, PIN, and passwords, and challenge questions based on third party data will not be considered sufficient. Examples include, but are not limited to the following:

(1) Scanned fingerprints or eyes

(2) Webcam

(3) Voice signature

(iii) Explain how the privacy policy will be clearly stated.

(iv) Describe how users will be made aware of anonymous data collection to be used for analysis.

(v) Explain the management of all access control lists on all platforms (users and permissions) and adherence to appropriate roles and responsibilities.

(vi) Explain the management of incident response and reporting such as network or server outages, third party security breaches, and loss of sensitive data.

(vii) Explain the annual security policy review which must be conducted due to the dynamic nature of the Internet.

(viii) Provide policy which handles disposal of data in a secure manner.

(ix) Provide established policies which safeguard backed-up data.

(x) Describe how controls are established in anticipation of attack from intelligent, rational and irrational adversaries with harmful intent.

(xi) The selling, trading, or disclosing of any and all trainee information to outside commercial sources is expressly prohibited.

(b) System Requirements. Describe the minimum system requirements required. Examples include, but are not limited to:

(1) 20 GB or hard disk space

(2) Macintosh, MS Word 98 or higher

(3) MS Word 2000 or higher and anti-virus software

(4) Windows Media Player 9

(5) Adobe Acrobat Reader 8

(6) PC or Mac: RAM 256 MB

(7) PC: 1 GHz Processor

(8) PC: Microsoft Internet Explorer 6.0 or Firefox 1.5

(9) Mac: G3 800 MHz

(10) Mac: Firefox 1.0 or Safari 1.3

(11) Flash Player 9

(12) Java v.5.0

(13) Video card and monitor

(14) Display capable of 1024 X 768 pixel resolution

(15) Speakers

(16) Sound card

(c) System Capabilities. Applications must address the following elements:

(i) Provide a list of system capabilities, including the number of servers and available bandwidths.

(ii) Describe how the course enables a full screen view in most instances. The screen layout (text, graphics, *etc.*) must be designed to eliminate scrolling (vertically or horizontally) in order to view the entire content area. Describe how the trainee will learn how to change the size of the screen view.

(d) System Controls. Applicants must provide details for each of the following points:

(i) Describe the estimated amount of time it will take a trainee to complete the training, and how this number was derived.

(ii) Describe the required delay mechanism for each content screen and how each screen is required viewing.

(iii) Explain the mechanism to ensure that trainees are timed out of their training session when there is no activity for 15 minutes.

(iv) The program must automatically gather information on the amount of time each trainee spends in the course. Describe the mechanism to ensure that the trainee completes the required 10 or 30 hours in the course. OSHA will not provide cards to trainees who have not spent a minimum of 10 or 30 hours in the course.

(v) OSHA requires that the 10-hour course be covered over a minimum of two days and the 30-hour course be covered over a minimum of four days. Explain how the online course will only permit a trainee to complete a maximum of 7.5 hours within the course of a 24-hour period.

(vi) Explain how each screen is required viewing and how a trainee is prevented from proceeding until a minimum amount of time elapses on each screen.

(vii) Explain how the trainee's progress is bookmarked allowing them to get back to where they left off after ending a training session.

(6) *Administrative Capabilities.* Applicants must address the following elements:

(a) Marketing and Recruitment. Explain the procedures for marketing the online training courses and recruiting trainees. Please note that authorized online Outreach Training Program providers may not engage in reselling their courses. They are expressly prohibited from offering, selling, or reselling their online training course from their individual Web sites through any other parties or Web sites, unless an exception is obtained in advance and in writing from OSHA. OSHA defines reselling as the use of business partners or Web sites other than that of the primary developer that act as "pass-through" links to the primary developer's Web site, allowing a student to purchase and access an online course; or any other marketing intermediaries, contractual distribution systems designed to distribute or promote services through a second party, or secondary-tiered provider.

(i) Explain procedures for marketing the online training course, promoting the status of the organization as an OSHA online Outreach Training Program trainer, and recruiting trainees. Distribution of promotional materials for online training outside OSHA jurisdiction is prohibited. The Occupational Safety and Health Act covers private sector employers and their employees in the 50 States and certain territories and jurisdictions under Federal authority. Those jurisdictions include the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Northern Mariana Islands, Wake Island, Johnston Island, and the Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act.

(ii) Describe registration procedures including provisions for course cancellation, furnishing trainees with course materials, and tuition or fee collection.

(iii) Tuition and Fees. Provide the fee structure for each course. Explain how tuition or fees will be computed for each course, referencing the organization's current tuition and fee schedule. Describe tuition and fee procedures including provisions for the collection of tuition, cancellation fees and issuing refunds.

(b) Trainer Availability. Provide specific details regarding when and how the OSHA authorized trainer will send each trainee an introductory e-mail that introduces the trainer, the trainer's availability and contact information. The trainer's identity and contact information must be accessible on each content page via a help button, or something similar.

(c) Question Response. Trainees must be able to ask questions and receive a response from their trainer within a maximum of 24 hours after submitting their question. Describe the trainee response plan, how questions will be monitored to ensure accuracy, and how rapid question response will be ensured. Special consideration will be given to applicants providing real-time responses to trainee questions.

(d) Administrative Controls. Discuss how the course will:

(i) Track trainee course progress

(ii) Document test scores

(iii) Document the number of times each trainee takes a test

(iv) Verify the amount of time the trainee spent in the course

(v) Restrict trainee access to the final test until after all topic tests are successfully completed

(vi) Compile trainee data statistics, including test scores and time spent in the training

(vii) Compile and retain trainee questions and the length of time taken to respond to each trainee question

(viii) Randomly verify trainee identity and active participation throughout the training

(ix) Restrict the trainee from taking the online course again if they fail the course completion test 3 times

(e) Reporting. The electronic reporting system must be capable of providing mandatory reports consistent with current OSHA guidelines. Applicants must have the capability to submit reports in Excel format on a template provided by OSHA. OSHA periodically revises reporting requirements. Online providers are required to update reporting in accordance with revised OSHA guidelines. Reports documenting training are generally submitted monthly. OSHA may determine that reporting frequency may need to be increased based upon training volume. Explain how the electronic reporting system that will be used will provide the following information in Excel format:

(i) Number of trainees who complete the online course

(ii) Total time spent in training

(iii) Trainee Satisfaction Surveys (*See* additional detail below.)

(f) Records Retention. Current program guidelines state that records

must be maintained for each trainee for five years. Online providers may establish a longer retention policy. OSHA reserves the right to request copies of these records for its purposes. Additional records addressed within this document including trainee satisfaction surveys and trainee test scores must also be retained by online providers for five years.

(g) OSHA Course Access. Awarded applicants must agree to provide OSHA with permanent access to the online course. Passwords and ID numbers must be provided to OSHA to allow for course monitoring.

(h) Program Administrative System. Provide a description of the systems that would be in place to administer the Outreach Training Program online course and to assure its integrity. Include information regarding:

(i) Maintaining trainee records in accordance with program guidelines

(ii) Ensuring that only individuals who complete the course receive trainee cards

(iii) Issuing new or replacement course completion cards and any related fees

(iv) Issuing interim course completion documents (certificates)

(7) Trainee Evaluation

(a) *Satisfaction Survey.* Each trainee must complete a satisfaction survey in order to receive an OSHA course completion card. OSHA will provide trainee satisfaction survey questions. Online providers may include additional survey questions. This information must be made clear to the trainee, at a minimum, at the end of the course. In each report of training completed, online providers must include an easy to understand summary of trainee feedback for each survey question and for essay type comments. The summary format may be a narrative, spreadsheet, graph or table. Provide a copy of a trainee satisfaction survey currently in use. Discuss the following trainee survey requirements:

(i) Explain how the question and essay comments will be summarized.

(ii) Describe how this satisfaction survey requirement will be conveyed to each trainee.

(iii) Trainee feedback is to be used to improve and refine course content and delivery. Explain how this has been previously accomplished and include specific examples.

(b) *Follow-up Impact Survey.* Each trainee must receive a follow-up impact survey to assess the effectiveness of the training after a 6-month period. If the trainee does not respond to the initial survey request, two additional requests must be sent. OSHA will provide trainee follow-up impact survey questions. Online providers may include additional survey questions. This information must be made clear to the trainee, at a minimum, at the end of the course. In each report of training completed, online providers must include an easy to understand summary of trainee feedback for each survey question and for essay type comments. The summary format may be a narrative, spreadsheet, graph or table. Provide a copy of a follow-up impact survey, if currently in use.

(i) Explain how the question and essay comments will be summarized.

(ii) Describe how this follow-up impact survey requirement will be conveyed to each trainee.

(iii) Trainee feedback is to be used to improve and refine course content and delivery. Explain how this has been previously accomplished and include specific examples.

Application Submission

Applications must be submitted to the attention of Don Guerra, Program Analyst, Office of Training and Educational Programs, OSHA Directorate of Training and Education, 2020 S. Arlington Heights Rd., Arlington Heights, Illinois 60005–4102.

The submission is to consist of one original and two copies of the application. The program narrative must not exceed 30 single-sided, double-spaced pages or be bound or stapled. Applications must be double-spaced, in 12-point font, with all pages numbered including any attachments. Attachments must only include essential documents that are relevant to this program. Attachments must also include a CD that represents an accurate sample of one course module or multiple lessons; the corresponding storyboard for the sample module or lessons; and screenshots or CD of various types of screens such as content and interactive.

Application Deadline

Applications must be received by the Directorate of Training and Education no later than 4:30 p.m., Central Time, on June 27, 2011. Requests for extension to this application deadline will not be granted.

Selection Criteria

Applicants will be selected based upon the following selection criteria including organizational experience and qualifications, staff experience and qualifications, course content, course design, technical capabilities, administrative capabilities, and trainee satisfaction surveys. Information must be presented in a manner that employees receiving it are capable of understanding. Technical panels will review applications against the criteria in the "Application and Submission Information" section of this notice and those listed below on the basis of 100 maximum points. Applications will be reviewed and rated as follows:

(1) Organizational Experience and Qualifications (20 points)

(a) Demonstrate successful experience designing, developing, delivering and evaluating occupational safety and health training and successful experience training adults.

(b) Demonstrate successful experience in developing interactive online training courses for the target audience in work-related subjects.

(c) Show positive customer service and responsiveness to problems and comments from previous trainees.

(d) Demonstrate compliance with Outreach Training Program guidelines.

(2) Staff Experience and Qualifications (10 points)

(a) Demonstrate considerable experience in developing interactive online training courses for adults in work-related subjects and for the target audience.

(b) Show successful training experience in occupational safety and health subjects with the application of OSHA standards to the recognition, avoidance, abatement, and prevention of workplace hazards.

(c) Staff resumes or applicable contractor resumes are attached to the application. Staff occupational safety and health related certifications are included as attachments. Resumes should demonstrate expertise in all topical areas in the online course. Authorized Outreach Training Program trainers must be identified. Verify trainer authorization status with a copy of their trainer course completion card or certificate.

(3) Course Content (15 points)

(a) Indicate which Outreach Training Program was selected. Also indicate if the program was designed for a language other than English.

(b) Include a list of each mandatory, elective, and optional topic to be covered, time spent on each topic, and the learning objectives for each topic. Indicate the manner in which the training course and materials are tailored to the training needs of the target audience.

(c) Explain how the course orientation section will facilitate the successful completion of the course by the trainee.

(4) Course Design (20 points)

(a) A training needs assessment will be conducted to identify worker needs and knowledge and to identify the hazards to be included in the course as "Optional" topics.

(b) The course has a worker focus and concentrates on occupational safety and health issues that are most important and appropriate to a worker.

(c) The course is structurally sound; it creates interactive learning experiences; it engages the trainee with frequent and diverse interactions and feedback; it allows training materials to be easily located and printed; it assesses the effectiveness of the training through tests and quizzes.

(5) Technical Capabilities (10 points)

(a) Explain the data security and privacy system that is in place to maintain and protect the confidentiality of the gathered information.

(b) Appropriate system requirements, capabilities, and controls are discussed. These include but are not limited to monitoring and recording the time a trainee spends in the course, the screen delay mechanism, and the timed-out mechanism.

(c) Explain the random trainee verification procedures used during all phases of the course.

(6) Administrative Capabilities (15 points)

(a) Demonstrate that registration procedures are reasonable including the ease of registration and provisions for cancellations.

(b) Show that the proposed tuition or fees are in conformance with the established policies of the applicant and the charges are reasonable.

(c) Clearly articulate the marketing and recruiting plans for the online training program selected.

(d) Clearly state when and how the trainee will receive the trainer's identity and contact information.

(e) Explain how the administrative controls that are in place will perform required tasks including track trainee course progress, document test scores, produce reports, and randomly verify trainee identify.

(f) Demonstrate the capability of reporting and recordkeeping systems.

(g) Demonstrate the adequacy of the system to administer the online program and assure its integrity.

(7) Trainee Evaluation (10 points)

(a) Provide details about the plan to evaluate trainee satisfaction with the online course including course content, instructor response to questions, and ease of use.

(b) Discuss the mechanism for ensuring that trainees are aware of the requirement to complete a trainee satisfaction survey in order to receive an OSHA trainee course completion card.

(c) Provide details about the plan to assess the effectiveness of the training after a 6-month period.

(d) Discuss the mechanism for collecting the follow-up impact survey.

(e) Include a sample trainee satisfaction survey and a sample follow-up impact survey.

(f) Include a description of how both trainee surveys will be summarized.

Application Evaluation and Selection Process

Online course applications will be reviewed by technical panels comprised of OSHA staff. The technical panels will review online course applications against the criteria listed in this notice to determine which applicants best meet the stated requirements. As part of the evaluation and selection process, OSHA may request additional information from applicants. This may include written requests for clarification, phone or in-person interviews, access to existing programs, and on-site visits of applicant facilities. The panels' recommendations to the Assistant Secretary are advisory in nature. The final decision will be made by the Assistant Secretary of Labor for Occupational Safety and Health.

Notification of Selection

Applicants will be notified by a representative of the Assistant Secretary of Labor for Occupational Safety and Health if their organization is selected as an OSHA Outreach Training Program online trainer. After being initially selected as an OSHA Outreach Training Program online provider, applicants must submit a complete course for OSHA review. OSHA will notify the applicant of any necessary revisions before authorization to conduct the online training is granted. Applicants selected to be OSHA Outreach Training Program online providers must attend a mandatory orientation meeting at the Directorate of Training and Education in Arlington Heights, Illinois at a time and date to be provided.

An organization may not conduct OSHA Outreach Training Program online courses until the program has been fully authorized and the organization has signed a non-financial cooperative agreement with OSHA. Please note that reselling of online OSHA Outreach Training Program courses is expressly prohibited unless an exception is obtained in advance and in writing from OSHA. The agency defines resellers as business partners or Web sites other than that of the primary developer that act as "pass-through" links to the primary developer's Web site, allowing a student to purchase and access an online course; or any other marketing intermediaries, contractual distribution systems designed to distribute or promote services through a second party, or secondary-tiered provider.

Notification of Non-Selection

Applicants will be notified in writing if their organization is not selected to be an OSHA-authorized online Outreach Training Program provider.

Non-Selection Appeal

All decisions by the Assistant Secretary of Labor for Occupational Safety and Health are final. The Department of Labor does not provide an appeal procedure for applicants that are not selected.

Authority: Section 21 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670).

Signed at Washington, DC, on March 23, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2011–7260 Filed 3–28–11; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet *telephonically* on March 31, 2011. The meeting will begin at 11 a.m., Eastern Time, and continue until conclusion of the Board's agenda.

LOCATION: The Legal Services Corporation, 3rd Floor Conference Center, 3333 K Street, NW., Washington, DC 20007.

PUBLIC OBSERVATION: Unless otherwise noticed, all meetings of the LSC Board of Directors are open to public observation. Members of the public that are unable to attend but wish to listen to a public proceeding may do so by following the telephone call-in directions given below. You are asked to keep your telephone muted to eliminate background noises. From time to time the presiding Chair may solicit comments from the public.

Call-In Directions for Open Session(s)

- Call toll-free number: 1–(866) 451–4981;

• When prompted, enter the following numeric pass code: 5907707348;

• When connected to the call, please "MUTE" your telephone immediately.

Status of Meeting: Open.

Matters To Be Considered

Open Session

1. Approval of agenda.
2. Consider and act on the establishment of a Pro Bono Task Force.
3. Consider and act on other business.
4. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov.*

Dated: March 24, 2011.

Victor M. Fortuno,

Corporate Secretary.

[FR Doc. 2011–7400 Filed 3–25–11; 11:15 am]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498–LR and 50–499–LR; ASLBP No. 11–909–02–LR–BD01]

South Texas Project Nuclear Operating Company; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding

South Texas Project Nuclear Operating Company

(South Texas Project, Units 1 and 2)

This proceeding involves an application by South Texas Project Nuclear Operating Company to renew for twenty years its operating licenses for South Texas Project, Units 1 and 2, which are located near Wadsworth, Texas. The current operating licenses expire on August 20, 2027 (Unit 1) and December 15, 2028 (Unit 2). In response to January 7, 2011 Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing, published in the **Federal Register** on January 13, 2011 (76 FR 2426), a petition to intervene was submitted by Sustainable Energy and Economic Development Coalition (SEED) and Susan Dancer.

The Board is comprised of the following administrative judges:

Ronald M. Spritzer, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Nicholas G. Trikouros, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Larry R. Foulke, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E–Filing rule, which the NRC promulgated in August 2007 (72 FR 49,139).

Issued at Rockville, Maryland, this 23rd day of March 2011.

Anthony J. Baratta,

Associate Chief Administrative Judge—Technical, Atomic Safety and Licensing Board Panel.

[FR Doc. 2011–7320 Filed 3–28–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0006]

SUNSHINE FEDERAL REGISTER NOTICE

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission

DATES: Weeks of March 28, April 4, 11, 18, 25, May 2, 9, 16, 23, 30, June 6, 13, 2011.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of March 28, 2011

Tuesday, March 29, 2011

9 a.m. Briefing on Small Modular Reactors (Public Meeting); (Contact: Stephanie Coffin, 301–415–6877).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Thursday, March 31, 2011

2:30 p.m. Discussion of Management Issues (Closed—Ex. 2).

3:30 p.m. Discussion of Adjudicatory Issues (Closed—Ex. 10).

Week of April 4, 2011—Tentative

There are no meetings scheduled for the week of April 4, 2011.

Week of April 11, 2011—Tentative

Thursday, April 14, 2011

9 a.m. Briefing on Status of NRC Response to Events in Japan and Briefing on Radiological Consequences and Potential Health Effects (Public Meeting) (Contact: Patricia Milligan, 301–415–2223).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of April 18, 2011—Tentative

Tuesday, April 19, 2011

9 a.m. Briefing on Source Security—Part 37 Rulemaking—Physical Protection of Byproduct Material (Public Meeting) (Contact: Merri Horn, 301–415–8126).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of April 25, 2011—Tentative

Thursday, April 28, 2011

9:30 a.m. Briefing on Status of NRC Response to Events in Japan and Briefing on Station Blackout (Public Meeting) (Contact: George Wilson, 301–415–1711).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of May 2, 2011—Tentative

Tuesday, May 3, 2011

9:30 a.m. Briefing on the Progress of Task Force Review of NRC Processes and Regulations Following the Events in Japan (Public Meeting) (Contact: Nathan Sanfilippo, 301–415–3951).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of May 9, 2011—Tentative

Thursday, May 12, 2011

9 a.m. Information Briefing on Emergency Preparedness (Public Meeting) (Contact: Robert Kahler, 301–415–7528).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of May 16, 2011—Tentative

There are no meetings scheduled for the week of May 16, 2011.

Week of May 23, 2011—Tentative

Friday, May 27, 2011

9 a.m. Briefing on Results of the Agency Action Review Meeting (AARM) (Public Meeting) (Contact: Rani Franovich, 301–415–1868).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of May 30, 2011—Tentative

Thursday, June 2, 2011

9:30 a.m. Briefing on Human Capital and Equal Employment Opportunity (EEO) (Public Meeting) (Contact: Susan Salter, 301–492–2206).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of June 6, 2011—Tentative

Monday, June 6, 2011

10 a.m. Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: Tanny Santos, 301–415–7270).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of June 13, 2011—Tentative

Thursday, June 16, 2011

9:30 a.m. Briefing on Task Force Review of NRC Processes and Regulations Following Events in Japan (Public Meeting) (Contact: Nathan Sanfilippo, 301–415–3951).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

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Additional Information

The Briefing on the 50.46a Risk-Informed Emergency Core Cooling System (ECCS) Rule scheduled for March 24, 2011, has been postponed. The Information Briefing on Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) scheduled for April 28, 2011, has been postponed.

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*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at 301–415–6200, TDD: 301–415–2100, or by e-mail at *william.dosch@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov.*

Dated: March 24, 2011.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2011–7456 Filed 3–25–11; 4:15 pm]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Information Collection Request for OMB Review and Approval

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the Agency is preparing an information collection request for OMB review and approval and to request public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate, practical utility and clarity of the information to be collected; and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form, OMB control number 3420–0001, under review is summarized below.

DATES: Comments must be received within 60 days of publication of this notice.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency submitting officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Essie Bryant, Record Manager, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; (202) 336–8563.

Summary Form Under Review

Type of Request: Revised form.

Title: Request for Registration for Political Risk Investment Insurance.

Form Number: OPIC–50.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institution (except farms); individuals.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: ½ hour per project.

Number of Responses: 247 per year.

Federal Cost: $2,841.00.

Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The OPIC Form 50 is submitted by eligible investors to register their intent to make international investments, and ultimately, to seek OPIC political risk insurance.

Dated: March 23, 2011.

Nichole Cadiente,

Administrative Counsel, Department of Legal Affairs.

[FR Doc. 2011–7246 Filed 3–28–11; 8:45 am]

BILLING CODE M

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, April 6, 2011, at 11 a.m.

PLACE: Commission hearing room, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public. The open part of the meeting will be audiocast. The audiocast can be accessed via the Commission's Web site at *http://www.prc.gov.*

MATTERS TO BE CONSIDERED: The agenda for the Commission's April 2011 meeting includes the items identified below.

Portions Open to the Public

1. Report on completion of advisory opinion on five-day delivery.

2. Report on completion of annual compliance determination.
3. Report on status of pending dockets before the Commission.
4. Report on international activities.
5. Report on legislative activities.
6. Report on improved public access to Commission archival records.
7. Report on Commission docket management procedures in the event of a government shutdown.

Portions Closed to the Public

8. Discussion of pending litigation.
9. Discussion of contractual matters involving sensitive business information—lease-related negotiations.
10. Discussion of information technology security implementation.
11. Discussion of confidential personnel matters—performance, records and practices.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001, at 202–789–6820 (for agenda-related inquiries) and Shoshana M. Grove, Secretary of the Commission, at 202–789–6800 or *shoshana.grove@prc.gov* (for inquiries related to meeting location, access for handicapped or disabled persons, the audiocast, or similar matters).

Dated: March 24, 2011.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2011–7397 Filed 3–25–11; 11:15 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64112; File No. SR–ISE–2011–14]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees for Qualified Contingent Cross Orders

March 23, 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 March 14, 2011, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The ISE is proposing to amend its fee schedule to establish fees for a new order type called Qualified Contingent Cross. 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.

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 purpose of the proposed rule change is to establish fees for a new order type called Qualified Contingent Cross ("QCC"). The QCC order type was recently approved by the Commission.[3] The Exchange now proposes to adopt fees related to this new order type. Specifically, the Exchange proposes to extend the same pricing that currently applies to orders entered into the facilitation, solicitation and price improvement mechanism on behalf of firm proprietary, Non-ISE Market Makers[4] and Professional Order participants,[5] which amounts to $0.20 per contract for QCC orders in all option classes traded on the Exchange.

The fee for ISE Market Makers that participate in a QCC order will be charged either $.18[6] or $.20,[7] depending upon the product.[8]

2. Statutory Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(4) of the Act[10] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members. The Exchange believes that the fees proposed for QCC orders are reasonable because QCC orders are similar to facilitation and solicitation orders in that the members have both sides of the order and are entering the order onto the exchange for execution. Members are currently charged $.20 for executions of facilitation and solicitation orders and because QCC orders have a similar composition, it is reasonable that the Exchange is proposing to extend the same fee to QCC orders. The Exchange believes that the proposed fee is equitable in that this fee is applied consistently across all memberships and client categories, except for ISE Market Makers in certain circumstances. The Exchange believes that it is equitable to allow ISE Market Makers a lower transaction fee in certain circumstances because ISE Market Makers are differentiated from other members in that they have negative and affirmative obligations to the market place.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 63955 (February 24, 2011) (SR–ISE 2010–73).

[4] The term "Non-ISE Market Maker" means a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934 registered in the same options class on another options exchange. *See* ISE's Schedule of Fees.

[5] The term "Professional Order" means an order that is for the account of a person or entity that is not a Priority Customer. *See* ISE Rule 100(37C).

[6] The rate of $.18 remains unchanged for ISE Market Makers participating in all symbols other than those set forth in footnote 5 [sic].

[7] ISE Market Makers and Market Maker Plus are charged a higher rate of $.20 when participating in a QCC order in these select symbols: QQQQ, C, BAC, SPY, IWM, XLF, GE, JPM, INTC, RIMM, T, VZ, UNG, FCX, CSCO, DIA, AMZN, X, AA, AIG, AXP, BBY, CAT, CHK, DNDN, EEM, EFA, EWZ, F, FAS, FAZ, FSLR, GDX, GLD, IYR, MGM, MS, MSFT, MU, PBR, PG, POT, RIG, SDS, SLV, XLE, XOM, ABX, BMY, BP, COP, DELL, FXI, HAL, IBM, KO, LVS, MCD, MO, MON, NOK, ORCL, PFE, QCOM, S, SLB, SMH, SNDK, TBT, USO, V, VALE, WFT, XLI, XRT, YHOO, AKAM, AMD, AMR, APC, BA, BRCM, GG, HPQ, LCC, MOT, NEM, NFLX, NVDA, QID, SSO, TEVA, TLT, TZA, UAL, WFC, XLB, SIRI, SBUX and VVUS.

[8] Priority Customers are currently not charged when participating in orders executed in the facilitation, solicitation and price improvement mechanism. Consistent with the Exchange's approach, this will be extended to Priority Customers when participating in QCC orders.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[11] 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–ISE–2011–014 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–ISE–2011–014. 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 website viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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–2011–014, and should be submitted on or before April 19, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–7265 Filed 3–28–11; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64110; File No. SR–CBOE–2011–024]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend Pilot Programs Relating to FLEX Exercise Settlement Values and Minimum Value Sizes

March 23, 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 March 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 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 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 extend the operation of its pilot programs regarding permissible exercise settlement values and the elimination of minimum value sizes for Flexible Exchange Options ("FLEX Options"),[5] which pilot programs are currently set to expire on March 28, 2011, through March 30, 2012. 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'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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 28, 2010, the Exchange received approval of a rule change that established two pilot programs regarding permissible exercise settlement values and the elimination of minimum value sizes for FLEX Options.

[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).

[5] FLEX Options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices. FLEX Options can be FLEX Index Options or FLEX Equity Options. In addition, other products are permitted to be traded pursuant to the FLEX trading procedures. For example, credit options are eligible for trading as FLEX Options pursuant to the FLEX rules in Chapters XXIVA and XXIVB. *See* CBOE Rules 24A.1(e) and (f), 24A.4(b)(1) and (c)(1), 24B.1(f) and (g), 24B.4(b)(1) and (c)(1), and 28.17. The rules governing the trading of FLEX Options on the FLEX Request for Quote ("RFQ") System platform are contained in Chapter XXIVA. The rules governing the trading of FLEX Options on the FLEX Hybrid Trading System platform are contained in Chapter XXIVB.

The pilot programs are currently set to expire on March 28, 2011, unless otherwise extended or made permanent.[6] The purpose of this rule change filing is to extend the two pilot programs through March 30, 2012. This filing does not propose any substantive changes to the pilot programs and contemplates that all other terms of FLEX Options will remain the same.

Background on the Pilots

Exercise Settlement Values Pilot for FLEX Index Options

Under Rules 24A.4, *Terms of FLEX Options,* and 24B.4, *Terms of FLEX Options,* FLEX Options may expire on any business day specified as to day, month and year, not to exceed a maximum term of fifteen years. In addition, the exercise settlement value for FLEX Index Options can be specified as the index value determined by reference to the reported level of the index as derived from the opening or closing prices of the component securities ("a.m. settlement" or "p.m. settlement," respectively) or as a specified average, provided that the average index value must conform to the averaging parameters established by the Exchange.[7] However, prior to the initiation of the exercise settlement values pilot, only a.m. settlements were permitted if a FLEX Index Option expires on, or within two business days of, a third-Friday-of-the-month expiration ("Expiration Friday").[8]

Under the exercise settlement values pilot, this restriction on p.m. and specified average price settlements in FLEX Index Options was eliminated.[9] The exercise settlement values pilot is operating for a period of fourteen months and is currently set to expire on March 28, 2011.

Minimum Value Size Pilot for All FLEX Options

Prior to the initiation of the pilot eliminating the minimum value size requirements, the minimum value size requirements under Rules 24A.4 and 24B.4 were as follows:

- For opening transactions in any FLEX series in which there is no open interest at the time a FLEX RFQ or FLEX Order, as applicable, is submitted, the minimum value size was (i) for FLEX Equity Options, the lesser of 250 contracts or the number of contracts overlying $1 million in the underlying securities; and (ii) for FLEX Index Options, $10 million Underlying Equivalent Value. Under a prior pilot program (which was superseded by the minimum value size pilot program), the "250 contracts" component above had been reduced to "150 contracts."[10]
- For a transaction in any currently-opened FLEX series resulting from an RFQ or from trading against the electronic book (other than FLEX Quotes responsive to a FLEX Request for Quotes and FLEX Orders submitted to rest in the electronic book), the minimum value size was (i) for FLEX Equity Options, the lesser of 100 contracts or the number of contracts overlying $1 million in the underlying securities in the case of opening transactions, and 25 contracts in the case of closing transactions; and (ii) for FLEX Index Options, $1 million Underlying Equivalent Value in the case of both opening and closing transactions; or (iii) in either case the remaining underlying size or Underlying Equivalent Value on a closing transaction, whichever is less.
- The minimum value size for FLEX Quotes responsive to an RFQ and FLEX Orders (undecremented size) submitted to rest in the electronic book was 25 contracts in the case of FLEX Equity Options, and $1 million Underlying Equivalent Value in the case of FLEX Index Options, or in either case the remaining underlying size or Underlying Equivalent Value on a closing transaction, whichever is less. In addition, with respect to FLEX Index Appointed Market-Makers, FLEX Quotes and FLEX Orders (undecremented size) must have been for at least $10 million Underlying Equivalent Value or the dollar amount indicated in the Request for Quote (if applicable), whichever is less.

Under the minimum value size pilot, these minimum value size requirements were eliminated. Like the exercise settlement values pilot mentioned above, the minimum value size pilot is operating for a period of fourteen months and is currently set to expire on March 28, 2011.

Proposal

CBOE is proposing to extend the two pilot programs through March 30, 2012. CBOE believes the pilot programs have been successful and well received by its membership and the investing public for the period that they have been in operation as pilots.

In support of the proposed extension of the pilot programs, and as required by the pilot programs' Approval Order, the Exchange has submitted to the Commission pilot program reports regarding the two pilots, which detail the Exchange's experience with the two programs. Specifically, for the expiration settlement values pilot, the Exchange provided the Commission an annual report analyzing volume and open interest for each broad-based FLEX Index Options class overlying an Expiration Friday, p.m.-settled FLEX Index Options series.[11] The annual report also contained information and analysis of FLEX Options trading patterns. The Exchange also provided the Commission, on a periodic basis, interim reports of volume and open interest. For the minimum value size pilot, the Exchange provided the Commission an annual report containing data and analysis of open interest and trading volume, and analysis of the types of investors that initiated opening FLEX Equity and Index Options transactions (i.e., institutional, high net worth, or retail). The reports were provided to the Commission on a confidential basis.

The Exchange believes there is sufficient investor interest and demand in the pilot programs to warrant their extensions. The Exchange believes that the programs have provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange has not experienced any adverse market effects with respect to the pilot programs.

[6] Securities Exchange Act Release Nos. 61439 (January 28, 2010), 75 FR 5831 (February 4, 2010) (SR–CBOE–2009–087) ("Approval Order") and 61676 (March 9, 2010), 75 FR 13191 (March 18, 2010) (SR–CBOE–2010–026).

[7] *See* Rules 24A.4(b)(3) and 24B.4(b)(3); *see also* Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (SR–CBOE–92–17). The Exchange has determined to limit the averaging parameters to three alternatives: the average of the opening and closing index values; the average of the intra-day high and low index values; and the average of the opening, closing, and intra-day high and low index values. Any changes to the averaging parameters established by the Exchange would be announced to Trading Permit Holders via circular.

[8] For example, prior to the pilot, the exercise settlement value of a FLEX Index Option that expires on the Tuesday before Expiration Friday could have an a.m., p.m. or specified average settlement. However, the exercise settlement value of a FLEX Index Option that expires on the Wednesday before Expiration Friday could only have an a.m. settlement.

[9] No change was necessary or requested with respect to FLEX Equity Options. Regardless of the expiration date, FLEX Equity Options are settled by physical delivery of the underlying.

[10] *See* Securities Exchange Act Release No. 57249 (March 4, 2008), 73 FR 13058 (March 11, 2008) (SR–CBOE–2006–36) (approval of rule change that, among other things, established a one-and-a-half year pilot program that reduced the minimum number contracts required for a FLEX Equity Option opening transaction in a new series).

[11] The annual report also contained pilot period and pre-pilot period analyses of volume and open interest for Expiration Friday, a.m.-settled FLEX Index series and Expiration Friday Non-FLEX Index series overlying the same index as an Expiration Friday, p.m.-settled FLEX Index option.

If, in the future, the Exchange proposes an additional extension of the pilot programs, or should the Exchange propose to make the pilot programs permanent (which the Exchange currently intends to do), the Exchange will submit, along with any filing proposing such amendments to the pilot programs, additional pilot program reports covering the extended period during which the pilot programs was in effect and including the details referenced above and consistent with the pilot programs' Approval Order. In addition, with respect to the minimum value size pilot report in particular, the Exchange will include information on the underlying equivalent values. These pilot program reports would be submitted to the Commission at least two months prior to the new expiration date of the pilot programs. The Exchange will also continue, on a periodic basis, to submit interim reports of volume and open interest consistent with the terms of the exercise settlement values pilot program as described in the pilot programs' Approval Order. All such pilot reports would continue to be provided on a confidential basis. As noted in the pilot programs' Approval Order, any positions established under the respective pilot programs would not be impacted by the expiration of the pilot programs.[12]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[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 engaging in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the Exchange believes that the proposed extension of the pilot programs, which permit additional exercise settlement values and eliminate minimum value size requirements, would provide greater opportunities for investors to manage risk through the use of FLEX Options. Further, the Exchange notes that it has not experienced any adverse effects from the operation of the pilot programs.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[17] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay to permit the current pilot to continue uninterrupted. In support of this, CBOE notes, among other things, that it is only proposing to extend the existing pilots and is not proposing any substantive changes to the pilot programs.

The Commission finds that waiver of the operative delay is consistent with the protection of investors and the public interest. The Commission notes in waiving the 30-day operative delay that CBOE's original pilot was published for comment in the **Federal Register** and the Commission only received comments in support of the pilots.[19] Further, CBOE is proposing to extend the existing pilots on the same terms and conditions as they were originally approved by the Commission. This includes, as described in more detail above, a representation that CBOE will continue to monitor the pilots and submit certain interim reports during the extended pilot period, as well as a final report covering the pilot period should the Exchange decide to extend or file for permanent approval of the pilots. Finally, the Commission notes that the Exchange has represented that it has not experienced any adverse market effects with respect to the pilot programs. Based on the above, the Commission finds that it is consistent with investor protection and the public interest to waive the 30-day operative delay in accordance with Rule 19b–4(f)(6)(iii) so that the pilots can continue on an uninterrupted bases, and therefore designates the proposal operative upon filing.[20]

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.

[12] For example, a position in a p.m.-settled FLEX Index Option series that expires on Expiration Friday in January 2015 could be established during the exercise settlement values pilot. If the pilot program were not extended (or made permanent), then the position could continue to exist. However, the Exchange notes that any further trading in the series would be restricted to transactions where at least one side of the trade is a closing transaction. As another example, a 10-contract FLEX Equity Option opening position that overlies less than $1 million in the underlying security and expires in January 2015 could be established during the minimum value size pilot. If the pilot program were not extended (or made permanent), then the position could continue to exist and any further trading in the series would be subject to the minimum value size requirements for continued trading in that series. *See* Approval Order, *supra* note 6, footnotes 9 and 10.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] *See* Securities Exchange Act Release Nos. 61439 (January 28, 2010), 75 FR 5831 (February 4, 2010) (SR–CBOE–2009–087) and 61183 (December 16, 2009), 74 FR 68435 (December 24, 2009) (SR–CBOE–2009–087).

[20] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–2011–024 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–2011–024. 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 No. SR–CBOE–2011–024 and should be submitted on or before April 19, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Cathy H. Ahn,

Deputy Secretary.

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[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64115; File No. SR–ISE–2006–01]

Self-Regulatory Organizations; International Securities Exchange, Inc. (n/k/a the International Securities Exchange, LLC); Order Approving a Proposed Rule Change To Amend Exchange Rule Governing Directed Orders

March 23, 2011.

I. Introduction

On January 5, 2006, the International Securities Exchange, Inc. (n/k/a the International Securities Exchange, LLC) ("ISE" or "Exchange") 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 proposal to amend ISE Rule 811 to allow the identity of a firm entering a Directed Order to be disclosed to a Directed Market Maker ("DMM"). The proposed rule change was published for comment in the **Federal Register** on January 19, 2006.[3] The Commission received comment letters from the Interactive Brokers Group supporting the proposal, and from Citadel opposing the proposal.[4] This order approves the proposed rule change.

II. Description of the Proposal

The Exchange currently operates a Directed Order system in which Electronic Access Members ("EAMs") can send an order to a DMM for possible price improvement.[5] If a DMM accepts Directed Orders generally, that DMM must accept all Directed Orders from all EAMs. Once such a DMM receives a Directed Order, it either (i) must enter the order into the Exchange's Price Improvement Mechanism ("PIM") auction and guarantee its execution at a price better than the ISE best bid or offer ("ISE BBO") by at least a penny and equal to or better than the National Best Bid and Offer ("NBBO") [6] or (ii) must release the order into the Exchange's limit order book, in which case there are certain restrictions on the DMM interacting with the order.

On January 5, 2006, ISE filed a proposed rule change, which became immediately effective upon filing with the Commission, to alter its existing Directed Order system on a temporary basis so that the system would disclose the identity of the firm entering a Directed Order to a DMM.[7] The rule permitting the ISE system to identify to DMMs the firm from which a Directed Order originates continues to operate on a pilot basis through May 31, 2011.[8] ISE proposes in this filing to amend ISE Rule 811 to permit the identity of an EAM that enters a Directed Order to be made available to the DMM and thus to make permanent its rule change that has been operating on a pilot basis for the past five years.

III. Discussion

After careful review of the proposal and of the comment letters, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [9] and, in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 53103 (January 11, 2006), 71 FR 3144.

[4] *See* letters to Nancy M. Morris, Secretary, Commission, from Thomas Peterffy, Chairman, and David M. Battan, Vice President, Interactive Brokers Group, dated February 10, 2006 ("IB Letter") and Adam C. Cooper, Senior Managing Director & General Counsel, Citadel, dated February 27, 2006 ("Citadel Letter"), incorporating by reference a letter from Adam C. Cooper, Senior Managing Director & General Counsel, Citadel, dated January 11, 2006 ("Citadel Letter II").

In reviewing this proposed rule change, the Commission also considered a comment letter by the American Stock Exchange in response to a proposed rule change submitted by the ISE to amend ISE Rule 811 to allow the identity of a firm entering a Directed Order to be disclosed to a DMM on a temporary basis, which became immediately effective upon filing with the Commission. *See* Securities Exchange Act Release No. 53104 (January 11, 2006), 71 FR 3142 January 19, 2006 (SR–ISE–2006–02). *See also* letter to Nancy M. Morris, Secretary, Commission, from Neal L. Wolkoff, Chairman & Chief Executive Officer, American Stock Exchange, dated February 3, 2006 ("Amex Letter") and February 7, 2006 ("Amex Letter II").

[5] *See* Securities Exchange Act Release No. 52331 (August 24, 2005), 70 FR 51856 (August 31, 2005) (SR–ISE–2004–16).

[6] *See* ISE Rule 723.

[7] *See* Securities Exchange Act Release No. 53104 (January 11, 2006), 71 FR 3142 (January 19, 2006) (rule change was effective until June 30, 2006). The Commission received three comment letters regarding the temporary system change. *See* IB Letter, Amex Letter, and Amex Letter II, *supra* note 4.

[8] *See* Securities Exchange Act Release Nos. 53104 (January 11, 2006), 71 FR 3142 January 19, 2006 (SR–ISE–2006–02); 54083 (June 30, 2006), 71 FR 38920 (July 10, 2006) (SR–ISE–2006–35); 54542 (September 29, 2006), 71 FR 59170 (October 6, 2006) (SR–ISE–2006–57); 55144 (January 22, 2007), 72 FR 3890 (January 26, 2007) (SR–ISE–2007–05); 56155 (July 27, 2007), 72 FR 43306 (August 3, 2007) (SR–ISE–2007–67); 59176 (January 24, 2008), 73 FR 5615 (January 30, 2008) (SR–ISE–2008–08); 59276 (January 22, 2009), 74 FR 5007 (January 28, 2009) (SR–ISE–2009–02); 59943 (May 20, 2009), 74 FR 25296 (May 27, 2009) (SR–ISE–2009–28); 60956 (November 6, 2009), 74 FR 58674 (November 13, 2009) (SR–ISE–2009–93); and 63357 (November 22, 2010), 75 FR 73144 (November 29, 2010) (SR–ISE–2010–110).

[9] Citadel argues that this proposal facilitates anti-competitive behavior and therefore violates Section

particular, the requirements of Section 6 of the Act.[10] Specifically, as discussed below, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[11] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and 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 and are not designed to permit unfair discrimination among customers, issuers, brokers, or dealers.

A. Proposal is Not Unfairly Discriminatory

Under the proposal, the ISE system would provide the identity of an EAM that enters a Directed Order to the DMM to whom the order is directed. Citadel argues that the lack of anonymity of Directed Orders allows the DMM receiving such orders to discriminate in its determination regarding for which orders the DMM would provide an opportunity for price improvement through the ISE's PIM auction.[12] The principal criticism of ISE's proposal is that it is inconsistent with the requirement in Section 6(b)(5) of the Act that the rules of an exchange not be "designed to permit unfair discrimination between customers, issuers, brokers, or dealers."[13] Section 6(b)(5) of the Act prohibits an exchange from establishing rules that treat these market participants in an unfairly discriminatory manner. Section 6(b)(5) of the Act does not prohibit exchange members or other broker-dealers from discriminating, so long as their activities are otherwise consistent with the Federal securities laws. Nor does Section 6(b)(5) of the Act require exchanges to preclude discrimination by broker-dealers. Broker-dealers commonly differentiate between customers based on the nature and profitability of their business.

Currently under ISE's rules, an EAM may provide an opportunity for price improvement to a customer order by submitting it to the PIM. An EAM may decide who to accept as its customers and further choose to provide an opportunity for price improvement to some customer orders, but not others, by exercising discretion as to whether it chooses to send a particular order to the PIM auction.[14] An EAM would know the identity of its customer in deciding whether to provide this opportunity for price improvement. A DMM may also provide an opportunity for price improvement to Directed Orders by submitting them to the PIM. The proposed rule change would enable a DMM to consider the identity of the EAM directing the order when deciding whether to provide an opportunity for price improvement.[15] Thus, the proposal will provide information to DMMs that is the same information available to other ISE members when they decide whether to provide price improvement to a particular order.

While customer anonymity may be valuable in ensuring that broker-dealers comply with legal obligations in a variety of circumstances, such as market makers' firm quote obligations, customer anonymity is not required of exchanges, particularly when disclosure of customer identity could provide benefits to certain customers beyond those required by the Federal securities laws or exchange rules. In particular, market makers may be willing to offer better execution prices to certain customers' orders (*e.g.,* retail customers' orders). The Commission does not believe that it would be inconsistent with the Federal securities laws for the Exchange to provide, under the circumstances set forth in this proposal, the means for DMMs to differentiate between customers in providing price improvement or other non-required advantages to certain customers. The Exchange's proposal treats all DMMs the same and establishes no requirements for which orders a DMM chooses to provide an opportunity for price improvement. The Commission does not believe that the absence of Exchange rules specifying which orders a DMM may execute at prices better that its public quote is unfairly discriminatory.

Accordingly, while the proposal would permit a DMM to discriminate among customers in providing prices better than its quote, the Commission does not believe that this discrimination is inconsistent with Section 6(b)(5) of the Act.

B. Impact of Proposal on Market Quality and Competition

Citadel argues that the proposal would discourage aggressive quoting and would be detrimental to price improvement.[16] The Commission has considered this comment and does not believe that the rule change proposed by ISE would discourage DMMs from quoting aggressively. The Commission believes that a DMM has an incentive to quote aggressively to gain priority with respect to orders entered on the limit order book. Further, the Commission believes that the commenter's argument that the proposal will harm market quality rests on a number of premises that are unlikely to occur. The commenter assumes that ISE's proposal will lead to less aggressive quoting across all options exchanges and a widening of the NBBO. The Commission does not believe that this will occur because there is rigorous competition for order flow across options exchanges so any widening of quotes on one market is an opportunity for another option market to capture order flow.[17] In fact, the Options Order Protection and Locked/Crossed Market Plan provides protection from one exchange ignoring better quoted prices on another market and will continue to promote quote competition across options exchanges.[18]

In addition, allowing a DMM to know the identity of firms sending Directed Orders may provide further incentive to that DMM to provide price improvement. A DMM that receives a Directed Order would be required to decide whether to send the order to the

3(f) of the Act. *See* Citadel Letter II, *supra* note 4, at 6. Section 3(f) of the Act requires the Commission to consider or determine whether this proposed rule change is necessary or appropriate in the public interest and, in addition to the protection of investors, will promote efficiency, competition, and capital formation. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. As discussed below, the Commission does not believe the proposal is anti-competitive. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[12] *See* Citadel Letter II, *supra* note 4, at 4–5.

[13] 15 U.S.C. 78f(b)(5). *See* Citadel Letter II, *supra* note 4, at 5; and Amex Letter, *supra* note 4, at 2.

[14] *See also* Chapter V, Section 18 of the Boston Options Exchange Rules (Price Improvement Period) and Rule 6.74A of the Chicago Board Options Exchange, Incorporated (Automated Improvement Mechanism).

[15] Specialists and other market makers may establish payment for order flow relationships with firms on a discretionary basis. A specialist or market maker may pay varying amounts for order flow received from different firms or different customers within firms. Unlike payment for order flow, which principally benefits intermediaries and, indirectly, their customers through possibly lower fees and better services, customers' orders executed through the PIM auction directly benefit customers with the opportunity for an improved price.

[16] *See* Citadel Letter II, *supra* note 4, at 8–9.

[17] *See* Robert Battalio, "Third Market Broker-Dealers: Cost Competitors or Cream Skimmers?" *Journal of Finance,* 1997; and Robert Battalio, Robert Jason Greene, and Robert Jennings, "How Do Competing Specialists and Preferencing Dealers Affect Market Quality?" *Review of Financial Studies,* 1997.

[18] *See* Securities Exchange Act Release No. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009).

PIM and guarantee a price better than the ISE BBO and equal to or better than the NBBO to such order, or to release the order to the book. The DMM's decision about whether to choose to guarantee a particular order at a price better than the ISE BBO and equal to or better than the NBBO may be affected by this proposal because it provides DMMs with information to differentiate between orders from informed traders (*i.e.,* their competitors) and orders from uninformed traders. It is well known in academic literature and industry practice that prices tend to move against market makers after trades with informed traders, often resulting in losses for market makers.[19] Thus, there is a strong economic rationale for market makers not providing informed traders price improvement. Uninformed investors end up bearing the cost of these market maker losses through wider spreads that market makers need to quote to uninformed investors due to informed order flow.[20]

Citadel also argues that the Commission has previously sought to eliminate similar anti-competitive practices allowed by self-regulatory organizations ("SROs") involving lack of order anonymity.[21] In particular, Citadel cites a 1996 investigation of NASD and Nasdaq Stock Market in which "[s]ome market makers, without disclosure to their customers, shared information with each other about their customers' orders, including the size of the order and, on occasion, the identity of the customer." [22] Citadel asserts that the "Commission concluded that this anti-competitive behavior violated the antifraud provisions of the Exchange Act, among other provisions." [23]

The Commission does not believe that the proposal will result in market maker conduct like that in the NASD case, which found that market makers were collaborating with other market participants against the interests of their customers contrary to the fair dealing obligations of market makers.[24] Unlike the NASD case, the interests of the DMM's customers are not harmed by this proposal because information pertaining to a DMM's Directed Orders is not shared among competing DMMs and all orders sent to ISE must be executed at a price no worse than the NBBO.[25]

Finally, Amex contends that the proposal is anti-competitive because providing the identity of an EAM to DMMs provides them with the ability to enter into anti-competitive customer allocation arrangements.[26] Amex argues that if ISE Market Makers know the identities of order flow providers, they could agree to allocate those order flow providers among themselves and provide price improvement to only those that each has been allocated.[27] There is, however, no evidence that customer allocation arrangements exist between Market Makers. The Commission is today approving only the proposed rule change, which permits a DMM to determine from which EAM it will accept Directed Orders. The Commission is not approving any customer allocation arrangements among Market Makers.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular with Section 6(b)(5) of the Act.[28]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule change (SR–ISE–2006–01) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–7285 Filed 3–28–11; 8:45 am]

BILLING CODE 8011–01–P

[19] *See* Stoll, H. R., "The supply of dealer services in securities of markets," *Journal of Finance* 33 (1978), at 1133–51; Glosten, L. and P. Milgrom, "Bid ask and transaction prices in a specialist market with heterogeneously informed agents," *Journal of Financial Economics* 14 (1985), at 71–100; and Copeland, T., and D. Galai, "Information effects on the bid-ask spread," *Journal of Finance* 38 (1983), at 1457–69.

[20] *Id.*

[21] *See* Citadel Letter II, *supra* note 4, at 6.

[22] *See* Securities Exchange Act Release No. 37542 (August 8, 1996) (File No. 3–8919) (Report Pursuant to Section 21(a) of the Securities Exchange Act of 1934 Regarding the NASD and the Nasdaq Market), at 5.

[23] *See* Citadel Letter II, *supra* note 4, at 6.

[24] *See* Securities Exchange Act Release No. 37542, *supra* note 22, at 59.

[25] *See* ISE Rule 811(e).

[26] *See* Amex Letter, *supra* note 4, at 2.

[27] *Id.*

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64113; File No. SR–Phlx–2011–36]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX LLC Relating to the Equity Options Monthly Cap

March 23, 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 March 17, 2011, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Fee Schedule to lower the monthly cap applicable to Registered Options Traders ("ROTs") [3] and Specialists [4] for equity options transactions. The Exchange also proposes to assess a $0.05 per contract fee on ROTs and Specialists in certain circumstances when they have reached the monthly cap.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on April 1, 2011.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* 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.

[3] A Registered Options Trader ("ROT") includes a Streaming Quote Trader ("SQT"), a Remote Streaming Quote Trader ("RSQT") and a Non-SQT ROT, which by definition is neither a SQT or a RSQT. A ROT is defined in Exchange Rule 1014(b) as a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Exchange Rule 1014(b)(i) and (ii).

[4] A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to reduce the monthly transaction fee cap applicable to ROTs and Specialists for equity options transactions ("Monthly Cap"). The Exchange believes that by reducing the Monthly Cap, a greater number of members may benefit from the Monthly Cap and the Exchange will attract additional order flow. In addition, another purpose of this proposed rule change is to establish a $0.05 per contract transaction fee when ROTs and Specialists participate as the contra-side of a Customer complex order [5] execution after they have reached the maximum Monthly Cap. The Exchange proposes this amendment to defray the cost of paying Customer complex order rebates, which attracts additional Customer order flow to the Exchange.

The Exchange currently applies a Monthly Cap of $600,000 on equity option transaction fees to ROTs and Specialists, as set forth in Section II of the Exchange's Fee Schedule titled "Equity Options Fees." The Exchange is proposing to reduce the Monthly Cap from $600,000 to $550,000.[6]

The Exchange is also proposing to assess ROTs and Specialists a $0.05 per contract transaction fee when such ROTs and Specialists: (i) participate as the contra-side of a Customer complex order; and (ii) have reached the maximum Monthly Cap, which is proposed to be $550,000. The Exchange currently pays a rebate of $0.05 per contract for Customer complex orders that are electronically-delivered and executed against a non-Customer such as a Specialist, ROT, SQT,[7] RSQT,[8] Professional,[9] Firm or Broker-Dealer, contra-side complex order or if any of the components of such Customer complex order are executed against a non-Customer individual order or quote.[10] The Exchange proposes this fee to defray the cost of the aforementioned rebate. The $.05 per contract transaction fee would only apply to those contracts that are executed after the affected ROT or Specialist has reached the Monthly Cap. For example, when a ROT or Specialist exceeds the proposed $550,000 Monthly Cap, a $0.05 per contract fee would be added to the Monthly Cap over those trades that were counted in reaching the $550,000 Monthly Cap, when such ROT or Specialist is on the contra-side of a Customer complex order. The ROT or Specialist would not be assessed the $0.05 per contract fee until the Monthly Cap is exceeded. The Exchange proposes to amend the current language in the Fee Schedule at Section II to reflect the proposal. The Exchange also proposes to make certain typographical and conforming changes to Section II of the Fee Schedule to make the language consistent in that section.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(4) of the Act [12] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that the proposal to lower the Monthly Cap is reasonable because it lowers potential transaction fees for ROTs and Specialist providing liquidity on the Exchange.

The Exchange believes that the proposal to lower the Monthly Cap is equitable because it would uniformly apply to all ROTs and Specialists transacting equity options.

The Exchange believes that assessing a $0.05 per contract fee on ROTs and Specialists who have reached the Monthly Cap and are on the contra-side of a Customer complex order is reasonable because it would serve to defray the cost of paying the Customer complex order rebate, which is offered in certain circumstances. The Customer complex order rebate serves to attract Customer order flow to the Exchange, thereby benefiting all market participants.

The Exchange believes that assessing a $0.05 per contract fee on ROTs and Specialists who have reached the Monthly Cap and are on the contra-side of a Customer complex order is equitable because this fee would only be assessed once the Monthly Cap is reached and will uniformly apply to all ROTs and Specialists that have reached the Monthly Cap. In addition, this proposed transaction fee is based upon the $0.05 per contract fee that the Exchange currently assesses Firms who have reached the Firm Related Equity Option Cap and are on the contra-side of a Customer complex order.[13]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section

[5] A complex order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a complex order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund ("ETF") coupled with the purchase or sale of options contract(s). *See* Exchange Rule 1080, Commentary .08(a)(i).

[6] The trading activity of separate ROTs and Specialist member organizations are aggregated in calculating the Monthly Cap if there is at least 75% common ownership between the member organizations.

[7] An SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

[8] A RSQT is defined in Exchange Rule in 1014(b)(ii)(B) as an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange.

[9] The Exchange defines a "professional" as any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) (hereinafter "Professional").

[10] *See* Exchange's Fee Schedule at Section II, Equity Options Fees.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] *See* Securities Exchange Act Release No. 62518 (July 16, 2010), 75 FR 43219 (July 23, 2010) (SR–Phlx–2010–90). *See also* the Exchange's Fee Schedule at Section II, Equity Options Fees.

19(b)(3)(A)(ii) of the Act.[14] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2011–36 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–Phlx–2011–36. 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 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–Phlx–2011–36 and should be submitted on or before April 19, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–7282 Filed 3–28–11; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. 2011–0059]

Notice of Transportation Services' Transition From Paper to Electronic Fare Media

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The Office of Transportation Services (TRANServe) located in the U.S. Department of Transportation, Office of the Secretary of Transportation within the Office of the Assistant Secretary for Administration is adopting a new program distribution methodology. TRANServe is planning to shift to electronic fare media in particular areas, beginning in New York and parts of the National Capitol Region, where paper vouchers are not available for redemption through the Transit Authority. The shift allows for the most effective and efficient delivery mechanism for the qualified transportation fringe benefit in those areas. TRANServe provides services to Federal Government agencies for the qualified transportation fringe benefit. To date, TRANServe has distributed these fringe benefits via a paper voucher process.

DATES: TRANServe will consider all comments received on or before April 19, 2011.

ADDRESSES: You may submit comments by the following methods:

- *Federal eRulemaking Portal:* Go to (*http://www.regulations.gov* Web address) to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send one copy of your comment to Docket No. DOT–OST–2011–0059, DOT/TRANServe, 1200 New Jersey Ave., SE., Washington, DC 20590.

Reading Room (Public Terminal): You may read any comments that we receive on this docket in our reading room (Public Terminal). The reading room is located in Room W12–140 of the U.S. DOT, 1200 New Jersey Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m. Monday through Friday, except holidays. To be sure someone is there to help you please call (202) 366–9826 or (202) 366–9317 before arriving.

Other Information: Additional information about TRANServe is available on the Internet at (*http://transerve.dot.gov/index.html*).

FOR FURTHER INFORMATION CONTACT: Ms. Denise P. Wright, Business Office Manager, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of 49 U.S.C. 327, Administrative Working Capital Fund and 26 U.S.C. 132(f)(3), Qualified Transportation Fringe, Cash Reimbursement, TRANServe conducts its Program operations as the service provider by distributing the qualified transportation fringe benefit. Since the enactment of Public Law 103–172, Federal Employees Clean Air Incentives Act, Executive Order 13150, Federal Workforce Transportation, and other enabling legislation, TRANServe has maintained its servicing operations for the distribution of transit benefits to Federal employees via a paper voucher process.

Since 2000, TRANServe has operated a highly sophisticated ordering/inventory/distribution program. TRANServe's program is supported by a complex network of activities, such as statistical forecasting for nationwide distribution, multi-million dollar contract awards, support arrangements for travel and distribution, and an elaborate array of financial analysis for Federal Agency billing. April 2000 served as the transaction baseline year for TRANServe, when significant and measurable transaction activity occurred that accounted for an estimated 800% increase in Federal Agency participant growth. Over time, many State and local transit authorities are transitioning or have transitioned to electronic fare media; thus, compelling the shift from a paper based system (vouchers) to an electronic fare media structure.

In addition to rising program costs related to inventory, travel, and

infrastructure support, the shift to electronic fare media by State and local transit authorities require that TRANServe adopt a new distribution method from paper to electronic fare media, consistent with 26 U.S.C. 132(f)(3).

Public Comments: Persons wishing to offer written comments and suggestions concerning the activities of TRANServe's change in distribution operations should file comments in the Public Docket (Docket Number DOT–OST–2011–0059) at *http://www.regulations.gov.*

Marie Petrosino-Woolverton,

Director, Office of Financial Management & Transportation Services.

[FR Doc. 2011–7302 Filed 3–28–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Tour Management Plan Environmental Assessment for Mount Rainier National Park, WA; Public Meeting/Notice of Availability, Review, and Comment on Draft Alternatives

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of public meeting, request for comments, and availability of preliminary alternatives.

SUMMARY: This notice announces the availability of draft air tour alternatives and announces meetings hosted by the National Park Service, Mount Rainier National Park, and the FAA's Air Tour Management Program. The purpose of these meetings is to introduce proposed alternatives to the public which contain specific routes and altitudes used by air tour operators when providing air tours of Mount Rainier National Park. The meeting provides an opportunity for the public to review and comment on alternatives.

DATES: *Comment Period:* Comments must be received on or before May 16, 2011.

Meetings: The meetings will be held at the following locations, dates, and times:

April 26, 2011: 6:30–8:30 p.m., Mountaineers Building, Goodman A Auditorium, 7700 Sand Point Way, NE., Seattle, WA 98115.

April 27, 2011: 6:30–8:30 p.m., Mount Rainier National Park Education Center, Tahoma Woods, Ashford Headquarters, 55210 238th Ave. E., Ashford, WA 98304.

April 28, 2011: 6:30–8:30 p.m., Washington State History Museum, 1911 Pacific Ave., Tacoma, WA 98402.

FOR FURTHER INFORMATION CONTACT: Ms. Lelaina Marin, National Park Service, Natural Resource Program Center, Natural Sounds and Night Skies Division, 1201 Oakridge Drive, Suite 100, Fort Collins, CO 80525; *telephone:* (970) 225–3552 or Mr. Larry Tonish, Federal Aviation Administration, Air Tour Management Program, AWP–1SP, 15000 Aviation Blvd., Hawthorne, CA 90250; *telephone:* (310) 725–3817.

SUPPLEMENTARY INFORMATION: The FAA is issuing this notice pursuant to the National Parks Air Tour Management Act of 2000 (Pub. L. 106–181) and its implementing regulations contained in Title 14, Code of Federal Regulations, Part 136, National Parks Air Tour Management. The public is invited to review and provide comment on draft alternatives in the development of an Air Tour Management Plan (ATMP) for the Mount Rainier National Park. The FAA is the Lead Agency and the NPS is a Cooperating Agency in the development of an Environmental Assessment (EA), an ATMP, and associated rulemaking actions which comply with the National Environmental Policy Act of 1969 (NEPA) requirements.

The EA is being prepared in accordance with FAA Order 1050.1E, environmental Impacts: Policies and Procedures, NPS Director's Order #12: Conservation Planning, Environmental Impact Analysis, and Decision-making, and NPS Management Policies. The FAA and NPS are now inviting comment from the public, agencies, tribes and other interested parties on the draft alternatives being considered to prepare an Air Tour Management Plan Environmental Assessment for Mount Rainier National Park, Washington.

Attendance is open to the interested public but limited to space availability. The FAA and NPS request that comments be as specific as possible in response to actions that are being proposed under this notice. Both oral and written comments will be accepted during these meetings. Agency personnel will be available to answer questions and document comments. All written comments become part of the official record along with previously submitted scoping comments. Written comments on the draft alternatives can also be submitted on the NPS on the NPS Planning, Environment and Public Comment System at: *http://parkplanning.nps.gov/MORA_ATMP* or sent to the mailing addresses listed in the "**FOR FURTHER INFORMATION CONTACT**" section.

Documents that describe the Mount Rainier National Park ATMP project in greater detail and the draft ATMP alternatives under consideration are available at the following locations:

- FAA Air Tour Management Plan Program Web site, *http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/*
- NPS Planning, Environment and Public Comment Web site, *http://parkplanning.nps.gov/MORA_ATMP*.
- Longmire Museum, Mount Rainier National Park
- Henry M. Jackson Memorial Visitor Center at Paradise, Mount Rainier National Park.
- Ohanapecosh Visitor Center, Mount Rainier National Park.
- Bonney Lake Library
- Buckley Library
- Eatonville Library
- Enumclaw City Library
- Graham Library
- Orting Library
- Packwood Timberland Library
- Parkland-Spanaway Library
- Puyallup Library
- Seattle Central Library
- South Hill Library
- Summit Library (Tacoma)
- Sumner Library
- Tacoma Public Library—Main Library
- Yakima Valley Regional Library
- Environmental Ctr. Resource Library, Huxley College of Environmental Studies, Western Washington University

Issued in Hawthorne, California, on March 22, 2011.

Larry Tonish,

Program Manager, Air Tour Management Program.

[FR Doc. 2011–7306 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Tour Management Plan for Haleakala National Park, Maui, HI; Public Meeting/Notice of Availability, Review, and Comment on Alternatives for the Development

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting, request for comments, and availability of alternatives.

SUMMARY: This notice announces the availability of preliminary air tour alternatives and announces meetings hosted by the National Park Service,

Haleakala National Park and the FAA's Air Tour Management Program. The purpose of the meetings is to introduce proposed alternatives to the public which contain specific routes and altitudes used by air tour operators when providing air tours of the Haleakala National Park. The meetings provide an opportunity for the public to review and comment on alternatives.

DATES: *Comment Period:* Comments must be received on or before June 6, 2011.

Meetings: The meetings will be held at the following locations, dates, and times:

Tuesday, April 12, 2011, 5 p.m.–7 p.m.
Maui Arts and Cultural Center (MACC), Alexa Higashi Meeting Room, One Cameron Way, Kahului, HI 96732.

Wednesday, April 13, 2011, 5 p.m.–7 p.m.
Kula Community Center, 3690 Lower Kula Road, Kula, HI 96790.

Thursday, April 14, 2011, 5 p.m.–7 p.m.
Helene Community Center (Hana), 150 Keawa Place, Hana, HI 96713.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki McCusker, National Park Service, Natural Resource Program Center, Natural Sounds and Night Skies Division, 1201 Oakridge Drive, Suite 100, Fort Collins, CO 80525; telephone: (970) 267–2117 or Mr. Larry Tonish, Federal Aviation Administration, Air Tour Management Program, AWP–1SP, 15000 Aviation Blvd., Hawthorne, CA 90250; telephone: (310) 725–3817.

SUPPLEMENTARY INFORMATION: The FAA is issuing this notice pursuant to the National Parks Air Tour Management Act of 2000 (Pub. L. 106–181) and its implementing regulations contained in Title 14, Code of Federal Regulations, Part 136, National Parks Air Tour Management. The public is invited to review and provide comment on alternatives in the development of an Air Tour Management Plan (ATMP) for the Haleakala National Park. The FAA is the Lead Agency and the NPS is a Cooperating Agency in the development of an Environmental Impact Statement (EIS), an ATMP, and associated rulemaking actions which comply with the National Environmental Policy Act of 1969 (NEPA) requirements.

The EIS is being prepared in accordance with FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, NPS Director's Order #12: Conservation Planning, Environmental Impact Analysis, and Decision-making, and NPS Management Policies. The FAA is now inviting the public, agencies, and other interested parties to provide comments, suggestions, and input regarding the range of alternatives and the potential impacts and effects of the alternatives on commercial air tours, natural resources, congressionally designated wilderness, cultural resources, and the park visitor experience.

Attendance is open to the interested public but limited to space availability. The FAA requests that comments be as specific as possible in response to actions that are being proposed under this notice. Both oral and written comments will be accepted during these meetings. Agency personnel will be available to record your spoken comments. All recorded and written comments become part of the official record along with previously submitted scoping comments. Comments can also be submitted to the NPS Planning, Environment and Public Comment Web site at: *http://parkplanning.nps.gov/hale.*

Documents that describe the Haleakala National Park ATMP project in greater detail and the preliminary ATMP alternatives under consideration are available at the following locations:

- FAA Air Tour Management Plan Program Web site, *http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/.*
- NPS Haleakala National Park Web site, *http://www.nps.gov/hale.*
- NPS Planning, Environment and Public Comment Web site, *http://parkplanning.nps.gov/hale.*
- Makawao Branch Public Library, 1159 Makawao Ave., Makawao 96768.
- Hana Branch Public Library, P.O. Box 490, Hana 96713.
- Kahului Branch Public Library, 90 School St., Kahului 96732.

Issued in Hawthorne, California on March 18, 2011.

Larry Tonish,

Program Manager, Air Tour Management Program.

[FR Doc. 2011–7308 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Meeting/Notice of Availability, Review, and Comment on Preliminary Alternatives for the Development of an Air Tour Management Plan for Hawaii Volcanoes National Park, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting, request for comments, and availability of preliminary alternatives.

SUMMARY: This notice announces the availability of preliminary air tour alternatives and announces meetings hosted by the National Park Service, Hawaii Volcanoes National Park and the FAA's Air Tour Management Program. The purpose of the meetings is to introduce proposed alternatives to the public which contain routes and altitudes used by air tour operators when providing air tours of the Hawaii Volcanoes National Park. The meetings provide an opportunity for the public to review and comment on alternatives.

DATES: *Comment Period:* Comments must be received on or before June 6, 2011.

Meetings: The meetings will be held at the following locations, dates, and times:

Volcano, Hawaii

Monday, April 18, 2011, 5:30–7:30 p.m.
Hawaii Volcanoes National Park, Klauea Visitor Center, 1 Crater Rim Drive, Phoa, Hawaii.

Tuesday, April 19, 2011, 5–7 p.m.
Phoa Community Center, 15–2910 Puna Rd., Namacrehu, Hawaii.

Wednesday, April 20, 2011, 5–7 p.m.
Nalehu Community Center, 95–5635 Mamalahoa Highway.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki McCusker, National Park Service, Natural Resource Program Center, Natural Sounds and Night Skies Division, 1201 Oakridge Drive, Suite 100, Fort Collins, CO 80525; telephone: (970) 267–2117 or Mr. Larry Tonish, Federal Aviation Administration, Air Tour Management Program, AWP–1SP, 15000 Aviation Blvd., Hawthorne, CA 90250; telephone: (310) 725–3817.

SUPPLEMENTARY INFORMATION: The FAA is issuing this notice pursuant to the National Parks Air Tour Management Act of 2000 (Pub. L. 106–181) and its implementing regulations contained in Title 14, Code of Federal Regulations, Part 136, National Parks Air Tour Management. The public is invited to review and provide comment on alternatives in the development of an Air Tour Management Plan (ATMP) for the Hawaii Volcanoes National Park. The FAA is the Lead Agency and the NPS is a Cooperating Agency in the development of an Environmental Impact Statement (EIS), an ATMP, and associated rulemaking actions which comply with the National Environmental Policy Act of 1969 (NEPA) requirements.

The EIS is being prepared in accordance with FAA Order 1050.1E, environmental Impacts: Policies and Procedures, NPS Director's Order#12: Conservation Planning, Environmental Impact Analysis, and Decision-making,

and NPS Management Policies. The FAA is now inviting the public, agencies, and other interested parties to provide comments, suggestions, and input regarding the range of alternatives and the potential impacts and effects of the alternatives on commercial air tours, natural resources, congressionally designated wilderness, cultural resources, and the park visitor experience.

Attendance is open to the interested public but limited to space availability. The FAA requests that comments be as specific as possible in response to actions that are being proposed under this notice. Both oral and written comments will be accepted during these meetings. Agency personnel will be available to document your spoken comments. All written comments become part of the official record along with previously submitted scoping comments. Written comments on the preliminary alternatives should be submitted at the public meetings, electronically via the electronic public comment form on the NPS Planning, Environment and Public Comment System at: *http://parkplanning.nps.gov/documentsAndLinks.cfm?projectID=29122* or sent to the mailing addresses listed in the **FOR FURTHER INFORMATION CONTACT** section.

Documents that describe the Hawaii Volcanoes National Park ATMP project in greater detail and the preliminary ATMP alternatives under consideration are available online at the following Web addresses:

- FAA Air Tour Management Plan Program Web site, *http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/.*
- NPS Planning, Environment and Public Comment Web site at: *http://parkplanning.nps.gov/documentsAndLinks.cfm?projectID=29122.*
- Hawaii Volcanoes National Park Web site at *http://www.nps.gov/havo/parkmgmt/plan.htm.*

A newsletter containing descriptions and drawings of preliminary alternatives may be obtained after April 8, 2011 at the following Hawaii Island locations or by contacting those names given in the **FOR FURTHER INFORMATION CONTACT** section.

- Klauea Visitor Center, Hawaii Volcanoes National Park, Hawaii National Park, HI.
- Hilo Public Library, 300 Waianuenue Ave., Hilo, HI.
- Kailua-Kona Public Library, 75–138 Hualalai Rd., Kailua-Kona, HI.
- Mountain View Public Library, 1235 Volcano Highway, Mountain View, HI.
- Phoa Public Library, 15–3038 Puna Rd., Pāhoa, HI.
- Nlehu Public Library, 95 5669 Mamalahoa Highway, Nlehu, HI.
- Thelma Parker Memorial Public Library, 59–1207 Mamalahoa Highway, Waimea (Kamuela), HI.

Issued in Hawthorne, California on March 18, 2011.

Larry Tonish,

Program Manager, Air Tour Management Program.

[FR Doc. 2011–7310 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twelfth Meeting: RTCA Special Committee 214: Working Group 78: Standards for Air Traffic Data Communication Services

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 214: Working Group 78: Standards for Air Traffic Data Communication Services.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Special Committee 214: Working Group 78: Standards for Air Traffic Data Communication Services.

DATES: The meeting will be held April 11–15, 2011 from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at the Federal Ministry of Transport, Building and Urban Development, Invalidenstrasse 44–10115 Berlin, Germany. Confirm attendance with *danny.van-roosbroek@eurocontrol.int, hartmut.villwock@dfs.de,* and copy to *eurocae@eurocae.net.*

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a RTCA Special Committee 214: Working Group 78: Standards for Air Traffic Data Communication Services meeting. The agenda will include:

Additional Information

Additional information and all the documents to be considered can be found in the Web site *http://www.faa.gov/go/SC214.*

Meeting Objectives

- Complete definition of Baseline 2 content
- Review planning and content of SPR and INT drafts version 0.H and 0.I
- Progress the validation report
- Consolidate approach for Oceanic/Continental Integration
- Approve release of VDL Mode 2 documents for Final Review and Comment (RTCA)
- Review of Position Papers
- Review the work plan; and Plenary/Subgroup meetings plan for 2011

Agenda

Day 1, Monday, April 11, 2011

9–12:30 Plenary Session

- Welcome/Introductions/Administrative Remarks
- Approval of the Agenda
- Approval of the Minutes of Plenary 11
- Review Action Item Status
- Coordination Activities
- Briefing from other SCs and WGs
- Briefing from recent ICAO NAT and OPLINK meetings
- Status Publication DO306/ED122 Change 1
- Review of Work so far
- SPR & INT documents version H and I
- SC–214/WG–78 TORs and Work Plan
- Review of Position Papers and Contributions

13:30–17:00: Plenary Session

- Continuation Review of Position Papers and Contributions
- Approval of Sub-Group Meeting Objectives

Day 2, Tuesday, April 12, 2011 9:00–17:00 Sub-Group Sessions

Day 3, Wednesday, April 13, 2011 9:00–17:00 Sub-Group Sessions

Day 4, Thursday, April 14, 2011 9:00–17:00 Plenary Session

- Configuration Sub-group Report & Assignment of Action Items
- Validation Sub-group Report & Assignment of Action Items
- VDL Sub-group Report & Assignment of Action Items
- Approval to release VDL Mode 2 Documents for Final Review and Comment (RTCA)
- Review Dates and Locations 2011 Plenary and SG Meetings
- Any Other Business
- Adjourn

Day 5, Friday, April 15, 2010 Sub-Group Sessions 9:00–16:00

- 9:00–16:00 Sub-Group Sessions

Attendance is open to the interested public but limited to space availability.

With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the "**FOR FURTHER INFORMATION CONTACT**" section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on, March 24, 2011.

Robert L. Bostiga,

RTCA Advisory Committee.

[FR Doc. 2011–7428 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation Advisory Committee—Open Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Commercial Space Transportation Advisory Committee Open Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Tuesday, May 10, 2011, starting at 8 a.m., and Wednesday, May 11, 2011, starting at 8 a.m., at the National Housing Center, 1201 15th Street, NW., Washington, DC 20005. This will be the 53rd meeting of the COMSTAC.

The proposed agenda for May 10 features meetings of the working groups as follows:

—Reusable Launch Vehicles (8 a.m.–10 a.m.)
—Space Transportation Operations (10 a.m.–12 p.m.)
—Export Controls (1 p.m.–3 p.m.)
—Risk Management (3 p.m.–5 p.m.)

The proposed agenda for May 11 features:

—Speakers relevant to the commercial space transportation industry, including Ed Mango from the Commercial Crew Office at National Aeronautics and Space Administration, Kennedy Space Center;
—A presentation on the committee's 2011 Commercial Geosynchronous Orbit Launch Model;
—A presentation on the committee's 2011 Commercial Space Transportation Forecast; and
—Reports and recommendations from the working groups.

Interested members of the public may submit relevant written statements for the COMSTAC members to consider under the advisory process. Statements may be concerning the issues and agenda items mentioned above and/or additional issues that may be relevant for the U.S. commercial space transportation industry. Interested parties wishing to submit written statements should contact Susan Lender, DFO, (the Contact Person listed below) in writing (mail or e-mail) by May 2, 2011, so that the information can be made available to COMSTAC members for their review and consideration before the May 10th opening meeting. Written statements should be supplied in the following formats: One hard copy with original signature and/or one electronic copy via e-mail.

An agenda will be posted on the FAA Web site at *http://ast.faa.gov*. For specific information concerning the times and locations of the COMSTAC working group meetings, contact the Contact Person listed below.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Susan Lender (AST–5), Office of Commercial Space Transportation (AST), 800 Independence Avenue, SW., Room 331, Washington, DC 20591, telephone (202) 267–8029; E-mail *susan.lender@faa.gov.* Complete information regarding COMSTAC is available on the FAA Web site at: *http://www.faa.gov/about/office_org/headquarters_offices/ast/advisory_committee/*.

Issued in Washington, DC, March 23, 2011.

George C. Nield,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 2011–7311 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0074]

Agency Information Collection Activities; Request for Comments on a New Information Collection: Evaluating the Safety Benefits of an On-Board Monitoring System in Commercial Vehicle Operations: Independent Evaluation and Data Analysis

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The purpose of this information collection is to assess Commercial Motor Vehicle (CMV) drivers' expectations, attitudes and acceptance of an on-board monitoring system (OBMS), as a part of a Field Operational Test (FOT) study.

DATES: We must receive your comments on or before May 31, 2011.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket Number FMCSA–2011–0074 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://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:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m., EST, 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 to

Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Regulations.gov is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or post card or print the acknowledgement page that appears after submitting them on-line.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete 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: Olu Ajayi, Research Division, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202–366–0440; e-mail *olu.ajayi@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: The goal of the OBMS and safety research study (FOT) is to determine whether on-board monitoring and feedback will reduce at-risk behavior among CMV drivers and improve driver safety performance. The purpose of the questionnaire portion is to assess CMV drivers' acceptance on the OBMS being evaluated in the FOT. A series of four unique questionnaires will be conducted in the Baseline (no feedback), Intervention (receiving feedback), and Withdrawal (no feedback) periods. These questionnaires will address the CMV drivers' expectations, experiences and attitudes toward the OBMS and assess changes in their perception over the 18-month study period. All study questionnaires will be available in both paper and electronic form. The results will be summarized and integrated into the rest of the larger FOT study report that evaluates the effectiveness of the OBMS in improving safety and driver performance.

Title: Evaluating the Safety Benefits of an On-Board Monitoring system in Commercial Vehicle Operations: Independent Evaluation and Data Analysis.

OMB Control Number: 2126–XXXX.

Type of Request: New collection.

Respondents: Commercial motor vehicle (CMV) drivers.

Estimated Number of Respondents: 500 CMV drivers.

Estimated Time per Response: 20 minutes for the pre-study questionnaire, 15 minutes for during- and post-study questionnaires, and 20 minutes for the exit interview at the end of the study.

Expiration Date: N/A.

Frequency of Response: Drivers will be asked to take a total of six questionnaires over a course of 18 months and one in-person interview at the end of the study.

Estimated Total Annual Burden: 792 hours [(250 responses × 20 minutes/60 minutes for pre-study questionnaire) + (1,250 responses × 15 minutes/60 minutes for intervention questionnaire) + (1,250 responses × 15 minutes/60 minutes for withdrawal questionnaire) + (250 responses × 20 minutes/60 minutes for exit interview) = 792 hours].

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and include your comments in the request for OMB's clearance of this information collection.

Issued on: March 15, 2011.

Kelly Leone,

Associate Administrator for Research and Information Technology.

[FR Doc. 2011–7251 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0058]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption from the diabetes mellitus standard; request for comments.

SUMMARY: FMCSA announces receipt of applications from 18 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before April 28, 2011.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2011–0058 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://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:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below for further information.

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 Federal Docket Management System (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.*

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:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations 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. The 18 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

Qualifications of Applicants

Clay B. Anderson

Mr. Anderson, age 36, has had ITDM since 2004. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Anderson's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Anderson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from Illinois.

William J. Berzley

Mr. Berzley, 41, has had ITDM since 2000. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Berzley's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Berzley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Chauffeur license from Michigan.

David E. Delaney

Mr. Delaney, 58, has had ITDM since 2006. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Delaney's endocrinoligist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Delaney meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

John A. DelGiudice

Mr. DelGiudice, 54, has had ITDM since 1991. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. DelGiudice's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. DelGiudice meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds an operator's license from Rhode Island.

Frank A. Dreyfus

Mr. Dreyfus, 54, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Dreyfus's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dreyfus meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Alabama.

Donald L. Erickson

Mr. Erickson, 67, has had ITDM since 2007. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Erickson's endocrinoligist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Erickson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Wisconsin.

Stefan D. Gall

Mr. Gall, 55, has had ITDM since 2007. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Gall's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gall meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class C chauffeur license from Michigan.

Robert E. McKenna

Mr. McKenna, 44, has had ITDM since 1990. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. McKenna's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McKenna meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class A CDL from New York.

Gregory O. Morton

Mr. Morton, 43, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Morton's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Morton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Alabama.

Deron E. Schmidt

Mr. Schmidt, 48, has had ITDM since 1995. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Schmidt's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Schmidt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Norvald W. Scofield, Jr.

Mr. Scofield, 48, has had ITDM since approximately 1993. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr.Schofield's endocrinologist certifes that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Scofield meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class 1 operator's license from South Dakota, which allows him to drive any non-commercial vehicle except motorcycles.

Sean L. Shidell

Mr. Shidell, 41, has had ITDM since 2007. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Shidell's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shidell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Alaska.

Crispin Tabangcura, Jr.

Mr. Tabangcura, 56, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Tabangcura's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tabangcura meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Hawaii.

Blake A. Tice

Mr. Tice, 52, has had ITDM since 2004. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Tice's endocrinologist certifes that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tice meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Oklahoma.

Eric F. Ware

Mr. Ware, 48, has had ITDM since 2005. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Ware meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Alabama.

Harold E. Watters

Mr. Watters, 57, has had ITDM since 1992. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Watter's endocrinologist certifies that he understands diabetes management and

monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Watters meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Chauffeur license from Indiana.

Terry Wilson

Mr. Wilson, 51, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Wilson's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wilson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

John B. Wojcicki

Mr. Wojcicki, 44, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Mr. Wojcicki's endocrinologist certifies that he understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wojcicki meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441) [1]. The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary. The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: March 16, 2011.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2011–7253 Filed 3–28–11; 8:45 am]

BILLING CODE P

[1] Section 4129(a) refers to the 2003 notice as a "final rule." However, the 2003 notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0040]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption from the diabetes mellitus standard; request for comments.

SUMMARY: FMCSA announces receipt of applications from 17 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before April 28, 2011.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2011–0040 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://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:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

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 Federal Docket Management System (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.*

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:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations 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. The 17 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

Qualifications of Applicants

Peter N. Amendola

Mr. Amendola, age 55, has had ITDM since 1997. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Amendola understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Amendola meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B Commercial Driver's License (CDL) from Massachusetts.

Edward D. Boyer

Mr. Boyer, 54, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Boyer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Boyer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Steven V. Callison

Mr. Callison, 54, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Callison understands diabetes management and monitoring has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Callison meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Louisiana.

Douglas A. Carroll

Mr. Carroll, 31, has had ITDM since 1987. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Carroll understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carroll meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A operator's license from Indiana.

Bradley J. Frazier

Mr. Frazier, 53, has had ITDM since 1983. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Frazier understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Frazier meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Illinois.

Tamara D. Folsom

Ms. Folsom, 45, has had ITDM since 2010. Her endocrinologist examined her in 2011 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Folsom understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Folsom meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2011 and certified that she does not have diabetic retinopathy. She holds a Class A CDL from South Dakota.

Gerald W. Fryar

Mr. Fryar, 54, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or

resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fryar understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fryar meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

Richard P. Inott

Mr. Inott, 40, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endcrinologist certifies that Mr. Inott understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Inott meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Minnesota.

Ernest Martinelli

Mr. Martinelli, 40, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Martinelli understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Martinelli meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class 10 operator's license from Rhode Island.

Jonathan C. Morgan

Mr. Morgan, 26, has had ITDM since 2007. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Morgan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Morgan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

Benjamin D. Phelps

Mr. Phelps, 21, has had ITDM since 1993. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Phelps understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Phelps meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Indiana.

Richard J. Rasch

Mr. Rasch, 41, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rasch understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rasch meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Michigan.

Philip J. Regan

Mr. Regan, 65, has had ITDM since 1990. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Regan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Regan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Paul E. Regelin, II

Mr. Regelin, 46, has had ITDM since 1999. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Regelin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Regelin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Oregon.

David R. Smith

Mr. Smith, 33, has had ITDM since 1988. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifes that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that

he does not have diabetic retinopathy. He holds a Class C operator's license from Maine.

Adam J. Stegenga

Mr. Stegenga, 28, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stegenga understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stegenga meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Michigan.

Donald D. Willard

Mr. Willard, 66, has had ITDM since 1982. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Willard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Willard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Iowa.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary. The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: March 21, 2011.

Larry W. Minor,

Associate Administrator of Policy.

[FR Doc. 2011–7256 Filed 3–28–11; 8:45 am]

BILLING CODE P

[1] Section 4129(a) refers to the 2003 notice as a "final rule." However, the 2003 notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0024]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 16 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision standard.

DATES: Comments must be received on or before April 28, 2011.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2011–0024 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://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:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below for further information.

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.*

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:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations 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." FMCSA can renew exemptions at the end of each 2-year period. The 16 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

David W. Bennett

Mr. Bennett, age 48, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/60. Following an examination in 2011, his ophthalmologist noted, "Mr. Bennett has sufficient vision to perform the driving task of driving a commercial vehicle." Mr. Bennett reported that he has driven straight trucks for 5 years, accumulating 218,750 miles and tractor-trailer combinations for 13 years accumulating 1.4 million miles. He holds a Class A Commercial Driver's License (CDL) from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Toby L. Carson

Mr. Carson, 43, has a history of congenital cataracts. The best corrected visual acuity in his right eye is 20/150 and in his left eye, 20/20. Following an examination in 2010, his ophthalmologist noted, "Toby Carson has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Carson reported that he has driven straight trucks for 15 years, accumulating 200,000 miles and tractor-trailer combinations for 10 years accumulating 300,000 miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Fredrick M. DeHoff, Jr.

Mr. Dehoff, 53, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/50 and in his left eye, 20/20. Following an examination in 2010, his optometrist noted, "Fredrick, by vision examination, appears to have sufficient vision to operate a commercial vehicle." Mr. DeHoff reported that he has driven straight trucks for 15 years, accumulating 187,500 miles. He holds a Class A CDL from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Raul Donozo

Mr. Donozo, 35, has had loss of vision in his left eye since 1998. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2011, his ophthalmologist noted, "In my opinion, the patient has sufficient vision for driving including commercial vehicles." Mr. Donozo reported that he has driven straight trucks for 8 years, accumulating 417,600 miles. He holds a Class C operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Rick A. Ervin

Mr. Ervin, 39, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in his left eye, hand motion vision. Following an examination in 2011, his optometrist noted, "Mr. Erwin's left eye amblyopia is of long-standing and he has adapted well to his condition, and in my medical opinion, has sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. Ervin reported that he has driven straight trucks 17 years, accumulating 510,000 miles. He holds a Class B CDL from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Clifford D. Johnson

Mr. Johnson, 44, has ocular trauma in his left eye sustained 25 years ago. The best corrected visual acuity in his right eye is 20/20 and in his left eye, no light perception. Following an examination in 2010, his optometrist noted, "In my opinion Mr. Johnson has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Johnson reported that he has driven straight trucks 25 years, accumulating 700,000 miles and tractor-trailer combinations for 15 years accumulating 495,000 miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows one crash for which he was cited and no convictions for moving violations in a CMV.

Dionicio Mendoza

Mr. Mendoza, 34, has a prosthetic right eye due to a traumatic injury that occurred at age 2. The visual acuity in his left eye is 20/20. Following an examination in 2010, his optometrist noted, "After a full eye health examination, this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle."

Mr. Mendoza reported that he has driven tractor-trailer combinations for 5 years, accumulating 224,500 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David Kibble

Mr. Kibble, 48, has had a disciform central macular scar of his right eye due to a traumatic injury to his right eye that occurred 30 years ago. The best corrected visual acuity in his right eye is 20/400 and in his left eye, 20/20. Following an examination in 2010, his optometrist noted, "He has sufficient vision to perform driving tasks to operate a commercial vehicle." Mr. Kibble reported that he has driven straight trucks 30 years, accumulating 450,000 miles. He holds a Class C operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Raymond J. Paiz

Mr. Paiz, 60, has monocular vision due to a traumatic injury to his left eye that occurred 30 years ago. The visual acuity in his right eye is 20/20. Following an examination in 2010, his optometrist noted, "In my optometric opinion, Mr. Paiz has sufficient vision and peripheral vision to enable him to perform the driving tasks necessary to operate a commercial vehicle." Mr. Paiz reported that he has driven straight trucks 35 years, accumulating 1.8

million miles and tractor-trailer combinations for 35 years accumulating 1.8 million miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Tyler R. Peebles

Mr. Peebles, 23, has retinal detachment and traumatic cataract in his left eye due to a traumatic injury to his left eye. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/50. Following an examination in 2010, his optometrist noted, "I feel Mr. Peebles has adequate vision to perform the driving tasks required to operate a commercial vehicle." Mr. Peebles reported that he has driven straight trucks for 3 years, accumulating 61,500 miles and tractor-trailer combinations for 3 years accumulating 292,500 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes but two convictions for speeding in a CMV. In the first incident, he exceeded the speed limit by 10 miles per hour (MPH), in the second incident, he exceeded the speed limit by 8 MPH. He has another conviction for failure to obey a traffic sign.

Alfredo Reyes

Mr. Reyes, 57, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/60. Following an examination in 2010, his optometrist noted, "I can see no reason why he can not perform the visual tasks necessary to drive any type of vehicle including commerical vehicles." Mr. Reyes reported that he has driven straight trucks for 15 years, accumulating 600,000 miles and tractor-trailer combinations for 20 years accumulating 2.1 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald M. Robinson

Mr. Robinson, 60, has monocular vision due to a traumatic injury to his right eye that occurred 40 years ago. The visual acuity in his left eye is 20/20. Following an examination in 2010, his optometrist noted, "In my opinion, Mr. Robinson has full capability to operate a commerical vehicle provided that it has the standard right and left outsider rearview mirrors." Mr. Robinson reported that he has driven straight trucks 20 years, accumulating 300,000 miles. He holds a Class D operator's license from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

J. Bernando Rodriguez

Mr. Rodriguez, 47, has had strabismic amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/400. Following an examination in 2010, his optometrist noted, "I. Dr. Edgardo Amaro, certify that in my medical opinion, patient J. Bernardo Rodriguez, has sufficient vision to perform the driving tasks required to operate a commerical vehicle as he has been doing in the past 10 years." Mr. Rodriguez reported that he has driven tractor-trailer combinations 8 years accumulating 800,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Esequiel Rodriguez, Jr.

Mr. Rodriguez, 38, has had a macular scar in his right eye since birth. The visual acuity in his right eye is 20/200 and in his left eye, 20/20. Following an examination in 2010, his optometrist noted, "He is fully capable of operating a commerical vehicle." Mr. Rodriguez reported that he has driven tractor-trailer combinations 7 years accumulating 805,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David I. Sosby

Mr. Sosby, 60, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/200. Following an examination in 2010, his optometrist noted, "I Renapate, OD, hereby certify David Sosby to be visually able to safely operate a commerical motor vehicle." Mr. Sosby reported that he has driven tractor-trailer combinations 30 years accumulating 2.4 million miles. He holds a Class A CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald E. Stone

Mr. Stone, 54, has optic atrophy in his left eye due to a traumatic injury. The best corrected visual acuity in his right eye is 20/15 and in his left eye, hand motion vision. Following an examination in 2010, his optometrist noted, "It is my opinion that Mr. Stone has sufficient vision to operate a commerical motor vehicle." Mr. Stone reported that he has driven straight trucks 10 years, accumulating 900,000 miles and tractor-trailer combinations for 17 years accumulating 1.8 million miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business April 28, 2011. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: March 16, 2011.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2011–7258 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2002–13411; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2006–24783; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0021]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 21 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these

exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 21, 2011. Comments must be received on or before April 28, 2011.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: FMCSA–1998–4334; FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2002–13411; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2006–24783; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0021, using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://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., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: 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 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 Federal Docket Management System (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.*

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:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-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 procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 21 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 21 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Rodger B. Anders, William R. Mayfield, William E. Reveal, John D. Bolding, Jr., William R. New, James R. Rieck, Michael P. Curtin, Harry M. Oxendine, Duane L. Riendeau, Jimmy W. Deadwyler, John J. Payne, Richie J. Schwendy, Richard L. Elyard, James R. Petre, Jesse J. Sutton, James K. Holmes, Zeljko Popovac, Janusz Tyrpien, Keith A. Lighthall, Jerald W. Rehnke, Richard A. Westfall.

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination 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 provides 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 and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded 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(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 21 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226; 64 FR 16517; 65 FR 66286; 66 FR 13825; 66 FR 17994; 67 FR 68719; 67 FR 76439; 68 FR 10298; 68 FR 10300; 68 FR 10301; 68 FR 15037; 68 FR 19596, 68 FR 2629; 69 FR 71100; 70 FR 14747; 70 FR 16886; 70 FR 16887; 70 FR 2701; 70 FR 7545; 70 FR 7546; 71 FR 32183; 71 FR 41310; 71 FR 63379; 72 FR 180, 72 FR 1050; 72 FR 1053; 72 FR 7111; 72 FR 7812; 72 FR 11425; 72 FR 18726; 72 FR 9397; 73 FR 15567; 73 FR 27015; 73 FR 61925; 73 FR 76440; 74 FR 11991; 74 FR 8302). Each of these 21 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and

determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by April 28, 2011.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 21 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: March 21, 2011.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2011–7252 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. NHTSA–2011–0037]

Meeting Notice Correction—Federal Interagency Committee on Emergency Medical Services; Correction to Meeting Notice To Clarify Time Zone

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

Title: Federal Interagency Committee on Emergency Medical Service (FICEMS) Teleconference Meeting.

ACTION: Meeting Notice Correction—Federal Interagency Committee on Emergency Medical Services; Correction to Meeting Notice to clarify time zone.

SUMMARY: NHTSA is issuing a correction to its announcement of a teleconference meeting of the Federal Interagency Committee on Emergency Medical Services (FICEMS) to be held as a stakeholder input call-in session to receive input regarding the current and future role of the Federal Government in EMS and options for establishing or designating a Federal lead office for EMS. This notice announces the date and time of the meeting and clarifies the time zone, which will be open to the public, as well as call-in information.

DATES: The meeting will be held on Monday, April 11, 2011, from 1:30 p.m. to 3 p.m., EDT.

FOR FURTHER INFORMATION CONTACT: Drew Dawson, Director, Office of Emergency Medical Services, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., NTI–140, Washington, DC 20590, Telephone number (202) 366–9966; e-mail *Drew.Dawson@dot.gov.*

SUPPLEMENTARY INFORMATION: The Federal Interagency Committee on Emergency Medical Services (FICEMS) was created by law to help ensure coordination among Federal agencies involved with State, local, tribal, or regional emergency medical services and 9–1–1 systems. As discussed at their December 16, 2010 meeting, FICEMS is assessing the current and future role of the Federal Government in EMS and evaluating the options for establishing or designating a Federal lead office or agency for EMS. The National Security Staff Resilience Directorate has requested that FICEMS engage with stakeholders and develop an options paper by May 15, 2011.

FICEMS is interested in any stakeholder input about the role of the Federal Government in the *full continuum of emergency medical services and emergency and trauma care for adults and children*—including medical 9–1–1 and emergency medical dispatch, prehospital emergency medical services (both ground and air), hospital-based emergency care and trauma care, and medical-related disaster preparedness.

With respect to this *full continuum of emergency medical services and emergency and trauma care for adults and children* any stakeholder input would be appreciated regarding topics such as:

- The role of the Federal Government.
- Activities or functions that should *NOT* be the role of Federal Government.
- The role of a Federal lead office for EMS if it were established including the functions/issues it should perform and address.
- Other comments or suggestions.

This meeting of the FICEMS will focus specifically on receiving input from Stakeholders on the above issues. The meeting will be open to the public via telephone.

Call-In Information: Members of the public wishing to attend the meeting or provide input to FICEMS should call 1–877–804–0827 using the meeting ID number 51813069, on Monday, April 11, 2011, from 1:30 p.m. to 3 p.m., EDT.

Minutes of the FICEMS meeting will be available to the public online at *http://www.ems.gov.*

Issued on: March 24, 2011.

Drew E. Dawson,

Director, Office of Emergency Medical Services.

[FR Doc. 2011–7305 Filed 3–28–11; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for America the Beautiful Five Ounce Silver Bullion Coin Presentation Case

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing the price of the America the Beautiful Five Ounce Silver Bullion Coin Presentation Case.

A lot of 25 presentation cases will be offered for sale at a price of $86.95.

FOR FURTHER INFORMATION CONTACT: B. B. Craig, Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW.; Washington, DC 20220; or call 202–354–7500.

(Authority: 31 U.S.C. 5111, 5112 & 9701.)

Dated: March 23, 2011.

Richard A. Peterson,

Acting Director, United States Mint.

[FR Doc. 2011–7360 Filed 3–28–11; 8:45 am]

BILLING CODE 4810–02–P

FEDERAL REGISTER

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Part II

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone: New Substitute in the Motor Vehicle Air Conditioning Sector Under the Significant New Alternatives Policy (SNAP) Program; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2008–0664; FRL–9275–8]

RIN 2060–AP11

Protection of Stratospheric Ozone: New Substitute in the Motor Vehicle Air Conditioning Sector Under the Significant New Alternatives Policy (SNAP) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program is expanding the list of acceptable substitutes for use in the motor vehicle air conditioning end-use as a replacement for ozone-depleting substances. The Clean Air Act requires EPA to review alternatives for ozone-depleting substances and to disapprove substitutes that present overall risks to human health and the environment more significant than those presented by other alternatives that are available or potentially available. The substitute addressed in this final rule is for use in new passenger cars and light-duty trucks in the motor vehicle air conditioning end-use within the refrigeration and air conditioning sector. EPA finds hydrofluoroolefin (HFO)–1234yf acceptable, subject to use conditions, as a substitute for chlorofluorocarbon (CFC)-12 in motor vehicle air conditioning for new passenger cars and light-duty trucks. The substitute is a non-ozone-depleting gas and consequently does not contribute to stratospheric ozone depletion.

DATES: This final rule is effective on May 31, 2011. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of May 31, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2008–0664. 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, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Margaret Sheppard, Stratospheric Protection Division, Office of Atmospheric Programs; Environmental Protection Agency, Mail Code 6205J, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number (202) 343–9163, fax number, (202) 343–2338; e-mail address at *sheppard.margaret@epa.gov*.

Notices and rulemakings under the SNAP program are available on EPA's Stratospheric Ozone Web site at *http://www.epa.gov/ozone/snap/regulations.html.* The full list of SNAP decisions in all industrial sectors is available at *http://www.epa.gov/ozone/snap.*

SUPPLEMENTARY INFORMATION: This final rule provides motor vehicle manufacturers and their suppliers an additional refrigerant option for motor vehicle air conditioning (MVAC) systems in new passenger cars and light-duty trucks. HFO–1234yf (2,3,3,3-tetrafluoroprop-1-ene), the refrigerant discussed in this final action, is a non-ozone-depleting substance.

Table of Contents

I. Does this action apply to me?
II. What abbreviations and acronyms are used in this action?
III. What is EPA's final decision for HFO–1234yf for motor vehicle air conditioning (MVAC)?
IV. What are the final use conditions and why did EPA finalize these conditions?
V. Why is EPA finding HFO–1234yf acceptable subject to use conditions?
VI. What is the relationship between this SNAP rule and other EPA rules?
A. Significant New Use Rule
B. Rules Under Sections 609 and 608 of the Clean Air Act
VII. What is EPA's response to public comments on the proposal?
A. Acceptability Decision
B. Use Conditions
C. Environmental Impacts
D. Health and Safety Impacts
E. Retrofit Usage
F. Use by "Do-It-Yourselfers"
G. Servicing Issues
H. Cost, Availability, and Small Business Impacts
VIII. How does the SNAP program work?
A. What are the statutory requirements and authority for the SNAP program?
B. What are EPA's regulations implementing section 612?
C. How do the regulations for the SNAP program work?
D. Where can I get additional information about the SNAP program?
IX. 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
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act
X. References

I. Does this action apply to me?

This final rule regulates the use of the chemical HFO–1234yf (2,3,3,3-tetrafluoroprop-1-ene, Chemical Abstracts Service Registry Number [CAS Reg. No.] 754–12–1) as a refrigerant in new motor vehicle air conditioning (MVAC) systems in new passenger cars and light-duty trucks. Businesses in this end-use that might want to use HFO–1234yf in new MVAC systems in the future include:

- Automobile manufacturers.
- Manufacturers of motor vehicle air conditioners.

Regulated entities may include:

TABLE 1—POTENTIALLY REGULATED ENTITIES, BY NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM (NAICS) CODE

Category	NAICS code	Description of regulated entities
Industry	336111	Automobile Manufacturing.
Industry	336391	Motor Vehicle Air-Conditioning Manufacturing.

This table is not intended to be exhaustive, but rather a guide regarding entities likely to be regulated by this action. If you have any questions about whether this action applies to a particular entity, consult the person listed in the preceding section, **FOR FURTHER INFORMATION CONTACT**.

II. What abbreviations and acronyms are used in this action?

100-yr—one-hundred year time horizon
AEGL—Acute Exposure Guideline Level
AIST—the National Institute for Advanced Industrial Science and Technology of Japan
ASHRAE—American Society for Heating, Refrigerating, and Air-Conditioning Engineers
ATSDR—the U.S. Agency for Toxic Substances and Disease Registry
BAM—Bundesanstalt für Materialforschung und-prüfung (German Federal Institute for Materials Research and Testing)
CAA—Clean Air Act
CAS Reg. No.—Chemical Abstracts Service Registry Number
CBI—Confidential Business Information
CFC—chlorofluorocarbon
CFC–12—the ozone-depleting chemical dichlorodifluoromethane, CAS Reg. No. 75–71–8
CFD—Computational Fluid Dynamics
CFR—Code of Federal Regulations
cm/s—centimeters per second
CO_2—carbon dioxide, CAS Reg. No. 124–38–9
CRP—Cooperative Research Program
DIN—Deutsches Institut für Normung (designation for standards from the German Institute for Standards)
DIY—"do-it-yourself"
DOT—the United States Department of Transportation
EPA—the United States Environmental Protection Agency
EO—Executive Order
FMEA—Failure Mode and Effect Analysis
FR—**Federal Register**
GWP—Global Warming Potential
HF—Hydrogen Fluoride, CAS Reg. No. 7664–39–3
HI—Hazard Index
HFC—hydrofluorocarbon
HFC–134a—the chemical 1,1,1,2-tetrafluoroethane, CAS Reg. No. 811–97–2
HFC–152a—the chemical 1,1-difluoroethane, CAS Reg. No. 75–37–6
HFO—hydrofluoroolefin
HFO–1234yf—the chemical 2,3,3,3-tetrafluoroprop-1-ene, CAS Reg. No. 754–12–1
ISO—International Organization for Standardization
JAMA—Japan Automobile Manufacturers Association
JAPIA—Japan Auto Parts Industries Association
LCA—Lifecycle Analysis
LCCP—Lifecycle Climate Performance
LFL—Lower Flammability Limit
LOAEL—Lowest Observed Adverse Effect Level
mg/L—milligram per liter
MIR—Maximum Incremental Reactivity
mJ—millijoule
mm—millimeter
MOE—Margin of Exposure
MPa—megapascal
MRL—Minimal Risk Level
MVAC—Motor Vehicle Air Conditioning
NAICS—North American Industrial Classification System
ng/L—nanograms per liter
NHTSA—the U.S. National Highway Traffic Safety Administration
NOAEL—No Observed Adverse Effect Level
NOEC—No Observed Effect Concentration
NPRM—Notice of Proposed Rulemaking
NTTAA—National Technology Transfer and Advancement Act
ODP—Ozone Depletion Potential
ODS—zmOzone-Depleting Substance
OEM—Original Equipment Manufacturer
OMB—Office of Management and Budget
OSHA—the United States Occupational Safety and Health Administration
PAG—Polyalkylene Glycol
PMN—Pre-Manufacture Notice
POCP—Photochemical Ozone Creation Potential
POD—Point of Departure
ppm—parts per million
ppt—parts per trillion
psig—pounds per square inch gauge
R–1234yf—ASHRAE designation for refrigerant HFO–1234yf
R–134a—ASHRAE designation for refrigerant HFC–134a
R–152a—ASHRAE designation for refrigerant HFC–152a
R–744—ASHRAE designation for refrigerant CO_2
RCRA—the Resource Conservation and Recovery Act
RFA—Regulatory Flexibility Act
SAE—SAE International, formerly the Society of Automotive Engineers
SBA—the United States Small Business Administration
SIP—State Implementation Plan
SNAP—Significant New Alternatives Policy
SNUN—Significant New Use Notice
SNUR—Significant New Use Rule
SO_2—sulfur dioxide, CAS Reg. No. 7446–09–5
TEWI—Total Equivalent Warming Impact
TFA—Trifluoroacetic acid, CF_3COOH, also known as trifluoroethanoic acid, CAS Reg. No. 76–05–1
TSCA—the Toxic Substances Control Act
TWA—Time-Weighted Average
UBA—Umweltbundesamt (German Federal Environment Agency)
UF—Uncertainty Factor
UMRA—Unfunded Mandates Reform Act
VDA—Verband der Automobilindustrie (German Association for the Automobile Industry)
VOC—Volatile Organic Compound
v/v—volume to volume
WEEL—Workplace Environmental Exposure Limit

III. What is EPA's final decision for HFO–1234yf for motor vehicle air conditioning (MVAC)?

In this final rule, EPA is finding HFO–1234yf acceptable, subject to use conditions, as a substitute for CFC–12 in new MVAC systems for passenger cars and light-duty trucks. This determination does not apply to the use of HFO–1234yf as a conversion or retrofit for existing MVAC systems. In addition, it does not apply to the use of HFO–1234yf in the air conditioning or refrigeration systems of heavy-duty trucks, refrigerated transport, or off-road vehicles such as agricultural or construction equipment.

EPA is not mandating the use of HFO–1234yf or any other alternative for MVAC systems. This final rule is adding HFO–1234yf to the list of acceptable substitutes, subject to use conditions, in new MVAC systems. Automobile manufacturers have the option of using any refrigerant listed as acceptable for this end-use, so long as they meet any applicable use conditions.

Under this decision, the following enforceable use conditions apply when HFO–1234yf is used in a new MVAC system for passenger cars and light-duty trucks:

1. HFO–1234yf MVAC systems must adhere to all of the safety requirements of SAE [1] J639 (adopted 2011), including requirements for a flammable refrigerant warning label, high-pressure compressor cutoff switch and pressure relief devices, and unique fittings. For connections with refrigerant containers of 20 lbs or greater, use fittings consistent with SAE J2844 (adopted 2011).

2. Manufacturers must conduct Failure Mode and Effect Analysis (FMEA) as provided in SAE J1739 (adopted 2009). Manufacturers must keep the FMEA on file for at least three years from the date of creation.

IV. What are the final use conditions and why did EPA finalize these conditions?

Summary of the Use Conditions

The first use condition requires that MVAC systems designed to use HFO–1234yf must meet the requirements of the 2011 version of the industry standard SAE J639, "Safety Standards for Motor Vehicle Refrigerant Vapor Compression Systems." Among other things, this standard sets safety standards that include unique fittings to connect refrigerant containers to the MVAC system; a warning label indicating the refrigerant's identity and indicating that it is a flammable refrigerant; and requirements for engineering design strategies that include a high-pressure compressor cutoff switch and pressure relief devices. This use condition also requires that fittings for refrigerant

[1] Designates a standard from SAE International, formerly the Society of Automotive Engineers.

containers of 20 lbs or greater will be consistent with SAE J2844 (same fittings as for low-side service port in SAE J639).

The second use condition requires the manufacturer of MVAC systems and vehicles (*i.e.,* the original equipment manufacturer [OEM]) to conduct and keep records of a risk assessment and failure Failure Mode and Effects Analysis (FMEA) for at least three years from the date of creation. There is an existing industry standard, SAE J1739, that gives guidance on how to do this. It is standard industry practice to perform the FMEA and to keep it on file while the vehicle is in production and for several years afterwards (U.S. EPA, 2010a).

Reasons for Revised Use Conditions

EPA proposed five use conditions in the Notice of Proposed Rulemaking (NPRM) (October 19, 2009; 74 FR 53445). One use condition required manufacturers to meet all the safety requirements in the standard SAE J639, "Safety Standards for Motor Vehicle Refrigerant Vapor Compression Systems" and required use of unique servicing fittings from that standard. Another use condition required automobile manufacturers to perform Failure Mode and Effect Analysis (FMEA) and to keep records of the FMEA.

The remaining three proposed use conditions specifically addressed risks of flammability of HFO–1234yf and indirectly addressed risks of generating hydrogen fluoride (HF) from combustion of HFO–1234yf. For the first of those proposed use conditions, which addressed the passenger compartment, the concentration of HFO–1234yf was not to exceed the lower flammability limit (LFL) in the free space for more than 15 seconds. For the second proposed use condition, which addressed the engine compartment, the concentration of HFO–1234yf was not to exceed the LFL for any period of time. A third proposed use condition, which also addressed the engine compartment, would have required protective devices, isolation and/or ventilation techniques in areas where there is a potential to generate HFO–1234yf concentrations at or above 6.2% volume to volume (v/v) in proximity to exhaust manifold surfaces and hybrid or electric vehicle electric power sources.

EPA based our determination of the appropriate use conditions to include in the final rule using information in the docket at the time of proposal, comments received on the proposed rule, and additional information we have received since the NPRM was published. We provided additional opportunities for comment on the public comments and additional information we received with them when we re-opened the comment period on the proposed rule (74 FR 68558, December 28, 2009; 75 FR 6338, February 9, 2010). First, SAE International's Cooperative Research Program (hereafter called the SAE CRP) issued a new report on December 17, 2009 assessing risks of HFO–1234yf and carbon dioxide (CO_2) as refrigerants for MVAC. This report found that the risks of HFO–1234yf were low overall, and somewhat less than risks for another potential alternative refrigerant (CO_2, also know as R–744). The December 2009 CRP report found that the greatest risks from HFO–1234yf are likely to come from generation of HF, both from thermal decomposition and from ignition, rather than direct fire risks from ignition of HFO–1234yf (EPA–HQ–OAR–2006–0664–0056.2). (HF is a severe irritant to the skin, eyes, and respiratory system.) The SAE CRP estimates risks of excessive HF exposure at approximately 4.6×10^{-12} occurrences per vehicle operating hour and risks of ignition at approximately 9×10^{-14} occurrences per vehicle operating hour. These correspond roughly to one occurrence in the entire U.S. fleet of passenger vehicles over 2 years for HF risks and one occurrence in the U.S. vehicle fleet every 100 years for flammability risks.[2] For comparison, the risk for excessive HF exposure is less than one ten-thousandth the risk of a highway vehicle fire and one fortieth or less of the risk of a fatality from deployment of an airbag during a vehicle collision (EPA–HQ–OAR–2008–0664–0056.2). Even these estimates may be conservative because they assume that refrigerant could be released in a collision severe enough to rupture the evaporator (under the windshield) while the windshield and windows would remain intact and would prevent ventilation into the passenger cabin in case of a collision (EPA–HQ–OAR–2006–0664–0056.2).

Second, we received a number of public comments regarding the proposed use conditions. Some commenters claimed that the second use condition concerning concentrations in the engine compartment was infeasible because in the event of a leak, there would always be some small volume that would have a concentration over the LFL; these commenters further stated that exceeding the LFL would not necessarily create a risk of ignition, because one could have a leak that is not near a source of heat or flame (EPA–HQ–OAR–2006–0664–0116.2; EPA–HQ–OAR–2006–0664–0060). Some commenters stated that flammability was not a significant risk from use of HFO–1234yf, given the results of the SAE CRP risk assessment (December 17, 2009). These commenters stated that the use conditions limiting refrigerant concentrations were not necessary. These commenters also suggested a number of alternative ways of phrasing the use conditions in order to address risks from HF as well as flammability. Most of these comments suggested relying on the performance of a risk assessment and Failure Mode and Effect Analysis (FMEA) consistent with SAE J1739 to determine appropriate protective strategies. Other commenters stated that the use conditions were not sufficiently protective as proposed because of other risks: (1) Risks due to generation of HF from HFO–1234yf, both from thermal decomposition and from combustion; (2) risks from direct toxicity of HFO–1234yf; and (3) risks from flammability of HFO–1234yf because the LFL becomes lower than 6.2% at temperatures higher than 21 °C (EPA–HQ–OAR–2006–0664–0088, –0054, –0089, –0097 and –0057).

After evaluating the comments and the additional information made available to the public through the re-opened comment period, we have decided not to include the three use conditions that directly address flammability in the final rule. We believe these use conditions are not necessary to ensure that overall risks to human health and the environment from HFO–1234yf will be similar to or less than those of other available or potentially available refrigerants that EPA has already listed or proposed as acceptable for MVAC. This is because of the low overall levels of risk identified for HFO–1234yf from flammability and from ignition of HF (EPA–HQ–OAR–2008–0664–0056.2). The highest risk identified for HFO–1234yf is potential consumer exposure to HF from decomposition and ignition, which is of the same order of magnitude of risks of HF from the current most common automotive refrigerant, hydrofluorocarbon (HFC)–134a[3] (order of magnitude of 10^{-12} events per vehicle operating hour). EPA previously

[2] Assumes a fleet of approximately 250 million passenger vehicles and typical vehicle operation of 500 hours per year. Sources: U.S. Census, *http://www.census.gov/compendia/statab/2010/tables/10s1060.pdf;* SAE J2766, as cited in EPA–HQ–OAR–2008–0664–0056.2.

[3] HFC–134a is also known as 1,1,1,2-tetrafluoroethane or, when used as a refrigerant, R–134a. The Chemical Abstracts Service Registry Number (CAS Reg. No.) is 811–97–2.

found HFC–134a acceptable for use in new and retrofit MVAC systems (59 FR 13044; March 18, 1994; and 60 FR 31092, June 13, 1995), without use conditions addressing risks of HF. Since that time, EPA has heard of no cases where someone has been injured due to exposure to HF from decomposition of HFC–134a from an MVAC system, and a risk assessment from the SAE CRP found no published reports in the medical literature of injuries to fire fighters or vehicle passengers from HF or other decomposition products of HFC–134a (EPA–HQ–OAR–2008–0664–0008). The direct risk of flammability from HFO–1234yf is extremely small. Further, the risks of HFO–1234yf are comparable to or less than the risks from other available or potentially available alternatives in this end-use that EPA has already listed or proposed as acceptable (*e.g.,* HFC–152a,[4] HFC–134a, and CO_2) (EPA–HQ–OAR–2008–0664–0086.1).

We have concluded that the use conditions we are including in the final rule address the risks from both HF and flammability. Industry standard SAE J639 (adopted 2011) provides for a pressure relief device designed to minimize direct impingement of the refrigerant and oil on hot surfaces and for design of the refrigerant circuit and connections to avoid refrigerant entering the passenger cabin. These conditions will mitigate risks of HF generation and ignition. The pressure release device ensures that pressure in the system will not reach an unsafe level that might cause an uncontrolled, explosive leak of refrigerant, such as if the air conditioning system is overcharged. The pressure release device will reduce the likelihood that refrigerant leaks would reach hot surfaces that might lead to either ignition or formation of HF. Designing the refrigerant circuit and connections to avoid refrigerant entering the passenger cabin ensures that if there is a leak, the refrigerant is unlikely to enter the passenger cabin. Keeping refrigerant out of the passenger cabin minimizes the possibility that there would be sufficient levels of refrigerant to reach flammable concentrations or that HF would be formed and transported where passengers might be exposed.

The last proposed use condition, requiring manufacturers to conduct and keep records of FMEA according to the standard SAE J1739, remains unchanged.

The proposed use condition regarding conducting and keeping records of a Failure Mode and Effects Analysis according to the standard SAE J1739 remains unchanged. We have revised the remaining proposed use condition by replacing the reference to SAE J639 (adopted 2009) with a reference to the 2011 version of the standard and to the fittings for large refrigerant containers in SAE J2844 (2011). This is the most recent version of the SAE J639 standard, with new provisions designed specifically to address use of HFO–1234yf.

V. Why is EPA finding HFO–1234yf acceptable subject to use conditions?

EPA is finding HFO–1234yf acceptable subject to use conditions because the use conditions are necessary to ensure that use of HFO–1234yf will not have a significantly greater overall impact on human health and the environment than other available or potentially available substitutes for CFC–12 in MVAC systems. Examples of other substitutes that EPA has already found acceptable subject to use conditions for use in MVAC include HFC–134a and HFC–152a. HFC–134a is the alternative most widely used in MVAC systems today. EPA has also proposed to find CO_2 (R–744) acceptable subject to use conditions in MVAC (September 14, 2006; 71 FR 55140).

All alternatives listed as acceptable for use in MVAC systems in passenger cars and light-duty trucks are required to have unique fittings under use conditions issued previously under the SNAP Program at appendix D to subpart G of 40 CFR part 82 (61 FR 54040, October 16, 1996). Thus, all substitutes for use in MVAC systems in passenger cars and light-duty trucks are subject to those use conditions, at a minimum, if found acceptable and thus are identified as acceptable subject to use conditions. For HFO–1234yf, the unique fittings that must be used for MVAC systems are those required in the industry standard SAE J639 (2011). The fitting for refrigerant containers of 20 lbs or larger is specified in SAE J2844 (2011). The original submitter of HFO–1234yf to the SNAP program has provided EPA with a copy of and a diagram for these unique fittings. As described above, the fittings will be quick-connect fittings, different from those for any other refrigerant. The low-side service port and connections with containers of 20 lbs or greater will have an outside diameter of 14 mm (0.551 inches) and the high-side service port will have an outside diameter of 17 mm (0.669 inches), both accurate to within 2 mm. The submitter has not provided, and the SAE standards do not include, unique fittings for use with small refrigerant containers or can taps.[5] Thus, the final use conditions do not allow use of small containers for servicing MVAC systems.

In addition to the use conditions regarding unique fittings, which apply under appendix D to subpart G of 40 CFR part 82, EPA is requiring use conditions for the safe design of new MVAC systems using HFO–1234yf, consistent with standards of the automotive industry (*e.g.,* SAE J1739, SAE J639). These use conditions are intended to ensure that new cars and light-duty trucks that have MVAC systems that use HFO–1234yf are specifically designed to minimize release of the refrigerant into the passenger cabin or onto hot surfaces that might result in ignition or in generation of HF. The industry standard SAE J1739 gives guidelines on designing vehicles to address these risks.

Cost and Availability

EPA received initial estimates of the anticipated cost of HFO–1234yf from the manufacturer, claimed as confidential business information, as part of the initial SNAP submission (EPA–HQ–OAR–2008–0664–0013 and –0013.1). Initial publicly available estimates on the cost of HFO–1234yf were for approximately $40–60/pound (Weissler, 2008). The first automobile manufacturer to announce its commitment to use HFO–1234yf as a refrigerant has confirmed that the prices in its long-term purchase contracts are in the range that EPA considered at the time of proposal (Sciance, 2010).

In May 2010, two major chemical manufacturers, including the original submitter, issued a press release, committing to building a "world-scale manufacturing facility" to produce HFO–1234yf (EPA–HQ–OAR–2008–0664–0128.1). The same manufacturers have committed to providing HFO–1234yf in time to meet requirements of a European Union directive to use only refrigerants with GWP less than 150 in new automobile designs starting in 2011.

Environmental Impacts

EPA finds that HFO–1234yf does not pose significantly greater risk to the environment than the other substitutes that are currently or potentially

[4] HFC–152a is also known as 1,1-difluoroethane or, when used as a refrigerant, R–152a. The CAS Reg. No. is 75–37–6.

[5] The SAE J639 standard specifies unique fittings for high-side and low-side service ports and the manufacturer of HFO–1234yf supports these fittings. The unique fitting for large containers for use in servicing by professionals (*e.g.,* 20 or 30 lbs) is the same as the fitting for the low-side service port in SAE J639 and is also specified in SAE J2844, "R–1234yf New Refrigerant Purity and Container Requirements Used in Mobile Air-Conditioning Systems." (U.S. EPA, 2010b)

available. In at least one aspect, HFO–1234yf is significantly better for the environment than other alternatives currently found acceptable subject to use conditions. HFO–1234yf has a hundred-year time horizon (100-yr) global warming potential (GWP) of 4 (Nielsen *et al.,* 2007; Papadimitriou *et al.,* 2007), compared to a GWP of 124 for HFC–152a, and a GWP of 1430 for HFC–134a (IPCC, 2007). CO_2, another substitute currently under review in this end-use, has a GWP of 1, which is lower, but comparable to the GWP of HFO–1234yf. Information on the schedule for EPA's final rulemaking on CO_2 as a substitute in MVAC, RIN 2060–AM54, is available in EPA's regulatory agenda at *http://www.reginfo.gov/public/do/eAgendaMain.* A number of other refrigerant blends containing HFCs or HCFCs have been found acceptable subject to use conditions in MVAC that have higher GWPs in the range of 1000 to 2400, such as R–426A, R–414A, R–414B, R–416A, and R–420A. Further, HFO–1234yf has no ozone depletion potential (EPA–HQ–OAR–2008–0664–0013), comparable to CO_2, HFC–152a, and HFC–134a, and has less risk of ozone depletion than all refrigerant blends containing HCFCs that EPA previously found acceptable subject to use conditions for MVAC systems.

EPA also considered the aggregate environmental impact of all anticipated emissions of HFO–1234yf, both for the proposed rule and for this final rule. We performed a conservative analysis that assumed widespread use of HFO–1234yf as the primary refrigerant for MVAC, as well as for other refrigeration and air conditioning uses that were not included in the manufacturer's original submission (ICF, 2009; ICF, 2010a,b,c,e). Thus, we believe that actual environmental impacts are likely to be less than those we considered, either at the proposal or final stage.

Under Clean Air Act regulations (*see* 40 CFR 51.100(s)) addressing the development of State implementation plans (SIPs) to attain and maintain the national ambient air quality standards, HFO–1234yf is considered a volatile organic compound (VOC). Available information indicates that HFO–1234yf has greater photochemical reactivity than HFC–134a, which is exempt from the definition of "VOC" in 40 CFR 51.100(s). Some of the other acceptable substitutes in the MVAC end-use contain VOCs, such as R–406A, R–414A, R–414B, and R–426A. VOCs can contribute to ground-level ozone (smog) formation. For purposes of State plans to address ground-level ozone, EPA has exempted VOCs with negligible photochemical reactivity from regulation (40 CFR 51.100(s)). The manufacturer of HFO–1234yf has submitted a petition to EPA requesting that the chemical be exempted from regulation as a VOC, based on a claim that it has maximum incremental reactivity comparable to that of ethane (EPA–HQ–OAR–2008–0664–0116.1). Separate from this action, EPA is reviewing that request and plans to issue a proposed rule to address it. Information on the schedule for EPA's proposed rulemaking for exemption from regulation as a VOC for HFO–1234yf, RIN 2060–AQ38, is available in EPA's regulatory agenda at *http://www.reginfo.gov/public/do/eAgendaMain.*

Regardless of whether EPA determines to exempt HFO–1234yf from regulation as a VOC for State planning purposes, other analyses available in the docket during the public comment period indicated that the additional contribution to ground-level ozone due to a widespread switch to HFO–1234yf is likely to be around 0.01% or less of all VOC emissions, based on the formation of reactive breakdown products such as OH^- (Luecken *et al.,* 2009). Since issuing the NPRM, we performed an additional analysis that finds a worst-case increase in the Los Angeles region of 0.00080 ppm, or a contribution of only 0.1% of the 1997 8-hour standard for ground-level ozone of 0.08 ppm (ICF, 2010b). Our initial analysis at the proposal stage had estimated a maximum increase in ozone of 1.4 to 4.0% of the standard in the same region (ICF, 2009). The major difference between the 2009 and the 2010 versions of this analysis involved modeling of atmospheric chemistry. The 2010 study was based on the kinetics and decomposition products predicted for HFO–1234yf, rather than using the oxidation of sulfur dioxide (SO_2) as a proxy for decomposition of HFO–1234yf as was done in the 2009 study. The 2010 analysis used updated baseline emission estimates that were 1.5% higher to 5.8% lower than those in the 2009 analysis,[6] depending on the year analyzed (ICF, 2010e). We also evaluated environmental impacts based on alternative emissions estimates from a peer-reviewed journal article provided during the public comment period (Papasavva *et al.,* 2009);[7] these values ranged from 26.3% to 51.1% lower than EPA's estimates in the 2009 analysis (ICF, 2009; ICF, 2010c).

Another potential environmental impact of HFO–1234yf is its atmospheric decomposition to trifluoroacetic acid (TFA, CF_3COOH). TFA is a strong acid that may accumulate on soil, on plants, and in aquatic ecosystems over time and that may have the potential to adversely impact plants, animals, and ecosystems. Other fluorinated compounds also decompose into TFA, including HFC–134a. However, the amount of TFA produced from HFO–1234yf in MVAC is estimated to be at least double that of current natural and artificial sources of TFA in rainfall (Luecken *et al.,* 2009). An initial analysis performed for EPA at the proposal stage found that, with highly conservative emission estimates, TFA concentrations in rainwater could be as high as 1.8 mg/L for the maximum monthly concentration for the Los Angeles area and would be no higher than 0.23 mg/L on an annual basis, compared to a no observed adverse effect concentration of 1 mg/L for the most sensitive plant species (ICF, 2009). This analysis concluded, "Projected levels of TFA in rainwater should not result in a significant risk of ecotoxicity." A more recent analysis by Luecken *et al* (2009) that became available during the initial public comment period reached the conclusion that emissions of HFO–1234yf from MVAC could produce TFA concentrations in rainwater of 1/800th to 1/80th the no-observed adverse effect level (NOAEL) for the most sensitive algae species expected (Luecken *et al.,* 2009). The conclusions in the Luecken study are supported by additional analyses that have become available since we issued the proposed rule. A study from the National Institute of Advanced Industrial Science and Technology (AIST) in Japan, which became available during the re-opened comment period, estimated that concentrations of TFA in surface water would be approximately twice the level in rainwater (Kajihara *et al.,* 2010). This study found that this higher level in surface water would be roughly 1/80th

[6] These changes in estimates reflect ongoing updates to EPA's Vintaging Model, a model that considers industry trends in different end-uses that historically have used ODS.

[7] Analyzed scenarios considered HFO–1234yf emissions from MVAC and from both MVAC systems and stationary air conditioning and refrigeration systems. The analysis also considered scenarios with typical emissions from MVAC systems during the entire year similar to those from current MVAC systems using HFC–134a and another scenario with reduced emissions of HFO–1234yf of approximately 50 g/yr per vehicle, in line with emissions estimates in a study by Papasavva *et al.* (2009) (EPA–HQ–OAR–2008–0664–0114.1). Major differences between the data sources include assumptions of a lower leak rate (5.6% of charge vs. 8% of charge) and a lower annualized rate of leaks during servicing (3.2% of charge vs. 10% of charge) for the Papasavva *et al.* paper compared to assumptions in EPA's Vintaging Model (ICF 2010a).

the NOAEL for the most sensitive algae species, even with assumptions of high emissions levels (*i.e.,* assuming that all types of refrigeration and AC equipment currently using HFCs or HCFCs, not just MVAC systems, would use HFO–1234yf). Kajihara *et al.* (2010) evaluated scenarios specific to Japan, with emissions of approximately 15,172 ton/yr in 2050, compared to a maximum of 64,324 metric tons/yr in 2050 in ICF, 2009 or a maximum of 24,715 metric tons/yr in 2017 in Luecken *et al* (2009). All three studies noted the potential for accumulation in closed aquatic systems.

As we developed the proposed rule, the data we relied on indicated that in the worst case, the highest monthly TFA concentrations in the area with the highest expected emissions, the Los Angeles area, could exceed the no observed adverse effect concentration for the most sensitive plant species, but annual values would never exceed that value. Further, TFA concentrations would never approach levels of concern for aquatic animals (ICF, 2009). In a more recent analysis, ICF (2010a, b, c, e) performed modeling for EPA using the kinetics and decomposition products predicted specifically for HFO–1234yf and considered revised emission estimates that were slightly lower than in a 2009 analysis (ICF, 2009). The revised analysis found a maximum projected concentration of TFA in rainwater of approximately 1,700 ng/L, roughly one-thousandth of the estimate from our 2009 analysis (ICF, 2010b). This maximum concentration is roughly 34% higher than the 1,264 ng/L reported by Luecken *et al.* (2009), reflecting the higher emission estimates we used (ICF, 2010b). A maximum concentration of 1700 ng/L corresponds to roughly 1/600th of the NOAEL for the most sensitive algae species—thus, it is not a level of concern. We find these additional analyses confirm that the projected maximum TFA concentration in rainwater and in surface waters should not result in a significant risk of aquatic toxicity, consistent with our original proposal.

Human Health and Safety Impacts

Occupational risks could occur during the manufacture of the refrigerant, initial installation of the refrigerant into the MVAC system at the car assembly plant, servicing of the MVAC system, or final disposition of the MVAC system (*i.e.,* recycling or disposal). Consumer risks could occur to drivers or riders in the passenger compartment. Risks of exposure to consumers could also occur if they purchase HFO–1234yf and attempt to install or service the MVAC system without proper training or use of refrigerant recovery equipment. In addition, members of the general public, consumers, and first-responders could face risks in the case of a vehicle accident that is severe enough to release the refrigerant.

To evaluate these potential human health and safety impacts, we considered EPA's own risk assessments (EPA–HQ–OAR–2008–0664–0036 and –0038), as well as detailed risk assessments with fault-tree analysis from the SAE CRP for HFO–1234yf and CO_2 (EPA–HQ–OAR–2008–0664–0008 and –0056.2), and scientific data provided in public comments on the topics of health and safety risks.[8] Health and safety risks that we evaluated included direct toxicity of HFO–1234yf, both long-term and short-term; toxicity of HF formed through thermal decomposition or combustion of HFO–1234yf; and flammability of HFO–1234yf.

Occupational Risks

For long-term occupational exposure to HFO–1234yf, EPA compared worker exposures to a workplace exposure limit of 250 ppm[9] over an 8-hour time-weighted average. For short-term occupational exposure to HFO–1234yf, we compared worker exposure to an acute exposure limit of 98,211 ppm, divided by a margin of exposure of 30, for a value of 3270 ppm over 30 minutes.[10,11]

Section 609 of the Clean Air Act requires technicians servicing MVAC systems for consideration (*e.g.,* receiving money, credit, or services in exchange for their work) to use approved refrigerant recycling equipment properly and to have proper training and certification. Therefore, we expect that professional technicians have the proper equipment and knowledge to minimize their risks due to exposure to refrigerant from an MVAC system. Thus, we found that worker exposure would be low. Further, EPA intends to pursue a future rulemaking under Section 609 of the CAA to apply also to HFO–1234yf (*e.g.,* servicing practices, certification requirements for recovery and recycling equipment intended for use with MVACs using HFO–1234yf, any potential changes to the rules for training and testing technicians, and recordkeeping requirements for service facilities and for refrigerant retailers). If workers service MVAC systems using certified refrigerant recovery equipment after receiving training and testing, exposure levels to HFO–1234yf are estimated to be on the order of 4 to 8.5 ppm on an 8-hour time-weighted average (as compared with a 250 ppm workplace exposure limit) and 122 ppm on a 30-minute average (as compared with a short-term exposure level of 98,211 ppm/[margin of exposure of 30] or 3270 ppm). (EPA–HQ–OAR–2008–0664–0036; EPA–HQ–OAR–2008–0664–

[8] On September 30, 2010, we received a final report from the German Federal Environment Agency (UBA) with additional information from testing of HFO–1234yf's potential for flammability and for generating hydrogen fluoride. Although this comment was received too late in the rulemaking process for us to analyze it in depth, our preliminary review found that the procedures they used contain many unrealistic provisions that are not relevant to our decision and in some tests did not provide proper controls (*e.g.,* lacking a comparison to HFC–134a under the same conditions). Concerning flammability risk, the results do not vary significantly from those we are relying on for the final rule. Thus, our preliminary review of the UBA test procedures and results does not suggest that we should re-evaluate our decision to find HFO–1234yf acceptable subject to use conditions.

[9] This was based on a NOAEL of 4000 ppm from the study, "An Inhalation Prenatal Developmental Toxicity Study of HFO–1234yf (2,3,3,3-Tetrafluoropropene) in Rabbits," EPA–HQ–OAR–2008–0664–0041. We used a factor of 1.9 to account for differences in blood concentrations between animals and humans, and a margin of exposure or collective uncertainty factor of 30. Uncertainty factors of 3 were assigned for animal to human extrapolation, and 10 for variability within the human population. The long-term workplace exposure limit was calculated as follows: 4000 ppm (animal exposure) × 1.9 (ratio of estimated human exposure/animal exposure) × ⅓ (UF for animal to human extrapolation) × 1/10 (UF for variability within the human population) exposure) = 250 ppm. This value was compared against 8-hour average concentrations. *See* EPA–HQ–OAR–2008–0664–0036 and EPA–HQ–OAR–2008–0664–0038.

[10] This was based on a NOAEL of 51,690 ppm from the study, "Sub-acute (2-week) Inhalation Toxicity Study with HFO–1234yf in rats," EPA–HQ–OAR–2008–0664–0020 through-0020.4, a factor of 1.9 to account for differences in blood concentrations between animals and humans and a margin of exposure or collective uncertainty factor of 30. Uncertainty factors of 3 were assigned for animal to human extrapolation, and 10 for variability within the human population. The short-term workplace exposure value was calculated as follows: 51,690 ppm (animal exposure) × 1.9 (ratio of estimated human exposure/animal exposure) = 98,211 ppm This value was then divided by the expected exposure in each scenario, and compared against the target margin of exposure of 30. *See* EPA–HQ–OAR–2008–0664–0036 and EPA–HQ–OAR–2008–0664–0038.

[11] For comparison, the SAE CRP used exposure limits of 500 ppm over 8 hours and 115,000 ppm over 30 minutes to evaluate risks for these same time periods. These are based on the 8-hr Workplace Environmental Exposure Limit (WEEL) for HFO–1234yf and for short-term exposure, assuming a NOAEL of approximately 405,800 ppm from the study, "Acute (4-hour) inhalation toxicity study with HFO–1234yf in rats." Note that EPA disagrees with the finding that the acute inhalation toxicity study found a NOAEL. We consider this study to show adverse effects at all levels because of the presence of grey discoloration in the lungs of the test animals. In order to ensure sufficient protection, EPA's risk assessment used a NOAEL from a subacute study instead of a LOAEL from an acute study.

0038). We also analyzed exposure levels during manufacture and final disposition at vehicle end-of-life, and found that they would be no higher than 28 ppm on a 15-minute average or 8.5 ppm on an 8-hour time-weighted average (EPA–HQ–OAR–2008–0664–0038). Therefore, the manufacture, use, and disposal or recycling of HFO–1234yf are not expected to present a toxicity risk to workers.

We did not analyze the risk of generation of HF in the workplace. In its December 17, 2009 *Risk Assessment for Alternative Refrigerants HFO–1234yf and R–744 (CO_2)*, the SAE CRP indicated that "service technicians will be knowledgeable about the potential for HF generation and will immediately move away from the area when they perceive the irritancy of HF prior to being exposed above a health-based limit" (EPA–HQ–OAR–2008–0664–0056.2). Since there is a similar potential to form HF from other MVAC refrigerants that have been used for years, such as CFC–12 or HFC–134a, it is reasonable to assume that service technicians, recyclers, and disposers will handle HFO–1234yf similarly and that use of HFO–1234yf does not pose a significantly greater risk in the workplace with regard to HF generation than the use of those other refrigerants.

In that same report, the SAE CRP also discussed qualitatively the risks for emergency responders, such as firefighters or ambulance workers that respond in case of a vehicle fire or collision. With regard to risk of fire, the CRP report stated that "Due to the low burning velocity of HFO–1234yf, ignition of the refrigerant will not contribute substantially to a pre-existing fire" (EPA–HQ–OAR–2008–0664–0056.2). EPA considers this reasonable, given a burning velocity for HFO–1234yf of only 1.5 cm/s. This is more than an order of magnitude less than the burning velocity of gasoline, which is approximately 42 cm/s (Ceviz and Yuksel, 2005). Concerning first responder exposure to HF, the SAE CRP stated, "Professional first responders also have training in chemical hazards and possess appropriate gear which will prevent them from receiving HF exposures above health-based limits" (EPA–HQ–OAR–2008–0664–0056.2). We agree with this assessment. Other MVAC refrigerants containing fluorine such as CFC–12, which was historically used, and HFC–134a, which is the predominant refrigerant currently in use, also can produce HF due to thermal decomposition or combustion, and smoke and other toxic chemicals are likely to be present in case of an automotive fire (CRP, 2008). Therefore, it is reasonable to expect that first responders are prepared for the presence of HF and other toxic chemicals when approaching a burning vehicle and that they will wear appropriate personal protective equipment.

EPA's risk screen for HFO–1234yf evaluated flammability risks, including occupational risks. Modeling of concentrations of HFO–1234yf in workplace situations such as at equipment manufacture and during disposal or recycling at vehicle end-of-life found short-term, 15-minute concentrations of 28 ppm or less—far below the lower flammability limit (LFL) of 6.2% by volume (62,000 ppm) (EPA–HQ–OAR–2008–0664–0038). The SAE CRP's risk assessments evaluated flammability risks by comparing concentrations of HFO–1234yf with the LFL of 6.2%. The SAE CRP conducted Computational Fluid Dynamics (CFD) modeling of exposure levels in case of a leak in a system in a service shop. The SAE CRP's earlier February 26, 2008 risk assessment found that a leaked concentration of HFO–1234yf exceeded the LFL only in the most conservative simulation, with the largest refrigerant leak and with all air being recirculated within the passenger cabin (EPA–HQ–OAR–2008–0664–0010). Updated CFD modeling performed for the December, 2010 SAE CRP risk assessment found that concentrations of HFO–1234yf sometimes exceeded the LFL, but only within ten centimeters of the leak or less (EPA–HQ–OAR–2008–0664–0056.2). The risk assessment found the risk of this occupational exposure scenario to be on the order of 10^{-26} cases per working hour. We note that HFO–1234yf is less flammable and results in a less energetic flame than a number of fluids that motor vehicle service technicians and recyclers or disposers deal with on a regular basis, such as oil, anti-freeze, transmission fluid, and gasoline. HFO–1234yf is also less flammable than HFC–152a, a substitute that we have already found acceptable for new MVAC systems subject to use conditions. Thus, EPA finds that the risks of flammability in the workplace from HFO–1234yf are similar to or lower than the risk posed by currently available substitutes when the use conditions are met.

Consumer Exposure

EPA's review of consumer risks from toxicity of HFO–1234yf indicated that potential consumer (passenger) exposure from a refrigerant leak into the passenger compartment of a vehicle is not expected to present an unreasonable risk (EPA–HQ–OAR–2008–0664–0036, EPA–HQ–OAR–2008–0664–0038). However, consumer exposure from filling, servicing, or maintaining MVAC systems may cause exposures at high enough concentrations to warrant concern. Specifically, this risk may be due to a lack of professional training and due to refrigerant handling or containment without the use of refrigerant recovery equipment certified in accordance with the regulations promulgated under CAA Section 609 and codified at subpart B of 40 CFR part 82. Consumer filling, servicing, or maintaining of MVAC systems may cause exposures at high enough concentrations to warrant concern (EPA–HQ–OAR–2008–0664–0036). However, this rule does not specifically allow for use of HFO–1234yf in consumer filling, servicing, or maintenance of MVAC systems. The manufacturer's submission specifically addressed HFO–1234yf as a refrigerant for use by OEMs and by professional technicians (EPA–HQ–OAR–2008–0664–0013.1).

The use conditions in this final rule provide for unique service fittings relevant to OEMs and to professional technicians (*i.e.,* unique fittings for the high-pressure side and for the low-pressure side of the MVAC system and unique fittings for large cylinders of 20 lb or more). EPA would require additional information on consumer risk and a set of unique fittings from the refrigerant manufacturer for use with small cans or containers of HFO–1234yf before we would be able to issue a revised rule that allows for consumer filling, servicing, or maintenance of MVAC systems with HFO–1234yf.

EPA has issued a significant new use rule (SNUR) under the authority of TSCA (October 27, 2010; 75 FR 65987). Under 40 CFR part 721, EPA may issue a SNUR where the Agency determines that activities other than those described in the premanufacture notice may result in significant changes in human exposures or environmental release levels and that concern exists about the substance's health or environmental effects. Manufacturers, importers and processors of substances subject to a SNUR must notify EPA at least 90 days before beginning any designated significant new use through a significant new use notice (SNUN). EPA has 90 days from the date of submission of a SNUN to decide whether the new use "may present an unreasonable risk" to human health or the environment. If the Agency does not determine that the new use "may present an unreasonable risk," the submitter would be allowed to engage in the use, with or without certain restrictions. The significant new

uses identified in the SNUR for HFO–1234yf are: (1) Use other than as a refrigerant in motor vehicle air conditioning systems in new passenger cars and vehicles; (2) commercial use other than in new passenger cars and vehicles in which the charging of motor vehicle air conditioning systems with HFO–1234yf was done by the motor vehicle OEM; and (3) distribution in commerce of products intended for use by a consumer for the purposes of servicing, maintenance and disposal involving HFO–1234yf.

Under existing regulations in appendix D to subpart G of 40 CFR part 82, "A refrigerant may only be used with the fittings and can taps specifically intended for that refrigerant and designed by the manufacturer of the refrigerant. Using a refrigerant with a fitting designed by anyone else, even if it is different from fittings used with other refrigerants, is a violation of this use condition." The manufacturer and submitter for HFO–1234yf has provided unique fittings for the high-pressure side and for the low-pressure side of the MVAC system and for large cylinders for professional use (typically 20 lb or more [12]). Therefore, until the manufacturer provides unique fittings to EPA's SNAP Program for use with can taps or other small containers for consumer use and until EPA publishes a final rule identifying such unique fittings, it would be a violation of the use condition in appendix D to use HFO–1234yf in small cans or containers for MVAC. Before issuing a rule allowing use of HFO–1234yf with fittings for small cans or containers for MVAC, we would first need to conclude through either review under TSCA or under the SNAP program that use of these smaller canisters would not pose an unreasonable risk to consumers.

In our review of consumer risks from HFO–1234yf, we considered information concerning consumer exposure to HF from thermal decomposition or combustion of HFO–1234yf. EPA's analysis at the time of the proposed rule focused on the flammability risk to consumers, which at the time we believed to be a significant risk in its own right, as well as a way to prevent consumer exposure to HF from combustion of HFO–1234yf. However, in preparing our proposal, we had available and did consider the SAE CRP's 2008 evaluation of scenarios that might cause consumer or occupational exposure to HF (CRP, 2008). This report stated:

> Decomposition of HFO–1234yf in a fire scenario might, in theory, pose a significant acute health risk to passengers or firemen. But in the event of a fire, other toxic chemicals will be produced by combustion of other automotive components and thus decomposition of the refrigerant may increase the risk for fire fighters and would not introduce an entirely new type of hazard. It is also anticipated that only a small portion of the refrigerant charge will be converted to these decomposition products. In U.S. EPA's assessment of risk of R–152a and CO_2 (R–744), the agency cited a study by Southwestern Laboratories which indicated that a 100% R–134a atmosphere only produced an HF concentration of 10 ppm when passed through a tube heated to 1,000 °F (Blackwell *et al.,* 2006). A search of the medical literature also did not reveal any published reports of injuries to fire fighters or vehicle passengers resulting from exposures to COF_2 or HF produced in fires involving refrigerants. (EPA–HQ–OAR–2008–0664–0008, p. 67)

After the SAE CRP's 2008 evaluation, SAE CRP members conducted tests to measure HF concentrations and to identify factors that were most likely to lead to HF formation (EPA–HQ–OAR–2008–0664–0056.2). One test on HF concentrations inside a car cabin found maximum concentrations were in the range of 0 to 35 ppm in trials both with HFO–1234yf and with HFC–134a, with concentrations dropping to 10 ppm or less after 10 minutes. In a second test of HF generated in the engine compartment, HF concentrations from thermal decomposition of HFO–1234yf reached as high as 120 ppm in the engine compartment in the worst case, with interior passenger cabin values of 40 to 80 ppm. Under the same extreme conditions (flash ignition, temperature of 700 °C, closed hood), HF concentrations from thermal decomposition of HFC–134a reached 36.1 ppm in the engine compartment with interior passenger cabin values of 2 to 8 ppm. The other trials with less extreme conditions found HF concentrations from HFO–1234yf in the engine compartment of 0 to 8 ppm.

The SAE CRP selected an Acute Exposure Guideline Limit (AEGL) – 2 of 95 ppm over 10 minutes as its criterion for determining toxicity risk from HF.[13] Thus, even assuming levels inside a passenger compartment reached the highest level that occurred during the tests—80 ppm—a passenger inside a vehicle would at worst experience discomfort and irritation, rather than any permanent effects. HF levels that could result in similar effects were also observed for HFC–134a. The SAE CRP concluded that the probability of such a worst-case event is on the order of 10^{-12} occurrences per operating hour [14] (EPA–HQ–OAR–2008–0664–0056.2). This level of risk is similar to the current level of risk of HF generated from HFC–134a (EPA–HQ–OAR–2008–0664–0086.1). To date, EPA is unaware of any reports of consumers affected by HF generated by HFC–134a, which has been used in automobile MVAC systems across the industry since 1993. Thus, we do not expect there will be a significant risk of HF exposure to consumers from HFO–1234yf.

Depending on the charge size of an HFO–1234yf MVAC system, which may range from as little as 400 grams to as much as 1600 grams (ICF, 2008), it is possible in a worst case scenario to reach a flammable concentration of HFO–1234yf inside the passenger compartment. This could occur in the case of a collision that ruptures the evaporator in the absence of a switch or other engineering mitigation device to prevent flow of high concentrations of the refrigerant into the passenger compartment, provided that the windows and windshield remain intact. As stated in the SAE CRP, ignition of the refrigerant once in the passenger cabin is unlikely (probability on the order of 10^{-14} occurrences per operating hour) because the only causes of ignition within the passenger cabin with sufficient energy to ignite the refrigerant would be use of a butane lighter (EPA–OAR–2008–0664–0056.2). If a passenger were in a collision, or in an emergency situation, it is unlikely that they would choose to operate a butane lighter in the passenger cabin. Additionally, it is unlikely ignition would occur from a flame from another part of the vehicle because automobiles are constructed to seal off the passenger compartment with a firewall. If a collision breached the passenger compartment such that a flame from another part of the vehicle could reach it, that breach would also create ventilation that would lower the refrigerant concentration below the

[12] EPA has issued lists of approved unique fittings for refrigerants in MVAC (*see http://www.epa.gov/ozone/snap/refrigerants/fittlist.html*). These have been issued for the high-side service port, low-side service port, 30-lb cylinders (that is, the most typical size container for use in professional servicing), and small cans (containers typically used by consumers). The label "30-lb cylinders" is not intended to restrict the existence of other container sizes that professional service technicians might use (*e.g.,* 50 lb, 20 lb, 10 lb).

[13] The AEGL–2 is defined as "the airborne concentration of a substance * * * above which it is predicted that the general population, including susceptible individuals could experience irreversible or other serious, long lasting adverse effects or an impaired ability to escape." *http://www.epa.gov/oppt/aegl/pubs/define.htm.*

[14] If we assume 250 million passenger vehicles in the U.S. and typical driving times of 500 hours per year per vehicle, a risk of 4.6×10^{-12} per operating hour equates roughly to one event every 2 years for all drivers in the entire U.S.

lower flammability limit. Similarly, if either a window or the windshield were broken in the collision, the ventilation created would lower the refrigerant concentration below the lower flammability limit. Therefore, EPA finds that flammability risks of HFO–1234yf to passengers inside a vehicle will be low. Further, these risks are likely to be less than those from HFC–152a, another flammable refrigerant that EPA has previously found acceptable subject to use conditions, because HFC–152a has a lower LFL and a lower minimum ignition energy than HFO–1234yf (EPA–HQ–OAR–2008–0664–0008, –0013.4, –0056.2).

Overall Conclusion

EPA finds that the use of HFO–1234yf in new passenger vehicle and light-duty truck MVAC systems, subject to the use conditions being adopted in the final rule, does not present a significantly greater risk to human health and the environment compared to the currently-approved MVAC alternatives or as compared to CO_2, which has been proposed for approval in this end-use.

VI. What is the relationship between this SNAP rule and other EPA rules?

A. Significant New Use Rule

Under the Toxics Substances Control Act, EPA has issued a Significant New Use Rule (75 FR 65987; October 27, 2010) for 1-propene, 2,3,3,3-tetrafluoro-, which is also known as HFO–1234yf. This rule requires persons who intend to manufacture, import, or process HFO–1234yf for a use that is designated as a significant new use in the final SNUR to submit a SNUN at least 90 days before such activity may occur. EPA has 90 days from the date of submission of a SNUN to decide whether the new use "may present an unreasonable risk" to human health or the environment. If the Agency does not determine that the new use "may present an unreasonable risk," the submitter would be allowed to engage in the use, with or without certain restrictions. The significant new uses identified in the final SNUR and subject to the SNUN requirement are: Use other than as a refrigerant in motor vehicle air conditioning systems in new passenger cars and vehicles; commercial use other than in new passenger cars or vehicles and in which the charging of motor vehicle air conditioning systems with HFO–1234yf was done by the motor vehicle OEM; and distribution in commerce of products intended for use by a consumer for the purpose of servicing, maintenance and disposal involving HFO–1234yf. The health concerns expressed in the final SNUR are based primarily on potential inhalation exposures to consumers during "do-it-yourself" servicing, as well as a number of other relevant factors.

B. Rules Under Sections 609 and 608 of the Clean Air Act

Section 609 of the CAA establishes standards and requirements regarding servicing of MVAC systems. These requirements include training and certification of any person that services MVAC systems for consideration,[15] as well as standards for certification of equipment for refrigerant recovery and recycling. EPA has issued regulations interpreting this statutory requirement and those regulations are codified at subpart B of 40 CFR part 82. The statutory and regulatory provisions regarding MVAC servicing apply to any refrigerant alternative and are not limited to refrigerants that are also ODS. This final SNAP rule addresses the conditions for safe use of HFO–1234yf in new MVAC systems. Thus, the requirements in this rule apply primarily to OEMs, except for specific requirements for service fittings unique to HFO–1234yf. MVAC end-of-life disposal and recycling specifications are covered under section 608 of the CAA and our regulations issued under that section of the Act.

VII. What is EPA's response to public comments on the proposal?

This section of the preamble summarizes the major comments received on the October 19, 2009 proposed rule, and EPA's responses to those comments. Additional comments are addressed in a response to comments document in docket EPA–HQ–OAR–2008–0664.

A. Acceptability Decision

Comment: Several commenters supported EPA's proposal to find HFO–1234yf an acceptable substitute for CFC–12 in MVACs. These commenters stated that available information indicates that HFO–1234yf will not pose significant health risks or environmental concerns under foreseeable use and leak conditions and that it has a strong potential to reduce greenhouse gas emissions from motor vehicles. Also, these commenters declared that HFO–1234yf's risks were similar to or less than those of other available alternatives, such as HFC–134a, HFC–152a, and CO_2. A commenter referenced the work of the SAE CRP, which concluded that HFO–1234yf can be used safely through established industry practices for vehicle design, engineering, manufacturing, and service.

Other commenters opposed finding HFO–1234yf acceptable or stated that there was insufficient information to support a conclusion. These commenters stated that the risks of HFO–1234yf were greater than those of other available alternatives, such as HFC–134a, CO_2, and hydrocarbons.

Response: For the reasons provided in more detail above, EPA has determined that HFO–1234yf, if used in accordance with the adopted use conditions, can be used safely in MVAC systems in new passenger vehicles and light-duty trucks. The use conditions established by this final rule ensure that the overall risks to human health and the environment are comparable to or less than those of other available or potentially available substitutes, such as HFC–134a, HFC–152a, or CO_2. EPA did not compare the risks to those posed by hydrocarbons since we have not yet received adequate information for hydrocarbons that would allow us to make such a comparison for use in MVAC.[16]

Comment: Some commenters suggested that EPA should consider other substitutes for CFC–12 in MVAC, such as CO_2 or hydrocarbons. An organization representing the automotive industry stated that the risks from using CO_2 in MVAC systems are below the probability of other adverse events which society considers acceptable and are roughly 1.5 orders of magnitude greater than the risks from using HFO–1234yf.

Response: This rule only concerns EPA's decision on the use of HFO–1234yf in new passenger vehicles and light-duty trucks. In a separate action, EPA has proposed to find CO_2 acceptable subject to use conditions as a substitute for CFC–12 in MVAC systems for new motor vehicles (September 16, 2006; 71 FR 55140). Information on the schedule for EPA's final rulemaking on CO_2 as a substitute in MVAC, RIN 2060–AM54, is available in EPA's regulatory agenda at *http://www.reginfo.gov/public/do/eAgendaMain.* We currently have inadequate information on hydrocarbons to consider adding them to the list of substitutes for MVAC. We

[15] Service for consideration means receiving something of worth or value to perform service, whether in money, credit, goods, or services.

[16] EPA previously reviewed two hydrocarbon blends for use in MVAC and found them unacceptable, stating "Flammability is a serious concern. Data have not been submitted to demonstrate that [the hydrocarbon blend] can be used safely in this end-use." Appendixes A and B to subpart G of 40 CFR part 82.

will review additional substitutes if they are submitted with complete and adequate data to allow an evaluation of whether such substitutes may be used safely within the meaning of section 612 of the CAA as compared with other existing or potential substitutes in the MVAC end-use.

B. Use Conditions

Comment: Several commenters stated that the proposed use conditions limiting concentrations of HFO–1234yf below the lower flammability limit are overly stringent or even impossible to meet and are not needed for safe usage. Some automobile manufacturers suggested relying upon established standards and practices, such as SAE protocols and standards, instead of use conditions. Some commenters suggested alternative language for use conditions. Other commenters expressed concern that the proposed use conditions limiting concentrations of HFO–1234yf would preclude the use of HFO–1234yf by any vehicle that is not initially designed to use this refrigerant.

Response: As described above, EPA agrees that the use conditions, as proposed, require modification. In this final rule, we have removed the first three proposed use conditions, which required design to keep refrigerant concentrations below the LFL. *See* section IV of the preamble, "What are the final use conditions and why did EPA finalize these conditions?" for our basis. With respect to the commenter who suggested that the proposed use conditions limiting concentrations of HFO–1234yf below the LFL would not allow use except in systems initially designed to use this refrigerant, we note that this decision is limited to use in new motor vehicles and light-duty trucks. Further, the proposed use conditions limiting refrigerant concentration are not included in the final rule and thus do not have implications for a future decision concerning retrofits.

Comment: One commenter provided test results from the Bundesanstalt für Materialforschung und –prüfung (BAM—Federal Institute for Materials Research and Testing) that tested various mixtures of HFO–1234yf and ethane (EPA–HQ–OAR–2008–0664–0053.3). The commenter stated that the tests show that explosions can occur at HFO–1234yf concentrations below its lower flammability limit (LFL) of 6.2% when minimal amounts of gaseous hydrocarbons are available. This commenter stated that the maximum concentrations of HFO–1234yf allowed under any use condition need to be far below the 6.2% LFL to ensure safety. Other commenters agreed with these concerns. Yet other commenters looked at the same test data and stated that the testing was not relevant to real-world situations in MVAC because it is unlikely that such large amounts of ethane or other gaseous hydrocarbons (0.8–2.4% by volume) would form in a vehicle. One commenter stated that HFO–1234yf reduces the flammability of ethane compared to ethane alone, and that HFO–1234yf reduces flammability of ethane more than CO_2 or argon, substances used as fire suppressants (EPA–HQ–OAR–2008–0664–0115.1).

Response: We do not believe that the BAM testing of the flammability limits of mixtures of HFO–1234yf and ethane is relevant to assessing the risks of HFO–1234yf as a refrigerant in MVAC. Examples of flammable substances in the engine compartment may include compressor oil mixed with the refrigerant, motor oil, cleaners, anti-freeze, transmission fluid, brake fluid, and gasoline. These are typically liquid and there is no evidence that any vapors that might form would include significant amounts of ethane. These fluids typically contain larger molecules with higher boiling points than ethane (*e.g.,* octane, polyalkylene glycol). It seems more likely, as one commenter suggested, that these flammable fluids would ignite before breaking down into concentrations of ethane considered in the BAM testing. Further, the results of the testing are not surprising; based on a scientifically known chemical equilibrium principle known as Le Chatelier's principle—the lower flammability limit of a mixture of two flammable substances falls between the lower flammability limits of the two individual substances. The range of LFLs for flammable mixtures of ethane and refrigerants HFC–134a, HFO–1234yf, and CO_2 is largest for CO_2 and is similar for HFC–134a and HFO–1234yf (Besnard, 1996).

A more relevant test to compare risks for HFO–1234yf and other alternative refrigerants in MVAC is to consider flammability of a mixture of compressor oil and refrigerant, as occurs in MVAC systems. Such testing, conducted as part of the SAE CRP, found that mixtures of HFO–1234yf and 5% oil and HFC–134a and 5% oil both ignited at temperatures higher than what usually occurs in a vehicle (730 °C or higher for HFO–1234yf and 800 °C or higher for HFC–134a).

Furthermore, we note that the final use conditions do not rely on the lower flammability limit. As explained in more detail in sections IV and V of the preamble, "What are the final use conditions and why did EPA finalize these use conditions?" and "Why is EPA finding HFO–1234yf acceptable subject to use conditions?", we believe that the risks from HFO–1234yf and its decomposition products are very small and are comparable to or less than the risks from other acceptable alternatives available or potentially available for use in MVAC systems. The use conditions established in this final rule require manufacturers to design systems to prevent leakage from refrigerant system connections that might enter the passenger cabin, and to minimize impingement of refrigerant and oil onto hot surfaces, as required by SAE J639 (adopted 2011). These use conditions will further reduce already low risks from flammability and HF generation.

Comment: One commenter provided data from a presentation showing that the lower flammability limit of HFO–1234yf decreases as temperature increases. The commenter stated that the proposed LFL of 6.2% may not be conservative enough.

Response: EPA agrees that the LFL decreases as temperature increases. However, for the analysis relied on for the proposed rule, we considered an LFL relevant to the temperatures that might be expected in a collision or leak scenario and that would not be so high as to be a higher risk factor than exposure to HF. The data provided by the commenter show an LFL of 5.7% at 60 °C (140 °F) and an LFL of 5.3% at 100 °C (212 °F). If a passenger were exposed to temperatures this high in the passenger compartment for any extended period of time, he or she would suffer from the heat before there was a risk of the refrigerant igniting. However, after considering the available information, we find it is not necessary to require a concentration of HFO–1234yf below the LFL to address this refrigerant's risks; rather, risks are sufficiently addressed with the final use conditions. As discussed above in section IV of the preamble, "What are the final use conditions and why did EPA finalize these conditions?", we believe that the flammability risks from HFO–1234yf are very small and overall risks from HFO–1234yf are comparable to or less than the risks from other acceptable alternatives used in MVAC. EPA finds that the use conditions in this final rule are sufficient to manage risks of injury or adverse health effects caused by HFO–1234yf.

Comment: Regarding the first proposed use condition that would limit the concentration of HFO–1234yf below the LFL in the passenger cabin, several commenters stated that the risks of refrigerant leaking into the passenger compartment and exceeding the LFL are

very low. Some automobile manufacturers stated that it may not be possible to keep the concentration below the LFL in the event of a collision; however, the commenters said that even if concentrations in the passenger cabin exceeded the LFL, it would be extremely difficult to ignite the refrigerant. Some commenters stated that the engineering strategies that would be necessary to implement the proposed use condition would actually increase overall risk by increasing the risk of conveying smoke and fumes from the engine compartment into the passenger compartment in the event of an accident. Some commenters suggested alternative language for the use condition to give greater flexibility in engineering responses to allow for differences between vehicles.

Response: As discussed above in section IV of the preamble, EPA is not including the proposed use condition requiring that a specific level of refrigerant concentration inside the passenger cabin is not exceeded.

Comment: One commenter suggested that the use conditions for limiting concentrations in the passenger cabin should require the incorporation of engineering strategies and/or devices "such that foreseeable leaks" rising to the specified concentration levels can be avoided. Similarly, the commenter stated that any use condition limiting concentrations in the engine compartment should be limited to "prevention of ignition caused by foreseeable leaks." The commenter noted that EPA did this in a similar use condition in its final SNAP rule for HFC–152a, another flammable refrigerant for MVAC with greater flammability risk. The commenter stated that this would be consistent with safety requirements of the National Highway Traffic Safety Administration (NHTSA) and would ensure that EPA's use conditions are feasible.

Response: As discussed above in section IV of the preamble, EPA is not including the proposed use condition and is not limiting the refrigerant concentration inside the passenger cabin or the engine compartment.

Comment: A number of commenters did not support the proposed use condition on concentrations of HFO–1234yf in hybrid and electric vehicles. One commenter recommended eliminating this use condition, as the SAE CRP risk assessment concludes there are no real world safety risks. Another commenter suggested referring to the SAE or ISO (International Organization for Standardization) standards in place of a specific use condition. One commenter stated that electric terminals on hybrid vehicles are well protected to prevent fires and should not ignite the refrigerant. Another commenter stated that an accident severe enough to cause refrigerant leakage would also result in damage to the duct between the evaporator [in the MVAC system] and the battery pack, preventing an increase in refrigerant concentrations at the battery pack. One commenter stated that it is difficult to establish generic SNAP use conditions for hybrid vehicles, and individual manufacturers need to understand particular design features of their hybrid vehicles to ensure safe refrigerant application.

Three commenters expressed concern for using HFO–1234yf in hybrid and electric vehicles and stated that the use condition is not conservative enough. One commenter stated that the maximum concentrations of HFO–1234yf need to be far below the 6.2% LFL based on new tests done at the Federal Institute for Materials Research and Testing (BAM) and that they are unsure whether or not additional measures can effectively avoid the risk of explosive mixtures. Another commenter stated that HFO–1234yf would raise concerns in the field of battery cooling needed in electric vehicles because flammability and chemical reactions would pose major risks, which could lead to legal consequences for OEMs.

Response: As discussed above in section IV of the preamble, EPA is not including the proposed use condition and is not requiring protective devices, isolation and/or ventilation techniques where levels of refrigerant concentration may exceed the LFL in proximity to exhaust manifold surfaces or near hybrid or electric vehicle power sources. As discussed above, we do not believe that the BAM testing of the flammability limits of mixtures of HFO–1234yf and ethane is relevant to assessing the risks of HFO–1234yf as a refrigerant in MVAC. Based on information provided by OEMs that manufacture hybrid vehicles, we conclude that there will be sufficient protection against fire risk and generation of HF in the engine compartment for hybrid vehicles because they have protective coverings on power sources that will prevent any sparks that might have enough energy to ignite refrigerant and engine surfaces will not be hotter than those in conventional vehicles (EPA–HQ–OAR–2008–0664–0081.1, –0081.2). Further, we agree that it is reasonable to assume that a collision severe enough to release refrigerant from the evaporator (under the windshield) would also release it in a location far enough away from the battery pack to keep refrigerant concentrations at the battery pack below the LFL. CFD modeling performed for the December, 2010 SAE CRP risk assessment found that concentrations of HFO–1234yf only exceeded the LFL within ten centimeters of the leak or less (EPA–HQ–OAR–2008–0664–0056.2), but the battery pack is typically placed more than ten centimeters away from the evaporator. EPA expects that OEMs will include assessment of risks from the exhaust manifold, hybrid power source, and electric vehicle power source as part of the FMEA required under one of the final use conditions in this rule.

Comment: Some commenters responded to EPA's request for comment as to whether the use conditions should apply only when the car ignition is on. These commenters indicated that it is unnecessary for the use conditions on refrigerant concentrations within the passenger compartment to apply while a vehicle's ignition is off because it is unlikely that a collision would occur, that high temperatures would occur, or that refrigerant would enter the passenger cabin when the ignition, and thus the MVAC system, is off. Another commenter stated that it should be mandatory for all electric power sources to be shut off when the ignition is off.

Response: As discussed above in section IV of the preamble, EPA is not including the proposed use conditions that specified a refrigerant concentration not to be exceeded.

Comment: Several commenters stated that the proposed limits on concentrations of HFO–1234yf in the engine compartment cannot be met, even hypothetically, and that imposition of such a use condition would delay or even prevent the use of HFO–1234yf. Other commenters stated that the engineering required to meet the proposed use condition is almost certain to preclude the use of HFO–1234yf by any vehicle that was not initially designed to use this refrigerant.

Response: EPA is not including in the final rule the proposed use condition that sets a specific limit for refrigerant concentrations inside the engine compartment. *See* section IV of the preamble, "What are the final use conditions and why did EPA finalize these conditions?" for further rationale.

Comment: Several commenters agreed with EPA's proposal to require use of unique fittings and a warning label that identify the new refrigerant and restrict the possibility of cross-contamination with other refrigerants. Other commenters suggested that no use

conditions are necessary because established standards and practices would be adequate for safe use of HFO–1234yf.

Response: The use conditions referenced by the commenters were established in a separate final rule, promulgated in 1996, which applies to all refrigerants used in MVAC (*see* appendix D to subpart G of 40 CFR part 82). EPA has not proposed to modify that existing rule for purposes of its acceptability determination for HFO–1234yf. These requirements indicate to technicians the refrigerant they are using and thus help reduce risks to the technician by ensuring that the technician will handle the refrigerant properly. In addition, these use conditions serve to prevent contamination of refrigerant supplies through unintended mixing of different refrigerants. For purposes of meeting that existing regulatory requirement, this final rule specifies use of fittings for the high-pressure side service port, the low-pressure side service port, and for refrigerant containers of 20 pounds or greater. The submitter for HFO–1234yf has provided these fittings to the Agency and they are consistent with the SAE standard J639. In addition, the final rule retains the requirement for a warning label identifying the refrigerant, consistent with SAE J639.

Comment: Some commenters agreed with EPA's proposal to require a high-pressure compressor cut-off switch, as per SAE J639. Another commenter suggested that the compressor cut-off switch would be useful for all systems in which the discharge pressure can reach the burst pressure, not just those systems with pressure relief devices.

Response: EPA is maintaining the requirement that HFO–1234yf MVAC systems must have a high-pressure compressor cut-off switch by requiring compliance with the SAE J639 standard. The SAE J639 standard requires a pressure relief device on the refrigerant high-pressure side of the compressor for all MVAC systems, and so the compressor cut-off switch will be required for all systems, as suggested by the commenter.

Comment: Several commenters supported the requirement for vehicle makers to conduct and maintain FMEAs. Other automobile manufacturers stated that the final SNAP rule finding HFC–152a acceptable as a substitute for CFC–12 in MVAC included this as a comment rather than as a use condition, and suggested that EPA do the same in the final rule for HFO–1234yf. Another commenter stated that FMEAs for each vehicle design are standard industry practice, and so no use condition is required; this commenter provided language for an alternate use condition should EPA choose to specify a use condition for vehicle design.

Response: EPA is retaining the requirement for FMEAs in the final rule as a use condition, rather than simply as an unenforceable comment. In an FMEA, vehicle designers analyze all the ways in which parts of the MVAC system could fail and identify how they will address those risks in design of the system. In addition, keeping records of an FMEA is important to ensuring safe use because it documents that vehicle designers have complied with the safety requirements of this rule. We believe that it is necessary to retain this requirement as a use condition in order to ensure that OEMs are required to analyze and address the risks and to document those efforts such that this analysis is available to demonstrate compliance to EPA in case of an EPA inspection. Information in the FMEAs complements the safety requirements in SAE J639 and is useful for demonstrating compliance. Because the revised SAE J639 standard refers to use of FMEAs more extensively, risk assessment using FMEAs is more critical for HFO–1234yf than it was for HFC–152a

Comment: A commenter requested that EPA specifically allow manufacturers to perform FMEAs according to equivalent standards developed by organizations other than SAE (*e.g.,* the International Organization for Standardization [ISO], the German Institute for Standards [DIN], or the Japan Automobile Manufacturers Association [JAMA]).

Response: We agree that standards from other standard-setting organizations may provide equivalent assurance of safe use. However, we are not aware at this time of any standards that do so. In order to ensure safe use of HFO–1234yf, we would need to review any other standard to ensure that it provides equivalent assurances of safety before allowing its use in place of the SAE standard. An OEM, for example, could petition EPA's SNAP program and provide copies of the other standard for consideration. If we agree that the other standard is equivalent, then we would add it to the use condition on FMEAs through a rulemaking.

Comment: A commenter expressed that EPA's approach to setting use conditions infringes upon the Department of Transportation's motor vehicle safety jurisdiction and that EPA does not have the authority to protect against any fire risk associated with motor vehicles.

Response: As an initial matter, we note that the commenter does not point to any specific legislative authority that supports his claim. Regardless, EPA disagrees with this commenter. Section 612 of the CAA provides that EPA may find substitutes for ODS acceptable if they present less risk to human health and the environment than other substitutes that are currently or potentially available. Congress did not establish any limits on EPA's authority for ensuring that substitutes are not more risky than other substitutes that are available and EPA has consistently interpreted this provision to allow the Agency to establish use conditions to ensure safe use of substitutes. In this case, we find that HFO–1234yf may be used safely, and with risks comparable to or less than those of other available substitutes for CFC–12 in the MVAC end-use, so long as it is used according to the use conditions established by this action. If the commenter were correct that the Department of Transportation (DOT) has sole authority to address safety risks from MVAC systems, in the absence of standards from DOT addressing HFO–1234yf's risks, EPA would need to determine that HFO–1234yf is unacceptable for use in MVACs.

C. Environmental Impacts

1. Ozone Depletion Potential

Comment: Several commenters agreed with EPA's proposed finding that HFO–1234yf would not contribute significantly to stratospheric ozone depletion, and that the ozone depletion potential (ODP) of HFO–1234yf is at or near zero. Two commenters claimed that the ODP of HFO–1234yf should be stated as "zero" instead of "nearly zero," and one commenter requested that EPA clarify that HFO–1234yf has an ODP less than that of HFC–134a.

Other commenters disagreed with EPA's statement that the ODP of HFO–1234yf is at or near zero. One commenter expressed concern that ODS may be used in the HFO–1234yf manufacturing process, or emissions of HFO–1234yf and its by-products from the manufacturing process may break down into gases with ODPs; this commenter advised EPA against listing HFO–1234yf as an acceptable replacement for HFC–134a in MVACs. Another commenter stated that HFO–1234yf requires further investigation since unsaturated HFCs such as HFO–1234yf might break down into gases that are ozone depleting.

Response: It is generally agreed among scientists that substances that contain chlorine, bromine or iodine may have an ozone depletion potential while those that contain only fluorine effectively have no ODP. In particular, this is because the CF_3 radical produced from HFCs has negligible reactivity (Ravishankara *et al.,* 1993); the same radicals would be expected from HFO–1234yf. HFO–1234yf contains no chlorine, bromine, or iodine. Also, the atmospheric lifetime of HFO–1234yf is estimated at only 11 to 12 days (Orkin *et al.,* 1997; Papadimitrou *et al.,* 2007), further reducing the amount of the chemical that could possibly reach the stratosphere. Unsaturated HFCs, such as HFO–1234yf, have at least one double bond or triple bond between two carbon atoms. Double bonds, like those in HFO–1234yf, are less stable than single bonds. A saturated HFC, such as HFC–134a, has only single bonds between atoms of carbon, and is thus more stable. Although HFO–1234yf may be more unstable than HFC–134a, EPA is not aware of any chemical reactions or decomposition pathways that would cause HFO–1234yf or its breakdown products to lead to ozone depletion and the commenter has provided no technical or scientific support for their claims. For purposes of our determination, whether its ODP is zero or nearly zero, we expect HFO–1234yf to have negligible impact on the ozone layer and we are listing it as acceptable, subject to use conditions.

2. Global Warming Potential

Comment: Several commenters agreed with EPA's statement that HFO–1234yf has a global warming potential (GWP) of 4 over a 100-year time horizon. Some commenters noted the potential environmental benefits of having a lower GWP refrigerant available. Other commenters stated that HFO–1234yf would not be a solution to high global warming impacts because of environmental and health impacts of breakdown products, including HF, trifluoroacetic acid (TFA), and aldehydes.

Response: EPA continues to believe that the 100-yr GWP of HFO–1234yf is 4, as supported by the commenters. We further agree with the commenters who state that there will be an environmental benefit if car manufacturers switch to HFO–1234yf from HFC–134a, a refrigerant with a GWP of 1430 relative to CO_2.

We disagree with the commenters who claim that environmental and health impacts of breakdown products are a major cause for concern or will prevent HFO–1234yf from being a useful solution to high global warming impacts. One commenter mentioned concerns about HF in the atmosphere, but HFO–1234yf does not decompose to form significant amounts of HF in the atmosphere. In fact, HFC–134a and HFC–152a result in more HF in the atmosphere than HFO–1234yf because those two compounds decompose to form both COF_2, carbonyl fluoride (and then HF and CO_2) and CF_3COF, trifluoroacetyl fluoride (and then TFA); in contrast, HFO–1234yf favors forming trifluoroacetyl fluoride (and then TFA) and does not decompose to carbonyl fluoride or to HF (ICF, 2010d). For a discussion on the potential human health impacts of HF, *see* sections V and VII.D.3, "Why is EPA finding HFO–1234yf acceptable subject to use conditions?" and "Toxicity of Hydrogen Fluoride."

The fluorinated breakdown product that we have identified of greatest concern is TFA, because of its persistence and potential impacts on aquatic plants. As discussed above in section V and below in section VII.C.5, "Formation of Trifluoroacetic Acid and Ecosystem Impacts," the projected concentrations of TFA, based on a conservative analysis, will be far below the level expected to cause any adverse impacts on aquatic life.

EPA agrees that the breakdown products from the decomposition of HFO–1234yf will include aldehydes, but we disagree that this is a cause for concern. As part of the analysis of the atmospheric breakdown products of HFO–1234yf, we found that worst-case concentrations of formaldehyde would reach 6 to 8 parts per trillion (ppt) on a monthly basis or an average of 3 ppt on an annual average basis, compared to a health-based limit of 8000 ppt,[17] *i.e.*, a level that is roughly 1000 to 2600 times lower than the health-based limit (ICF, 2010d). Acetaldehyde levels would be even lower, with worst-case concentrations of 1.2 ppt and annual average concentrations of 0.23 ppt, compared to a health-based limit of 5000 ppt[18] (ICF, 2010d). As discussed further below in section VII.D.1 of the preamble, "Toxicity of HFO–1234yf," these concentrations are one to three orders of magnitude less than ambient concentrations of formaldehyde and acetaldehyde without the introduction of HFO–1234yf (ICF, 2010d). Thus, aldehydes that would be decomposition products of HFO–1234yf in the atmosphere would not contribute significantly to adverse health effects for people on earth's surface.

Other fluorinated alternatives that are acceptable in the MVAC end-use, HFC–134a and HFC–152a, also create fluorinated breakdown products, and there is not evidence to show that those from HFO–1234yf create significantly more risk for human health or the environment than breakdown products from other alternatives. Thus, even assuming that risks from breakdown products would exist, based on use of HFO–1234yf in the MVAC end-use, we do not believe those risks are greater than the risks posed by other acceptable alternatives.

3. Lifecycle Emissions of HFO–1234yf

Comment: One commenter stated that HFO–1234yf has the best global lifecycle climate performance (LCCP) and lower CO_2 [equivalent] emissions compared to other alternatives. However, another commenter stated that HFO–1234yf has a lower thermodynamic efficiency than HFC–134a and that its use could lead to increases in CO_2 and other air pollutant emissions. The same commenter stated that there is no assurance that automakers would voluntarily add technologies to maintain current levels of MVAC efficiency when using HFO–1234yf.

Response: We note that EPA has chosen to use GWP as the primary metric for climate impact for the SNAP program, while also considering energy efficiency (March 18, 1994; 59 FR 13044). We have not used specific lifecycle metrics such as Total Equivalent Warming Impact (TEWI), Lifecycle Analysis (LCA) or LCCP as metrics for climate impact, since it is not clear that there is agreement in all industrial sectors or end-uses on which of these measures is most appropriate in which situations or how these metrics are to be calculated (SROC, 2005).

The available information on efficiency, LCCP and lifecycle emissions for MVAC does not raise concern that the indirect climate impacts from HFO–1234yf will cause significantly greater impacts on human health and the environment than other available alternatives. Looking at some of the information referenced by the commenters, we learned that:

- Bench testing for the Japan Automobile Manufacturers Association (JAMA) and the Japan

[17] The Agency for Toxic Substances and Disease Registry (ATSDR) has established a chronic inhalation minimal risk level (MRL) of 0.008 ppm (8,000 ppt) for formaldehyde (ICF, 2010d). MRLs are available online at *http://www.atsdr.cdc.gov/mrls/mrls_list.html.*

[18] EPA has established a Reference Concentration (RfC) of 0.005 ppm (5,000 ppt or 0.009 mg/m^3) for acetaldehyde (ICF, 2010d). A summary of EPA's documentation for its risk assessment and RfC derivation for acetaldehyde is available online at *http://www.epa.gov/ncea/iris/subst/0290.htm.*

Auto Parts Industry Association (JAPIA) found a system efficiency (coefficient of performance) for HFO–1234yf that is roughly 96% of that for HFC–134a (JAMA–JAPIA, 2008)

- LCCP analysis conducted by JAMA found that indirect CO_2 equivalent emissions from less efficient fuel usage due to use of the MVAC system were a few percent higher for HFO–1234yf and roughly 20 to 25% higher for CO_2, compared to HFC–134a (JAMA, 2008)
- JAMA's LCCP analysis found that when both direct emissions of refrigerant and indirect emissions from less efficient fuel usage are considered, HFC–134a has higher total climate impact than either HFO–1234yf or CO_2; in hotter climates like Phoenix, Arizona, HFC–134a has higher total climate impact than HFO–1234yf but slightly lower climate impact than CO_2; and in all cases, HFO–1234yf had the lowest total climate impact of the three alternatives. (JAMA, 2008)
- MVAC systems can be designed to improve efficiency through steps such as changing the compressor, sealing the area around the air inlet, changing the thermal expansion valve, improving the efficiency of the internal heat exchanger, adding an oil separator to the compressor, and changing the design of the evaporator. Optimized new MVAC systems using either HFO–1234yf or CO_2 can reduce fuel usage compared to current MVAC systems using HFC–134a. (Benouali *et al.,* 2008; Meyer, 2008; Monforte *et al.,* 2008)

EPA believes that there is good reason to expect that automobile manufacturers will choose to design new cars using more efficient MVAC components and systems than in the past because of recent regulations. The Department of Transportation has issued new regulations raising the Corporate Average Fuel Economy standards for vehicles and EPA has issued new regulations restricting greenhouse gas emissions from light-duty vehicles (75 FR 25324; May 7, 2010). Thus, in order to ensure that their fleets meet these standards, it is highly likely that automobile manufacturers will include MVAC systems optimized for efficiency in future models, regardless of the refrigerant used.

Comment: Concerning an appropriate rate of emissions for estimating environmental impacts of HFO–1234yf, three commenters recommended that EPA use 50 g per vehicle per year total lifecycle emission rate. These commenters cited the work of Wallington *et al.* (2008) and Papasavva *et al.* (2009).[19] Another commenter stated that HFO–1234yf is very likely to have a lower leak rate than HFC–134a, citing data on permeability for both refrigerants.

Response: EPA agrees that the permeability data indicate that regular leakage emissions of HFO–1234yf, which are released slowly through hoses, are likely to be lower than those from HFC–134a. However, this is only a portion of total emissions expected because emissions may also come through irregular leaks due to damage to the MVAC system, refrigerant loss during servicing, and refrigerant loss at the end of vehicle life. In response to the commenters who suggested that we use an annual emission rate of 50 g/vehicle/yr, we reexamined environmental impacts as part of our final environmental analysis (ICF, 2010c) using the recommended 50 g/vehicle/yr value and compared this to the impacts calculated assuming emissions are similar to those from HFC–134a in MVAC, as we did at the time of proposal (closer to 100 g/vehicle/yr). The emission values from using 50 g/vehicle/yr (*i.e.,* values from the Pappasavva *et al.* (2009) study) were 26.3% to 51.1% less than the emission estimates used in our analysis at the time of proposal (ICF, 2009; ICF, 2010a; ICF, 2010c). In either case, as described more fully in section V above and in sections VII.C.4 and VII.C.5, below, the overall environmental impacts on generation of ground-level ozone and of TFA were sufficiently low and the impacts of HFO–1234yf are not significantly greater than those of other available substitutes for MVAC. For further information, *see* the ICF analyses in the docket (ICF, 2010a,b,c,e).

4. Ground-Level Ozone Formation

Comment: Some commenters expressed concern about a potential increase in ground-level ozone of > 1–4% calculated in EPA's initial assessment (ICF, 2009) of environmental impacts of HFO–1234yf. Other commenters stated that HFO–1234yf will not contribute significantly to ground-level ozone. One commenter suggested that EPA provide an updated assessment of the potential contribution of HFO–1234yf to ground-level ozone, considering the additional information provided in public comments (*e.g.,* Luecken *et al.,* 2009 and Wallington *et al.,* 2009).[20]

Response: We proposed that HFO–1234yf would be acceptable, even with a worst-case increase in ground-level ozone of > 1 to 4%. In response to comments, EPA performed a new analysis that (1) used revised estimates of the expected emissions of HFO–1234yf; and (2) used reactions with ozone formation from hydroxyl radicals rather than using sulfur dioxide (SO_2) as a surrogate for the hydroxyl radical, OH , and rather than making assumptions about the relative reactivity of compounds. Our revised analysis (ICF, 2010b) estimates that emissions of HFO–1234yf might cause increases in ground-level ozone of approximately 0.08 ppb or 0.1% of the ozone standard in the worst case, rather than an increase of 1.4 to 4% as determined in our initial analysis (ICF, 2009). This value also agrees with results from Kajihara *et al.,* 2010 and Luecken *et al.,* 2009. This revised analysis provides additional support that HFO–1234yf will not create significant impacts on ground level ozone formation or on local air quality.

Comment: Some commenters disagreed with EPA's statement that HFO–1234yf has a photochemical ozone creation potential (POCP) comparable to that of ethylene (100), while others agreed with this conclusion. One commenter provided a peer reviewed study that estimated the POCP of HFO–1234yf to be 7 (Wallington *et al.,* 2010).

Response: Based on the comments received and additional studies, EPA believes that the initial assessment that assumed a POCP of 100 to 300 is overly conservative. We have revised our initial analysis to incorporate reaction kinetics specific to HFO–1234yf, consistent with Luecken *et al.,* 2009, which avoids making an assumption of POCP. EPA's revised analysis estimates worst-case increases in ground-level ozone formation of approximately 0.1% (ICF, 2010b). Compared to the uncertainty in the sources of emissions, the uncertainty in the measures that localities will take to meet the ozone standard, and the uncertainty in the analysis, a projected worst-case increase in ozone of 0.1% is not significant for purposes of determining that HFO–1234yf poses substantially greater human health or environmental risk than other alternatives. This provides further support for our proposed determination that the conditioned use of HFO–1234yf does not present a

[19] Papasavva *et al.* (2009) includes several sources of emissions of automobile refrigerant, including regular leaks through hoses, irregular leaks, refrigerant loss during servicing, and refrigerant loss at end of vehicle life.

[20] Prepublication version of Wallington *et al.,* 2010 (Docket item EPA–HQ–OAR–2008–0664–0084.2)

significantly larger risk to human health and the environment compared to HFC–134a, and in many cases likely poses less risk. For further information, *see* the analysis of environmental impacts in section V of the preamble, "Why is EPA finding HFO–1234yf acceptable subject to use conditions?" and *see* the analysis in the docket (ICF, 2010b).

Comment: A commenter provided a link to a paper (Carter, 2009) that found the maximum incremental reactivity (MIR) for HFO–1234yf to be about the same as that for ethane. Based on the MIR value for HFO–1234yf, some commenters stated that EPA should find HFO–1234yf to be exempt from the definition of VOC.

Response: (Note: EPA has previously found certain compounds exempt from the definition of "volatile organic compound" [VOC] for purposes of air regulations in State Implementation Plans, 40 CFR 51.100(s), if they have a MIR equal to or less than that of ethane on a mass basis [69 FR 69298, November 29, 2004; 74 FR 29595, June 23, 2009; also *see* interim EPA guidance at 70 FR 54046, September 13, 2005].) In a separate rulemaking process, EPA is considering whether to list HFO–1234yf under 40 CFR 51.100(s) as exempt from the definition of VOC for purposes of air regulations that States may adopt in State Implementation Plans.

5. Formation of Trifluoroacetic Acid and Ecosystem Impacts

Comment: Several commenters agreed with EPA's proposed finding that the projected maximum concentration of TFA in rainwater from degradation of HFO–1234yf does not pose a significant aquatic toxicity risk. Other commenters raised concern about the potential impacts of TFA on biodiversity, ecosystems, and human health. One commenter questioned the sustainability of HFO–1234yf, so long as there are questions remaining about its environmental fate and degradation. One commenter stated that artificial input of TFA into the environment should be avoided because of its toxicity and chemical properties. Another commenter stated that HFO–1234yf poses additional environmental concerns compared to HFC–134a and advised against finding it acceptable while the issue of TFA production is being further researched.

Response: We continue to conclude for purposes of our decision here that the degradation of HFO–1234yf into TFA does not pose a significant risk of aquatic toxicity or ecosystem impacts. All available research indicates that, assuming emissions are no more than twice the current level of emissions from HFC–134a from MVAC, TFA concentrations in surface water and rainwater will be on the order of 1/800th to 1/80th of the no observed adverse effect level (NOAEL) for the most sensitive known alga (Luecken *et al.,* 2009; Kajihara *et al.,* 2010). We have revised our analysis on TFA concentrations using the known reaction kinetics of HFO–1234yf. The revised estimate of the worst-case TFA concentration in rainwater is approximately 1700 ng/L, similar to the concentrations in Luecken *et al.* (2009) of 1260 ng/L and Kajihara *et al.* (2010) of 450 ng/L. We believe this provides a sufficient margin of protection to find that the use of HFO–1234yf in MVAC will not pose significantly greater risks than other available alternatives in this end-use.

Comment: Some commenters stated that further research on TFA is necessary.

Response: EPA has considered additional studies submitted during the public comment period (Luecken *et al.,* 2009; Kajihara *et al.,* 2010) and has performed further analysis on this issue. Luecken *et al.* (2009) predicted through modeling that in the U.S., HFO–1234yf used in MVAC would result in enough TFA to increase its concentration in rainwater to 1/80th to 1/800th of the NOAEL for the most sensitive plant species considered. Kajihara *et al.* (2010) predicted through modeling that in Japan, HFO–1234yf use in all potential refrigeration uses would increase the TFA concentration in surface water to no more than 1/80th of the NOAEL for the most sensitive plant species considered. This study also found that surface water concentrations were roughly twice those in rainwater. Thus, even with highly conservative modeling that also considered accumulation in surface water, the concentrations of TFA are likely to be at least 80 times lower than a level expected to have no impact on the most sensitive aquatic species.

We also performed a further modeling analysis using refined assumptions on emissions and the mechanisms by which HFO–1234yf might break down. We found that the worst-case concentration of TFA would be approximately 1700 ng/L, similar to the concentrations in Luecken *et al.* (2009) of 1260 ng/L and Kajihara *et al.* (2010) of 450 ng/L (ICF, 2010b). These additional studies and analyses indicate even less risk than the studies available at the time of proposal and thus provide further support that TFA emissions from MVAC system will not pose a significant risk of aquatic toxicity or ecosystem impacts.

We also note that EPA has an obligation to act on submissions in a timely manner under the Clean Air Act (§ 612(d)). Given that research to date has not indicated a significant risk, we disagree that the Agency should delay a final decision to await further studies that may be done in the future. If future studies indicate that HFO–1234yf poses a significantly greater environmental risk than we now believe, section 612(d) provides a process for an interested party to petition the Agency to change a listing decision.

Comment: Two commenters stated that EPA's initial modeling (EPA–HQ–OAR–2008–0664–0037) greatly overestimates the local deposition of TFA from oxidation of HFO–1234yf. In particular, one commenter claimed that the modeling's use of the oxidation of SO_2 to sulfate ion, SO_3^-, as a proxy for the oxidation of HFO–1234yf is overly conservative because a large portion of SO_2 is in aerosol form, unlike for HFO–1234yf. This commenter also referred to the impacts found in the peer-reviewed paper by Luecken *et al.* (2009).

Response: EPA agrees that the use of the oxidation of SO_2 to SO_3^- as a proxy for the oxidation of HFO-1234yf likely results in overestimating TFA concentrations. This is because the sulfate particle is a condensation nucleus in the wet deposition process and it has a very high removal efficiency compared to the gas phase process for wet deposition that acts with HFO–1234yf and its decomposition products. Further, TFA forms more slowly from HFO–1234yf than sulfate forms from SO_2 (ICF, 2010b).

We have repeated the modeling using refined assumptions on emissions and the mechanisms by which HFO–1234yf might break down. This revised assessment (ICF, 2010b) found TFA concentrations roughly one-thousandth those in the earlier assessment (1700 ng/L compared to 1,800,000 ng/L in ICF, 2009). This additional research provides stronger support for our conclusion that the degradation of HFO–1234yf into TFA does not pose a significant risk of aquatic toxicity or ecosystem impacts.

Comment: Some commenters disagreed with a statement in the ICF (2009) analysis concerning TFA concentrations in surface waters, that "the exception to this is vernal pools and similar seasonal water bodies that have no significant outflow capacity." These commenters believe that Boutonnet *et al.* (1999) showed that accumulation of trifluoroacetate, a compound closely related to TFA, was rather limited in seasonal water bodies. The commenters also stated that Benesch *et al.* (2002) conducted an

experimental study of the impacts of TFA on vernal pools, in which no impacts were observed.

Response: The statement from ICF, 2009 in context stated:

NOECs [No-observed effect concentrations] were compared to rainwater TFA concentrations because for most water bodies, it is difficult to predict what the actual TFA concentration will be. This is because concentrations of environmental contaminants in most fresh water bodies fluctuate widely due to varying inputs and outputs to most ponds, lakes, and streams. Comparison of NOECs to rainwater concentrations of TFA is actually more conservative because TFA is expected to be diluted in most freshwater bodies. The exception to this is vernal pools and similar seasonal water bodies that have no significant outflow capacity. (ICF, 2009)

We note that the "exception" described in the analysis is an exception to the expectation that TFA will be diluted more in freshwater bodies than in rainwater. We believe that the available evidence confirms that vernal pools do not dilute TFA as much as freshwater bodies with outflow capacity. Modeling by Kajihara *et al.,* 2010 found surface water concentrations were roughly twice those in rainwater. However, even these concentrations were not high enough to be of significant concern for environmental impacts. As noted previously, even the highest levels of TFA concentrations were at least 80 times less than the NOAEL for the most sensitive aquatic species examined.

D. Health and Safety Impacts

1. Toxicity of HFO–1234yf

Comment: Three commenters stated that there are no toxicity concerns with using HFO–1234yf, and two commenters noted that HFO–1234yf is comparable to HFC–134a in terms of human health effects. One commenter also stated that HFO–1234yf does not present a developmental toxicity or lethality risk. Seven commenters stated that there are potential toxicity concerns with use of HFO–1234yf. One commenter cautioned EPA against listing HFO–1234yf as acceptable for use in MVACs on the grounds of increased concerns over developmental effects and other toxic effects on human health.

Response: EPA continues to believe that HFO–1234yf, when used in new MVAC systems in accordance with the use conditions in this final rule, does not result in significantly greater risks to human health than the use of other available or potentially available substitutes, such as HFC–134a or CO_2. The results of most of the toxicity tests for HFO–1234yf either confirmed no observed adverse health effects, or found health effects at similar or higher exposure levels than for HFC–134a. For example, HFC–134a caused cardiac sensitization at 75,000 ppm but HFO–1234yf did not cause cardiac sensitization even at 120,000 ppm, the highest level in the study (NRC, 1996; WIL 2006). NOAELs from subacute exposure were higher for HFO–1234yf than for HFC–134a (NOAELs of 51,690 for HFO–1234yf with no effects seen in the study, compared to 10,000 ppm for HFC–134a with lung lesions and reproductive effects seen at 50,000 ppm [NRC, 1996; TNO, 2005]). No adverse effects were seen at 50,000 ppm or any other level in subchronic (13-week) studies for both HFO–1234yf and HFC–134a (NRC, 1996; TNO, 2007a).

In mutagenicity testing for HFO-1234yf, the two most sensitive of five strains of bacteria showed mutation; however, this screening test for carcinogenic potential is known to have only a weak correlation with carcinogenicity (Parodi *et al.,* 1982; [21] Kirkland *et al.,* 2005 [22]), so a positive result in this test for the two most sensitive strains is not sufficient reason to consider HFO–1234yf to be a significant health risk. Mutagenicity testing for HFC–134a by the same test found no evidence of mutagenicity. Screening for carcinogenic potential in a genomics study did not identify HFO–1234yf as a likely carcinogen (Hamner Institutes, 2007). A two-year cancer assay for HFC–134a did not find evidence of carcinogenicity (NRC, 1996).

EPA considers the results of developmental testing to date to be of some concern, but not a sufficient basis to find HFO–1234yf unacceptable for purposes of this action under the SNAP program. In a developmental study on rats, cases of wavy ribs were seen in some developing fetuses during exposure to HFO–1234yf (TNO 2007b); however, effects on bone formation were also seen for HFC–134a (NRC, 1996). It is not clear if this effect is reversible or not. Interim results from a two-generation reproductive study did not find an association between exposure to HFO–1234yf and skeletal effects. This two-generation reproductive study for HFO–1234yf finds a NOAEL of 5000 ppm for delayed mean time to vaginal opening in F1 females (females in the first generation of offspring). A subacute (28-day) test for HFC–134a (single generation) found a NOAEL of 10,000 ppm for male reproductive effects (NRC, 1996). A developmental test on rabbits exposed to HFO–1234yf did not find effects on the developing fetus. However, some of the mother rabbits in this study died. The reason for the deaths is not known. The data on developmental effects are inconsistent depending on the test performed and the species tested. The development effects observed in the developmental study on rats are not significantly different from the developmental effects observed for HFC–134a. In any case, as discussed above in section V and below in this section, our risk assessments found that HFO–1234yf would likely be used with exposure levels well below those of concern in the uses allowed under this rule. Thus, we do not find the observed developmental effects sufficient reason for finding HFO–1234yf unacceptable in this rule.

For purposes of this action, we prepared our risk assessment for long-term exposure using the level at which no deaths or other adverse health effects were seen in the rabbit developmental study—a "no observed adverse effect level" or NOAEL—to ensure that exposed people would be protected. The longer-term, repeated exposure in that study would be the exposure pattern (though not necessarily the exposure level) for a worker using HFO–1234yf on a regular basis or for a consumer exposed in a car due to a long, slow leak into the passenger compartment. Using the NOAEL concentration of 4000 ppm as a starting point, we found no situations where we expect exposure to exceed the level that EPA considers safe for long-term or repeated exposure (EPA–HQ–OAR–2008–0664–0036). Thus, we consider the potential toxicity risks of HFO–1234yf for those uses allowed under this action to be addressed sufficiently to list it as acceptable subject to use conditions.

Comment: Based on a risk assessment conducted by one commenter, the commenter concluded that if HFO–1234yf is used under the conditions specified in the commenter's risk assessment, adverse health impacts would not be expected to car occupants, to servicing personnel, or to do-it-yourself (DIY) consumers. This commenter noted differences between the margin-of-exposure approach to

[21] Predictive ability of the autoradiographic repair assay in rat liver cells compared with the Ames test; S. Parodi; M. Taningher; C. Balbi; L. Santi; *Journal of Toxicology and Environmental Health,* Vol. 10, Issue 4 & 5, October 1982, pages 531–539.

[22] Kirkland *et al.* (2005) Evaluation of a battery of three in vitro genotoxicity tests to determine rodent carcinogens and non-carcinogens. I. Sensitivity, specificity and relative predictivity, *Mutation Research,* 584, 1–256.

assessing risk, as in EPA's risk assessment (EPA–HQ–OAR–2008–0664–0036), and the commenter's hazard index (HI) approach. The commenter further stated that in all cases, the predicted hazard index for HFO–1234yf was only one-half of the values predicted for HFC–134a, and in some cases, only one-third of the HFC–134a values, demonstrating from a health perspective that HFO–1234yf is a viable alternative to HFC–134a.

Response: EPA agrees that adverse health impacts would not be expected to car occupants or to servicing personnel, so long as the use conditions of this rule are observed. However, EPA has issued a Significant New Use Rule under TSCA (October 27, 2010; 75 FR 65987) that would require submission of additional information to EPA prior to the manufacture, import or processing of HFO–1234yf for certain uses, including distribution in commerce of products intended for use by a consumer for the purposes of servicing, maintenance and disposal involving HFO–1234yf (*e.g.,* "do-it-yourself" servicing of MVAC systems).

Where available, it is EPA policy to use a NOAEL (No-Observed-Adverse-Effect Level) for the point of departure (POD) for risk assessment. This is the highest exposure level that did not cause an adverse health effect in a study. In this case, EPA selected the POD from an animal (rat 2-week inhalation) study. Because animals may respond to different exposure levels than humans, there is some uncertainty when extrapolating from animals to humans. For this reason, an Uncertainty Factor (UF) is applied when extrapolating from animals to humans—typically a factor of 10 is used but, in this case, since there was a reasonable estimate of the pharmacokinetic component of the uncertainty, this UF was reduced to 3. An additional UF is applied to account for variation in the human population response to a chemical exposure—in this case, a UF of 10 was used. The two UFs give a resultant UF of 30 to yield an acceptable level of health risk. As stated in the final SNUR, EPA's policy for review of new chemicals under TSCA is to divide the POD by the exposure level to obtain the MOE. For HFO–1234yf, the "acceptable level of health risk" would be an MOE of 30 or greater.

The commenter proposed dividing the estimated exposure to HFO–1234yf by the POD levels to obtain a HI. As a result, if the exposure is less than the POD, the HI is < 1 and the commenter considered this an "acceptable level of health risk." The commenter's approach to the hazard index does not factor in uncertainties about extrapolating from animal to human responses, nor does it address variability within the human population with regard to thresholds of response to chemical exposures. EPA has consistently applied the margin of exposure (MOE) approach to evaluations of pre-manufacture notices (and for certain other risk assessments) in order to account for the uncertainties discussed above. The SNAP program considered work performed during evaluation of the pre-manufacture notice (EPA–HQ–OAR–2008–0664–0036), as well as a separate SNAP program risk screen (EPA–HQ–OAR–2008–0664–0038). SNAP program risk screens compare expected exposures to exposure limits that incorporate uncertainty factors based on EPA guidance, rather than calculating either a hazard index or a margin of exposure. Any of these approaches to risk assessment will come to a similar conclusion about whether there is a potential health concern when using the same point of departure, uncertainty factors, and exposure estimates.

The Agency and the commenter disagree on all three of these inputs to the risk assessment and hence have reached different conclusions. Despite these differences, the assessments relied on by both the commenter and EPA show that there is low risk both to car occupants and to service technicians. EPA's risk assessment indicates a potential risk to DIYers (EPA–HQ–OAR–2008–0664–0036). As stated previously in this action, this issue is further addressed through the Agency's authority under TSCA.

Comment: In response to EPA's risk assessment (EPA–HQ–OAR–2008–0664–0036), two commenters disagreed with the use of a 2-week study for evaluating 30 minute exposures and stated that acute toxicity (4-hour test) or cardiac sensitization test results would be more appropriate for acute exposure evaluations.

Response: Commenters have suggested that EPA use data from the 4-hour acute toxicity study or from the cardiac sensitization study as a starting point ("point of departure") for assessing risks of short-term (acute) exposure. However, cardiac sensitization studies are for very short durations—on the order of 10 minutes—and they only address cardiac sensitization. HFO–1234yf does not induce cardiac sensitization. EPA selected the point of departure for acute effects from a multiple-exposure 2-week (subacute) rat inhalation study on HFO–1234yf, reasoning that if no effects were seen in the duration of the study (6 hours per day, 5 days per week for 2 weeks), that no effects would be seen from a single exposure at a similar exposure level, either. Further, the subacute exposure rat study included more thorough pathology examinations than those included in a cardiac sensitization study.

The acute 4-hour exposure study in rats showed some lung effects at approximately 200,000 ppm, the lowest exposure level in the study. Thus EPA considers 200,000 ppm to be a LOAEL (Low-Observed-Adverse-Effect Level). If a LOAEL were used in the risk assessment instead of a NOAEL, EPA would use an uncertainty factor to estimate a NOAEL, which would result in a lower POD than what was used. For example, if EPA had started with the LOAEL of 200,000 ppm, it would have required an additional MOE of 10 to estimate a NOAEL from a LOAEL, for a total MOE of 300 instead of 30. This would have resulted in a more conservative risk assessment than using the NOAEL from the 14-day subacute study. In the 4-hour acute toxicity study, some of the animals had grey, discolored lungs at all exposure levels in the study, and we considered this an adverse effect. Thus, EPA could only determine a lowest observed adverse effect level (LOAEL) from the 4-hour acute study and could not determine a no observed adverse effect level (NOAEL). It is longstanding Agency policy to use the NOAEL where available instead of a LOAEL, because of greater assurance of a safe exposure level. EPA instead used the NOAEL for the next shortest study, the subacute 14-day study, as the endpoint of concern for short term exposure because the LOAEL from the acute 4-hour study is an endpoint showing effects that may not result in safe exposure levels for humans. If we had used the value from the 4-hour acute toxicity study, we would have had to consider additional uncertainty that would have resulted in a more conservative, more restrictive risk assessment than using the NOAEL from the 14-day subacute study.

Further, EPA has uncertainties about using the available single exposure studies on HFO–1234yf to determine the MOEs for different exposure scenarios. As a result of concerns with these studies, EPA calculated single exposure MOEs from the NOAEL in the 2-week inhalation toxicity study of HFO–1234yf in rats. There are some uncertainties in the single exposure (acute) assessments because of the observation of lethality in rabbit dams after multiple exposures to HFO–1234yf in a developmental study. For these reasons, EPA recommended an acute inhalation toxicity study on rabbits in the proposed SNUR to address

the question of whether pregnant rabbits would die from a single exposure (April 2, 2010; 75 FR 16706).

Comment: A commenter asserted that EPA's methodology to estimate the exposure levels associated with the DIY use, using the SAE CRP (2008) Phase II Report, greatly exaggerates the exposure that could be experienced in actual use conditions. Another commenter calculated exposure to a DIYer assuming that the refrigerant fills a garage and concluded that exposure would be less than the manufacturer's recommended exposure limit of 1000 ppm. The first commenter stated that the 30 minute time-weighted average (TWA) value used by the EPA is unrealistic as are the exposure estimates presented in Scenarios 1 and 2 of the supporting document EPA–HQ–OAR–2008–0664–0036. The specific exposure parameters that the commenters questioned were assumptions regarding:

- Garage volume;
- Time the user spent under the hood during recharging operations;
- The size of the space where any leaking gas would disperse;
- The air exchange rate in a service area that should be well-ventilated when the engine is running;
- Use of the refrigerant in a closed garage with no ventilation; and,
- The amount of refrigerant used during recharge operations.

During the comment period for the proposed SNUR, the PMN and SNAP submitter conducted a simulated vehicle service leak testing, using HFC–134a as a surrogate, indicating that exposures from use of a 12-oz can during consumer DIY use are below the Agency's level of concern for HFO–1234yf (Honeywell, 2010a).

Response: Concerning exposure estimates for DIYers, the exposure values in the EPA risk assessment (EPA–HQ–OAR–2008–0664–0036) are bounding estimates of the maximum possible theoretical concentrations. The EPA assessment used the industry-modeled DIY scenarios and assumptions in a 2008 report by Gradient Corporation for the SAE CRP (CRP, 2008) as a starting point for creating the bounding estimates. To do so, EPA assumed that the entire leakage mass of each industry-modeled scenario was released to its corresponding volume with no air exchange. These assumptions are conservative and protective, as intended.

We considered the calculations provided by one commenter that assumed that the refrigerant fills a garage. However, this analysis assumes a longer-term, steady-state concentration after the refrigerant has diffused throughout the garage and uses a long-term, 8-hour time-weighted average exposure recommendation for comparison. EPA's concerns about DIY consumer exposure focuses on short-term acute exposures, including peak exposures over a few minutes near the consumer's mouth and nose because typically a DIY consumer will only need a short period of time to recharge a single MVAC system (Clodic *et al.,* 2008). Thus, the commenter's calculations do not address EPA's concerns.

After reviewing the consumer DIY use exposure study from the SNAP/PMN submitter, EPA responded with a list of clarifying questions (U.S. EPA, 2010c), to which the submitter subsequently responded (Honeywell, 2010b). Although the submitter's responses were helpful, EPA still has concerns about potential exposures to consumers during DIY use and the inherent toxicity of HFO–1234yf. However, since this acceptability determination is limited to use with fittings for large containers, which DIYers would not purchase, our concerns about potential health risk to DIY users need not be addressed in this action. We would plan to evaluate this issue further before taking a final action on a SNAP submission for unique fittings for small containers. We further note that the Agency would analyze this issue in the context of any SNUN filed pursuant to the recently issued SNUR (75 FR 65987). Although we do not reach any conclusion in this final rule regarding safe use by DIYers, we make the following observations about the submitted study. With regards to exposure, the peak concentration values from the submitted study are as high as 3% by volume, equivalent to 30,000 ppm. These peaks appeared to occur in the first one or two minutes of each emission. Accordingly, EPA would need exposure data presented and averaged out over shorter Time Weighted Averages (TWAs) than the 30 minutes currently in the study, because it would appear that a number of these early exposure peaks could result in TWA values that would result in MOEs less than the acceptable Agency level of 30 described above in this section. This is important because the data on HFO–1234yf are insufficient to differentiate whether the toxicity is due to blood level alone from an acute exposure, is due to accumulated exposure over time ("area under the curve"), or is due to some combination of both. Since blood equilibrium levels are reached within minutes, a high level of exposure in a short duration could result in blood levels exceeding a threshold if the mode of action of the toxicity of HFO–1234yf is due to blood levels of the chemical. EPA expects that exposure data with additional TWAs of 3, 5, and 10 minutes would help to resolve these issues of consumer exposure.

Comment: One commenter stated that HFOs could harm the human nervous system. The commenter cited a diagram of breakdown products in a slide presentation given by the Montreal Protocol Scientific Assessment Panel in July 2009 and suggested that the toxic impact of aldehydes formed as breakdown products would be higher than that of carbonic acids.

Response: EPA agrees that the breakdown products from the decomposition of HFO–1234yf will include aldehydes, but we disagree that this is a cause for concern. The aldehydes that would be produced as atmospheric breakdown products of HFO–1234yf are formaldehyde and acetaldehyde (ICF, 2010d). Their health effects include respiratory effects; irritation of the eyes, nose, and throat; and corrosion of the gastrointestinal tract. EPA also considers formaldehyde and acetaldehyde to be probable human carcinogens (U.S. EPA, 2000; ICF, 2010d). The decomposition products of HFO–1234yf are not noted for causing neurotoxic effects, and toxicity tests for HFO–1234yf did not identify this as an effect.

As part of analysis of the atmospheric breakdown products of HFO–1234yf, we found that worst-case concentrations of formaldehyde would reach 6 to 8 parts per trillion (ppt) on a monthly basis or an average of 3 ppt on an annual average basis, compared to a health-based limit of 8000 ppt [23]—*i.e.,* a level that is roughly 1000 to 2600 times lower than the health-based limit (ICF, 2010d). Acetaldehyde levels would be even lower, with worst-case concentrations of 1.2 ppt and annual average concentrations of 0.23 ppt, compared to a health-based limit of 5000 ppt [24] (ICF, 2010d). Thus, aldehydes that would be decomposition products of HFO–1234yf in the atmosphere would not contribute significantly to adverse human health effects (ICF, 2010d).

Aldehydes, including formaldehyde and acetaldehyde, are already present in

[23] The Agency for Toxic Substances and Disease Registry (ATSDR) has established a chronic inhalation minimal risk level (MRL) of 0.008 ppm (8,000 ppt) for formaldehyde (ICF, 2010d). MRLs are available at *http://www.atsdr.cdc.gov/mrls/mrls_list.html.*

[24] EPA has established a Reference Concentration (RfC) of 0.005 ppm (5,000 ppt or 0.009 mg/m^3) for acetaldehyde (ICF, 2010d). A summary of EPA's documentation for its risk assessment and RfC derivation for acetaldehyde is available online at *http://www.epa.gov/ncea/iris/subst/0290.htm.*

the atmosphere in significant amounts from natural sources such as plants, from direct emissions, from combustion products, or from breakdown of other compounds such as hydrocarbons (NRC, 1981; Rhasa and Zellner, 1987). The current background level of formaldehyde in the atmosphere ranges from 80 ppt in pristine areas to approximately 3300 ppt in New York, NY—one to three orders of magnitude more than the worst-case generation of formaldehyde from HFO–1234yf (ICF, 2010d). The maximum incremental acetaldehyde concentration calculated due to use of HFO–1234yf was approximately three orders of magnitude less than the average concentration of acetaldehyde in areas with pristine air quality (ICF, 2010d). Thus, the additional aldehydes created during decomposition of HFO–1234yf in the atmosphere are not likely to have a significant impact on human health.

Comment: Some commenters stated that additional research and review of the available information regarding toxicity of HFO–1234yf needs to be conducted.

Response: EPA has an obligation to act on submissions in a timely manner under the Act (§ 612(d)). Our risk assessments to date have found no significant risk for car passengers or drivers, professional servicing personnel, or workers disposing of or recycling vehicles containing HFO–1234yf. We believe these assessments are sufficient to support this action. We note that these assessments rely on somewhat conservative assumptions.

We note that we expect there will be no toxicity risks to DIYers because EPA must receive and take regulatory action to allow unique fittings for use with small cans of refrigerant before DIYers could be exposed, as per appendix D to subpart G of 40 CFR part 82. Further, because HFO–1234yf is not expected to be introduced into any new cars until late 2011 or later, we expect to have further information and to take further action before DIYers could be exposed. In addition, the final SNUR would not allow distribution in commerce of products intended for use by a consumer for the purposes of servicing, maintenance and disposal involving HFO–1234yf until at least 90 days after submission of a SNUN.

We recognize that more studies will be performed on HFO–1234yf, further addressing risk. EPA's New Chemicals Program has recommended additional testing of acute exposure in rabbits, including pregnant rabbits (April 2, 2010; 75 FR 16706). In addition, the manufacturer is voluntarily conducting a multi-generation reproductive study. If these or other future studies call into question the basis for our decision today, section 612 allows citizens to petition EPA to change or modify a listing decision or EPA could determine on its own to reassess this decision.

Comment: In late comments, a commenter stated that EPA appears to be relying on a SNUR to reduce risks to human health from exposure to HFO–1234yf. This commenter stated that EPA must re-open the comment period on the proposed SNAP rule so that commenters may reassess the extent to which the final restrictions of the SNUR will be effective at limiting adverse human health effects. The same commenter noted that information on new price levels and availability is needed to assess the effectiveness of the SNUR.

Response: EPA's final SNUR addresses potential risks to human health from exposure to HFO–1234yf. However, as discussed above in section V of the preamble, "Why is EPA listing HFO–1234yf as acceptable subject to use conditions?", this final SNAP rule does not allow for the use of HFO–1234yf with small cans or containers (*i.e.,* container sizes that would be purchased by DIY users, such as small cans and containers less than 5 lbs) because it does not contain specifications for unique fittings for can taps and for these smaller containers. Existing SNAP program regulations in appendix D to subpart G of 40 CFR part 82 require the use of unique fittings for specific purposes (*e.g.,* high pressure-side service port, small can taps) for each MVAC refrigerant, as submitted by the refrigerant manufacturer. Before HFO–1234yf can be introduced in small containers typically used by DIYers, the manufacturer must submit unique fittings to EPA, we must conclude that they are unique, and we must issue new proposed and final rules specifying those fittings. In addition, the final SNUR would not allow distribution in commerce of products intended for use by a consumer for the purposes of servicing, maintenance and disposal involving HFO–1234yf until at least 90 days after submission of a SNUN. These and other requirements ensure—to the extent possible, with the information currently available to EPA—that HFO–1234yf has no greater risk overall for human health and the environment than other available refrigerants for MVAC.

Under the final SNUR, it is necessary for EPA to receive and complete its review of a significant new use notice (SNUN) with additional information on consumer exposure risks before—if the Agency so decides—HFO–1234yf may be manufactured, imported or processed for the purpose of use in DIY servicing, with or without other restrictions. We would also consider information in the SNUN before issuing a final rule specifying unique fittings for use with small containers of refrigerant.

In comments EPA received on the proposed SNAP rule, the initial direct final SNUR that was withdrawn and the proposed SNUR, no commenters suggested making the provisions of the SNUR stricter or suggested adding use conditions under the SNAP program for addressing risks to consumers during DIY servicing. A number of commenters stated that no restrictions were needed to address risks to consumers during DIY servicing, while other commenters stated more broadly that EPA should find HFO–1234yf unacceptable because of its toxicity risks. We provided an additional opportunity for comment on the SNAP rule after the direct final SNUR was issued (February 1, 2010; 75 FR 4083), in response to a request to reopen the public comment period (EPA–HQ–OAR–2008–0664–0077.1), in part to allow comment on the relationship between these two rulemakings that both address HFO–1234yf. However, we do not believe that the conditions of the final SNUR are necessary to the determination that we are making here. As noted above, this final rule does not allow for the servicing of HFO–1234yf from container sizes that would be purchased by DIY users because of the lack of an approved unique fitting for smaller containers. Further rulemaking under SNAP will occur prior to such use and any risks can be addressed in that rulemaking package. At that time, we will be able to fully consider the impact of the final SNUR.

2. Flammability

Comment: Five commenters stated that HFO–1234yf has a low likelihood of ignition, especially under the conditions encountered in an automotive application. One commenter stated that the mere presence of high refrigerant concentrations does not contribute to a hazardous condition because an ignition source of sufficient energy must also be present. Another commenter disagreed with EPA's view that a flammability risk exists. Other commenters stated that additional review of the available information regarding flammability of HFO–1234yf needs to be conducted. Some commenters stated that EPA should consider restricting concentrations of HFO–1234yf to much lower concentrations than to the lower flammability limit (LFL) of 6.2%.

Response: The available evidence indicates that HFO–1234yf will not

present a significant risk of flammability and that any risk it poses is not greater than the risk presented by other available alternatives. For example, because of its higher LFL, its considerably higher minimum ignition energy (5000 mJ to 10,000 mJ), and its slower flame speed (1.5 cm/s), HFO–1234yf is less flammable than HFC–152a, a substitute that EPA has already found acceptable subject to use conditions.

Further, an analysis conducted for SAE International's Cooperative Research Program by Gradient Corporation (CRP, 2009) found that there was a very low flammability risk (on order of 10^{-14} occurrences per operating hour or 1 occurrence in 100 years across the entire U.S. fleet of passenger vehicles). This was due to the low probability of achieving a concentration of HFO–1234yf above the LFL at the same time as having a sufficiently high energy source to cause the refrigerant to ignite. Further, even that low probability of ignition of HFO–1234yf may be overstated, because it assumes that a vehicle collision severe enough to crack open the evaporator (located under the windshield and steering wheel) is not severe enough to crack the windshield or windows that would hold refrigerant in the passenger compartment. In a sensitivity analysis, the SAE CRP considered how the flammability risk would change if a refrigerant release into the passenger compartment only occurs in a collision causing damage to more than the MVAC system. That analysis estimated that the risk of exposure to an open flame would then be reduced by a factor of 23,000, to approximately 4×10^{-19} occurrences per vehicle operating hour (EPA–HQ–OAR–2008–0664–0056.2).

For the reasons provided above in sections IV and VII.B of the preamble, "What are the final use conditions and why did EPA finalize these use conditions?" and "Use conditions," EPA does not believe it is necessary to establish a use condition limiting refrigerant concentrations, whether at 6.2% or some other, lower value. We believe the final use conditions sufficiently address flammability risks.

Comment: Three commenters stated that HFO–1234yf is flammable and that the proposed regulation does not offer any restrictions to protect those persons handling HFO–1234yf, nor does it restrict its sale and use by the general public.

Response: The purpose of the use conditions is to ensure that HFO–1234yf will not pose a greater risk to human health or the environment than other available or potentially available substitutes. For all of the reasons provided in sections IV and V above, EPA has determined that HFO–1234yf will not pose a greater risk than other substitutes for MVAC. As explained above, EPA proposed restricting concentrations of the refrigerant below the LFL of 6.2% as a use condition. Based on comments and additional analysis, EPA has concluded that it is not necessary to require use conditions limiting refrigerant concentrations to below the LFL; rather, the use conditions now specify design parameters for MVAC systems and require an FMEA. This will ensure that systems are designed to minimize risk not only from flammability, but also from exposure to HF.

We will address use by service personnel through a rulemaking under section 609 of the CAA. Although these rules will further address issues of interest to service personnel and others that might handle HFO–1234yf used in MVAC systems, we note that our risk assessments of use of HFO–1234yf found that significant flammability risks do not exist for personnel installing the refrigerant at equipment manufacture, professional servicing personnel, and personnel working with automobiles at equipment end-of-life (EPA–HQ–OAR–2008–0664–0036 and –0038). Moreover, we note that an industry-sponsored analysis of risks found the risk of ignition of HFO–1234yf to a technician is extremely small, on the order of 10^{-26} occurrences per working hour (EPA–HQ–OAR–2008–0664–0056.2).

As we have explained above, this rule only addresses the use of large containers for professional use (typically 20 lbs or larger) and thus HFO–1234yf may not be used in small container sizes that would be the type purchased by the general public. We will address the issue of risk to DIY users through a future rulemaking under SNAP if we receive a request for unique fittings for smaller containers from the refrigerant manufacturer. We also are addressing risks to DIY users through the Significant New Use Rule under the Toxic Substances Control Act (October 27, 2010; 75 FR 65987).

Comment: One commenter stated that compared with HFC–134a, the explosion probability of HFO–1234yf is much higher based on testing done at the Federal Institute for Materials Research and Testing (Bundesanstalt für Materialforschung und-prüfung, BAM). Other commenters disagreed with those flammability conclusions, finding the testing results to be expected but not representative of real-world use in MVAC. These commenters stated that the flammability risks of HFO–1234yf were not significant and that the mixtures of HFO–1234yf and ethane used in the testing would not be seen in MVAC in actual operations.

Response: As explained above in section VII.B, we do not believe that these tests are relevant for assessing the flammability risks of HFO–1234yf as used in MVAC systems because they evaluated flammability based on the presence of ethane, a substance that should not be present in any situation that might cause flammability risks for MVAC systems.

3. Toxicity of Hydrogen Fluoride (HF)

Comment: Two commenters stated that there is low risk due to exposure to HF. One of these commenters stated that (1) for vehicles that do not discontinue the use of the blower after collision, the risk due to exposure to HF from use of HFO–1234yf is approximately twice the risk with the current use of HFC–134a, and (2) for vehicles that discontinue the use of the blower after collision, the risk due to exposure to HF when using HFO–1234yf is approximately the same as that with the current use of HFC–134a (on order of 10^{-12} occurrences per operating hour, or one in one trillion). The second commenter stated that there is no need for concentration limits to protect against exposure to HF because the risks from exposure to HF from HFO–1234yf are similar to what would be experienced with HFC–134a. One commenter also stated that concentrations of HF as low as 0.3 ppm cause a sensation of irritation. The commenter stated that this characteristic would deter someone from remaining exposed to excessive concentrations from an open hood.

Other commenters stated that there is a high probability of HF generation in cars from HFO–1234yf. One commenter stated that the flammability of HFO–1234yf makes the production of HF more likely and increases the risk of HF exposure to vehicle passengers, to workers at chemical facilities, automotive manufacturing facilities, vehicle servicing facilities, and to the general public. Two commenters stated that various health and safety concerns related to HF generation and its toxicity are well studied and documented, and three commenters stated that use of HFO–1234yf is unacceptable as there is increased potential for HF exposure and related casualties.

Response: EPA has considered the potential for generation of HF from HFO–1234yf, including the SAE CRP's evaluation of scenarios that might cause workplace and consumer exposure to HF (EPA–HQ–OAR–2008–0664–0056.2). SAE CRP members conducted

tests to measure HF concentrations and to identify factors that were most likely to lead to HF formation. One set of tests conducted in a car found that HF measurements inside the passenger cabin were 35 ppm or less (EPA–HQ–OAR–2008–0664–0056.2). This highest value occurred during release of the entire charge of refrigerant of 1000 g into the passenger cabin with ignition started by a butane lighter augmented with an additional spark—a highly conservative scenario. (A more typical charge would be 575 g, and it would be unlikely to have the amount of ignition energy that occurred artificially in the experiment with use of both a butane lighter and an additional spark source.) A second set of tests focusing on HF in the engine compartment tried to simulate a major rupture in the AC system that would release 12 g/s of refrigerant across 5 cm onto an artificial hot surface at temperatures of 450 °C (typical of the exhaust manifold) and 700 °C (most extreme case), with the car hood in various positions. This testing found HF concentrations as high as 120 ppm at the hot surface in the engine compartment in the worst case, with interior passenger cabin values of 40 to 80 ppm in the worst case (EPA–HQ–OAR–2008–0664–0056.2). This test was conservative for the following reasons: The temperature was high, representing extreme conditions; the refrigerant was released extremely close to the hot surface; the hood was closed; and the refrigerant ignited briefly. The other test trials under less extreme conditions resulted in HF concentrations of a few ppm. The test trials also found somewhat lower concentrations of HF generated during testing of HFC–134a using the same procedures and apparatus, with maximum concentration of 36 ppm in the engine compartment and concentrations of less than 8 ppm in the passenger compartment in the worst case. The SAE CRP selected an Acute Exposure Guideline Limit (AEGL)–2 [25] of 95 ppm over 10 minutes as its criterion for determining excessive risk. This limit was developed to protect against irreversible health effects when exposure remains below the limit of 95 ppm over 10 minutes, but short-term discomfort or irritation could still occur. Thus, even assuming a passenger inside a vehicle was exposed to HF at the highest level found in the test of 80 ppm, exposure at this level would at worst cause discomfort and irritation, rather than permanent or disabling health effects.

For both HFO–1234yf and for HFC–134a, HF concentrations in the passenger compartment fell between the level that would protect against all adverse health effects (AEGL–1 of 1.0 ppm for 10 minutes to 8 hours) and the level that would protect against irreversible or disabling health effects (AEGL–2 of 95 ppm over 10 minutes) (NRC, 2004). The SAE CRP concluded that the probability of such a worst case event is on the order of 10^{-12} occurrences per operating hour (EPA–HQ–OAR–2008–0664–0056.2). Commenters provided information indicating that this level of risk for HF generation is the same order of magnitude for both HFC–134a and for HFO–1234yf. EPA considers the risk level presented by HFO–1234yf to be similar to that of the refrigerant currently being used by automobile manufacturers, HFC–134a. Therefore, there is no reason to regulate HFO–1234yf more stringently to protect against HF exposure than for HFC–134a.

Comment: One commenter stated that testing with HFOs commissioned by the environmental organization Greenpeace in 2001 hinted at a multitude of decomposition products with high reactivity. The commenter stated that apparently even lubricants (polyalkylene glycol—PAG) break down to HF when in contact with HFO–1234yf in a MVAC system. The commenter further expressed that BAM testing showed that burning HFO–1234yf resulted in concentrations of HF greater than 90 ppm in the engine compartment. The commenter concluded that the tests prove that in a standard system with standard charge (900 grams) and oil, the risk for humans would be incalculable.

Response: The commenter has not provided sufficient information on the testing commissioned by Greenpeace in 2001 for the Agency to determine what the results were or whether the testing conditions are relevant to this action. Concerning the BAM testing, EPA has not seen a testing report or a detailed description of the experimental method that allows for a full evaluation. Based on the information provided by the commenter, the temperature of the released substance reached 600 °C and HF concentrations of over 90 ppm were measured in the engine compartment. According to a risk assessment from an automobile manufacturer, such a high temperature is unlikely and could only be achieved on the exhaust manifold under heavy engine loads such as when a vehicle is climbing a hill, and the temperature of the exhaust manifold would drop in a minute or so during deceleration (EPA–HQ–OAR–2008–0664–0081.1). It is not clear what the conditions were for the study mentioned by the commenter. For example, it is not clear if the refrigerant was mixed with compressor oil as it normally would be in an MVAC; inclusion of oil with a relatively low flashpoint would be expected to lead to ignition at lower temperatures (EPA–HQ–OAR–2008–0664–0056.2; EPA–HQ–OAR–2008–0664–0118.1). It also is not clear if the compressor fan was operating during the test. During normal vehicle operation, the fan would cool down the compressor and the engine compartment, avoiding the temperature of 600 °C on hot surfaces in the engine.

Other tests have found that HF concentrations in the engine compartment were approximately 5 ppm or less and only in the worst case (hot surface temperature of 700 °C, closed hood on engine compartment) did HF concentrations attain a value of approximately 120 ppm in the engine compartment (OAR–2008–0664–0056.2). This level is slightly higher than the AEGL–2 of 95 ppm on a 10-minute average and is lower than the AEGL–3 for HF of 170 ppm on a 10-minute average, the value that would protect against life-threatening exposure but would not necessarily prevent long-term health effects. However, we note that we do not anticipate any circumstance where a person would be exposed to these levels in an engine compartment because such conditions would not occur during vehicle servicing, but rather during vehicle operation. Further, in the case of a collision resulting in a fire, we would expect that professional first responders have training in chemical hazards and possess appropriate gear which would prevent them from receiving HF exposures above health-based limits (EPA–HQ–OAR–2008–0664–0056.2) and an interested by-stander would quickly back away from a fire or from irritating HF vapors, thus preventing excessive HF exposure. The concentration measured in the passenger compartment in the same worst-case situation was in the range of 40 to 80 ppm, less than the concentration in the engine compartment and less than the AEGL–2 intended to protect against long-term health effects. Thus, we disagree with the commenter's assertion that HF exposures from thermal decomposition or combustion of refrigerant would be likely to result in fatalities. We further

[25] An AEGL–2 is intended to apply to an emergency situation where someone would try to move away from the hazard in a short period of time and may suffer some temporary irritation, but no permanent health damage. Irreversible or disabling but non-fatal health effects could occur between the AEGL–2 and the higher AEGL–3.

note that the HF concentrations found in the passenger compartment were lower than the health-based limit, the AEGL–2 of 95 ppm over 10 minutes.

We also note that the risks presented by HFO–1234yf are not significantly different than the risk posed by HFC–134a, the refrigerant currently in use in MVAC systems. Mixtures of HFC–134a and compressor oil also combust and generate HF. Testing performed using HFC–134a under worst-case conditions in the engine compartment (hot surface temperature of 700 °C, closed hood on engine compartment) found HF concentrations as high as 36 ppm in the engine compartment and 2 to 8 ppm in the passenger compartment. The amount of HF generated from a typical charge of HFC–134a, if it all burned or decomposed, could be even more than for the expected charge of HFO–1234yf because charge sizes using HFO–1234yf are expected to be smaller (EPA–HQ–OAR–2008–0664–0056.2). The SAE CRP considered potential risks of HF exposure from both HFO–1234yf and from HFC–134a. Both presented potential risks on the order of 10^{-12} occurrences per operating hour (EPA–HQ–OAR–2008–0664–0056.2, –0096.1). This corresponds to less than one case per year across the entire fleet of motor vehicles in the U.S. Although there is no specific testing data on HF production from HFC–152a, another acceptable refrigerant for MVAC, since this compound contains fluorine, it presents risks of HF generation as well. As discussed above in Section IV of the preamble, we are not requiring specific use conditions that regulate production of HF, either directly or indirectly, because of the low level of risk. However, the final use conditions in this rule address the risks of HF production, as well as risks of flammability, by requiring certain design safety features of MVAC systems using HFO–1234yf and by requiring risk analysis for each car model through FMEAs.

Comment: A commenter provided results from a test by IBExU on the decomposition of HFO–1234yf under heat (EPA–HQ–OAR–2008–0664–0053.3). This commenter strongly warned against a decision in favor of HFO–1234yf because it would form highly toxic HF when burning. Three commenters disagreed that the results of the IBExU testing were relevant because test conditions did not represent realistic conditions. One commenter said that the SAE risk assessment, which used actual vehicle test data for HF formation, found that actual HF formation rates are far below the levels [from the IBExU test results] cited by the first commenter, the Federal Environmental Agency (Umweltbundesamt—UBA).

Response: The IBExU testing of HF generation from HFO–1234yf is not relevant to assessing the risks of HFO–1234yf as a refrigerant in MVAC. Laboratory tests concerning the nature of HF generation on hot surfaces found that this depends on the contact time of reactants on the hot surface, the temperature of the hot surface and the movement of refrigerant in diluted concentrations due to airflow (EPA–HQ–OAR–2008–0664–0056.2; EPA–HQ–OAR–2008–0664–0116.2). The IBExU testing involved heating the refrigerant steadily in a sealed flask. Thus, the contact time in that test was far greater than would occur in an engine compartment and the movement of refrigerant in that test was essentially zero, unlike in an engine compartment where there would be constant air movement.

Comment: Another test from BAM reported by UBA examined HF formation from HFO–1234yf and from HFC–134a (EPA–HQ–OAR–2008–0664–0080.1). Fifty grams of refrigerant was streamed through a hole of 2 mm diameter onto a hot metal surface. The study found that pure HFO–1234yf exploded on the hot surface whereas pure HFC–134a did not. The study also found that when HFO–1234yf was mixed with 3% oil, it exploded at 600 °C. The commenter stated that handling of HFO–1234yf in the presence of hot metal surfaces results in HF formation in concentrations far above allowed workplace concentrations.

Response: These results are not consistent with results from hot-plate tests conducted by an automobile manufacturer and by a chemical manufacturer for the SAE CRP (EPA–HQ–OAR–2008–0664–0056.2; EPA–HQ–OAR–2008–0664–0115.1). Those manufacturers found that neither HFO–1234yf nor HFC–134a alone ignited at 900 °C. One of these tests found that HFO–1234yf mixed with PAG oil combusted starting at 730 °C, while HFC–134a mixed with PAG oil ignited at 800 °C and above; the other test observed no ignition of a blend of each refrigerant with PAG oil at 800 °C, but both blends ignited at 900 °C. Based on the lack of reproducibility of the specific ignition temperature, it appears that the specific ignition temperature may depend on variables in the testing (*e.g.,* flash point of the oil used, amount of mixture used, angle of application, and air flow available). This information also shows that mixtures of refrigerant with compressor oil can combust at lower temperatures than pure refrigerant and that mixtures of HFO–1234yf and oil and mixtures of HFC–134a and oil present similar risks of ignition and HF generation. Thus, we concluded that the risks of toxicity from HF exposure due to combustion or decomposition of HFO–1234yf are comparable to those from HFC–134a.

Further, the risks from toxicity of HF posed by both refrigerants are small. The SAE CRP estimates this risk on the order of 10^{-12} cases per operating hour (EPA–HQ–OAR–2008–0664–0086.1). This is equivalent to less than one event per year across the entire fleet of motor vehicles in the U.S. For comparison, this is less than one ten-thousandth the risk of a highway vehicle fire and one fortieth or less of the risk of a fatality from deployment of an airbag during a vehicle collision (EPA–HQ–OAR–2008–0664–0056.2).

E. Retrofit Usage

Comment: Several commenters stated that HFO–1234yf should be allowed initially in new vehicles but should not be used to retrofit vehicles using HFC–134a, or at least not unless there are industry standards to guide such a process. Other commenters stated that it is critical to allow a natural phase-out of the fleet of cars using HFC–134a as the refrigerant, rather than requiring retrofitting existing cars with HFO–1234yf. A commenter expressed concern that retrofitting of HFC–134a MVAC systems with HFO–1234yf would result in cases of cross-contamination of refrigerant, while another commenter contested this statement and found it unsupported. Other commenters opposed obstacles that would prevent older MVACs from being retrofitted to the new refrigerant. These commenters mentioned the potential for greenhouse gas benefits when retrofitting systems currently using HFC–134a with HFO–1234yf.

Response: The submitter did not request review of HFO–1234yf for retrofitting vehicles and thus EPA did not review HFO–1234yf as acceptable (or acceptable subject to use conditions) for retrofitting in MVAC in this rulemaking. Consistent with the request submitted to the Agency, we proposed to find HFO–1234yf acceptable for use subject to use conditions in new MVAC systems and evaluated its risks only for use in new systems. We will consider the retrofit use of HFO–1234yf in MVAC systems if we receive a submission that specifically addresses retrofitting and the risks that are unique to retrofitting. In response to the commenter who raised a concern about a "phase-out" of HFC–134a and the potential that we would "require" use of HFO–1234yf, we

note that our rulemakings under SNAP do not require use of any specific substitute. Rather, under SNAP, we have established lists of substitutes that are acceptable for use in various end-uses (such as for MVACs) and end-users are free to choose which substitute to use, but must do so consistent with any use conditions that apply. As stated in the rule establishing the SNAP program, "The Agency * * * does not want to intercede in the market's choice of available substitutes, unless a substitute has been proposed or is being used that is clearly more harmful to human health and the environment than other alternatives." 59 FR 13046, March 18, 1994. We further note that this rulemaking does not change the status of HFC–134a, which remains an acceptable substitute for use in MVACs, subject to use conditions.

F. Use by "Do-it-Yourselfers"

Comment: Some commenters raised concerns about EPA's statements in the proposed rule about potential health effects that might occur without professional training and the use of CAA Section 609 certified equipment. These commenters stated that the studies and testing in the docket support a finding that use of HFO–1234yf by non-professionals is safe and do not offer valid technical support for EPA's concerns.

Response: EPA's risk assessment and risk screen both indicated that worst-case exposure levels expected during servicing by do-it-yourselfers are of potential concern (EPA–HQ–OAR–2008–0664–0036 and EPA–HQ–OAR–2008–0664–0038). In both documents, this was based upon estimated exposure levels from a 2008 risk assessment by Gradient Corporation for the SAE CRP (EPA–HQ–OAR–2008–0664–0008). In EPA's risk assessment (EPA–HQ–OAR–2008–0664–0036), we found that the level that EPA determined did not cause health effects in laboratory animals might be only 2 to 3 times higher than the exposure predicted for that use (the "margin of exposure"). Our risk assessment indicated a higher, more protective margin of exposure of at least 30 was needed to account for uncertainty in the extrapolation from animals to humans and for variability in the human population. In other words, we found that based on worst-case assumptions, a do-it-yourselfer's exposure could be 10 or more times the level that EPA considered safe. The margin of exposure was calculated using a conservative estimated exposure level of 45,000 ppm over 30 minutes and a human equivalent concentration of 98,211 ppm from a no-observed adverse effect level that we selected as the point of departure for risk assessment (EPA–HQ–OAR–2008–0664–0036).

However, under this final rule, unique fittings have only been submitted for servicing fittings for the high-side and low-side ports and for large containers of HFO–1234yf and thus the acceptability listing is limited to use of HFO–1234yf with the unique fittings specified (*e.g.,* for large containers of 20 pounds or more). We expect these containers would not be purchased by DIYers because of their expense ($800 or more per container) and because they would contain enough refrigerant for 10 charges or more. We will continue to review the issue of safe use for DIYers if and when we are requested to review unique fittings for a smaller container size. In addition, EPA is further addressing the issue of risks to DIYers in the Significant New Use Rule for 1-propene-2,3,3,3-tetrafluoro- (75 FR 65987, October 27, 2010). This SNUR requires submission of a SNUN at least 90 days before sale or distribution of products intended for use by a consumer for the purpose of servicing, maintenance and disposal involving HFO–1234yf.

EPA's proposed rule on the use of HFO–1234yf as a substitute for CFC–12 in new MVAC systems did not propose to establish use conditions for servicing vehicles by certified professionals, but our analyses indicate that there is not significant risk to certified professionals, because HFC–134a, which is currently used in most MVAC systems, presents similar risks and professionals have the knowledge and equipment to mitigate any risks. We plan to further address servicing by professionals when we develop a new rule under section 609 of the Clean Air Act for servicing and maintenance of MVAC systems.

Comment: Some commenters supported prohibiting sale of HFO–1234yf in small containers. Other commenters stated that only certified technicians should be allowed to purchase and use refrigerants, including HFC–134a and HFO–1234yf. Other commenters found no data to support restrictions on the sale of HFO–1234yf to non-professionals.

Response: As noted previously, the submission only addressed unique fittings for large containers (*e.g.,* 20 lbs or larger) of HFO–1234yf. If anyone is interested in using HFO–1234yf in small cans or other small containers, they would need to contact the refrigerant manufacturer to submit unique fittings for approval under the SNAP program. Thus, under this final rule, we believe that only certified technicians will purchase HFO–1234yf because the larger containers are likely to be prohibitively expensive for individuals performing DIY servicing ($800 or more for a 20 lb cylinder) and are likely to be too large for most individuals to use, containing enough refrigerant for 10 or more charges.

We also note that in a separate final rule under the authority of TSCA (October 27, 2010; 75 FR 65987), EPA requires among other things, that notice must be given to EPA 90 days before (1) HFO–1234yf is used commercially other than in new passenger cars and vehicles in which the charging of motor vehicle air conditioning systems with HFO–1234yf was done by the motor vehicle OEM or (2) sale or distribution of products intended for use by a consumer for the purpose of servicing, maintenance and disposal involving HFO–1234yf.

Comment: A commenter stated that banning DIY use of HFO–1234yf will mean that car owners will be forced to have professionals perform service work on their AC systems at a significantly higher cost. This commenter stated that millions of lower-income motorists may be forced to go without air conditioning each year or may seek out lower-cost alternatives such as propane or HFC–152a.

Response: While this final rule effectively prohibits DIY use because the final use conditions do not include unique fittings allowing for use with small refrigerant containers, we are not making any final determination about whether HFO–1234yf may be safely used by DIYers. As we noted above, we have not yet received a submission for DIY use or received unique fittings for small containers from the manufacturer, but would evaluate such submissions when we receive one. We note that because it is unlikely that any cars will have MVAC systems with HFO–1234yf before the 2013 model year, we believe the availability of small containers for DIY use will not be of concern until such cars are sold and there is a need to recharge a new MVAC system on a model year 2013 vehicle. The separate final Significant New Use Rule that the Agency has issued under TSCA (75 FR 65987; October 27, 2010) requires submission of a Significant New Use Notice at least 90 days before sale or distribution of products intended for DIY use.

With respect to the commenter who suggests that some people may seek lower cost alternatives, presumably to repair an existing MVAC, we note that under current EPA regulations in appendix D to subpart G of 40 CFR part 82, it is not legal to top-off the

refrigerant in an MVAC system with a different substitute refrigerant.

G. Servicing Issues

Comment: Several commenters stated that appropriate training and certification should be required to purchase HFO–1234yf for use in MVACs. Four commenters also stated that the final regulation should include a provision requiring proof of certification in order to purchase HFO–1234yf, and recommended that current AC systems tests (*i.e.,* for CAA section 609 certification) be updated.

Some commenters disagreed with EPA's statement that HFO–1234yf may cause serious health effects when used in servicing and maintaining MVACs without professional training. Another commenter stated that EPA is limiting productivity by only allowing dealerships to perform refrigerant maintenance, and that independent MVAC service shops should be allowed to be certified. The commenter also questioned who will monitor "certified" technicians employed by dealerships that may do work on the side. A commenter representing automobile dealerships specifically opposed mandatory requirements for certification of technicians because of potential costs and burden on small businesses.

Response: As background for the public comments, we note that under EPA's regulations implementing section 609, one must be a section 609 certified technician in order to purchase CFC–12 or other ODS for use in MVAC (40 CFR 82.34(b)). Section 609(e) of the CAA itself specifically prohibits sale of small containers less than 20 pounds with Class I or Class II substances suitable for use as a refrigerant in MVAC, except for individuals performing service for consideration in compliance with section 609. However, there is no comparable restriction on the sale of HFC–134a or on other substitutes for MVAC that do not contain Class I or Class II ODS, such as HFO–1234yf.

In the NPRM (74 FR 53449), EPA stated that any specific training and certification requirements would be adopted through a rulemaking under the authority of CAA section 609 and would be codified in subpart B of 40 CFR part 82, which contains the regulations implementing section 609. We will address concerns regarding certification and training requirements during that separate rulemaking process. We note, however, that the CAA itself mandates that persons performing service for consideration that involve the refrigerant must be properly trained and certified. Furthermore, as noted previously, we believe that there is not a significant health risk to professionals from HFO–1234yf because they will have the knowledge and equipment to mitigate any risks. Also, because HFC–134a presents similar risks to HFO–1234yf, and the flammability risks of HFO–1234yf are less than those for HFC–152a, the health risks of HFO–1234yf are not significantly greater than those of other available substitutes.

With regard to whether independent service shops could service MVACs with HFO–1234yf or whether service would be limited to "dealerships," we note that neither this rule nor any other CAA regulation would limit servicing to dealerships. The comment may concern the withdrawn SNUR, 75 FR 4983 (February 1, 2010), which referred to the "original equipment manufacturer"; the commenter may have interpreted this term to mean an automobile dealership. The final SNUR (October 27, 2010; 75 FR 65987) requires a significant new use notice to EPA at least 90 days before "commercial use other than in new passenger cars and vehicles in which the charging of motor vehicle air conditioning systems with the PMN substance [HFO–1234yf] was done by the motor vehicle original equipment manufacturer." This requirement restricts commercial use of HFO–1234yf to use for vehicles that were initially charged with HFO–1234yf by the automobile's manufacturer, as opposed to allowing commercial use of HFO–1234yf for vehicles initially charged with a different refrigerant. The term "original equipment manufacturer" refers to the automobile manufacturer, not to dealerships.

Comment: Commenters indicated that SAE International is developing standards for safety and servicing of alternative refrigerant HFO–1234yf MVAC systems. Another commenter stated that there are appropriate mechanisms within the industry for training. One commenter representing automobile dealerships objected to mandatory Section 609 technician certification and training for use of HFO–1234yf, stating that because dealerships already train technicians on flammable substances in accordance with hazard communication standards of the Occupational Safety and Health Administration (OSHA), and since the risks associated with HFO–1234yf are similar to those that already exist in MVAC service facilities, mandatory training and proof of training is not necessary. To enable training pursuant to the OSHA hazard communication standard, the commenter stated that MVAC system and refrigerant suppliers should provide dealerships with sufficient information on the hazards posed by HFO–1234yf.

Response: EPA is issuing use conditions in this final rule that reference relevant SAE technical standards on safety. This rule does not, however, include a use condition requiring technician training and does not refer to specific training standards. We agree with the commenter that current technician training generally should be sufficient to ensure that professional technicians will use HFO–1234yf safely. Although this SNAP determination does not contain a use condition regarding technician training, as noted above, section 609 of the CAA requires technician training for persons servicing for consideration. EPA will consider in a separate rulemaking under section 609, whether it is necessary to modify our existing regulations under section 609 to include additional specifications for HFO–1234yf.

Comment: A commenter representing automobile dealerships opposed mandatory requirements for recycling and containment of the refrigerant because of potential costs and minimal environmental benefits.

Response: This rulemaking does not impose requirements for recycling or containment of the refrigerant. A separate rulemaking under CAA section 609 will address practices required in the servicing of MVAC systems using HFO–1234yf, including recycling and recovery. Further, EPA notes that Section 608 of the CAA prohibits the intentional release of any refrigerant during the maintenance, repair, service, or disposal of refrigeration and air conditioning equipment, unless the Administrator determines through rulemaking that such release does not pose a threat to the environment. We have not made such a determination for HFO–1234yf.

H. Cost, Availability, and Small Business Impacts

Comment: One late commenter stated that there was insufficient information in the record on the cost, terms of availability and anticipated market share of HFO–1234yf for EPA to make the required statutory findings that HFO–1234yf "reduces the overall risk to human health and the environment" by comparison to other alternatives that are already available. The commenter stated that this information is necessary in order for EPA to assess anticipated environmental effects adequately. The same commenter stated that EPA's environmental analysis is based on price assumptions that were not disclosed and are no longer valid, and thus, EPA should subpoena the

information from the manufacturer and reopen the public comment period.

Response: EPA believes that there was sufficient information in the record at the time of proposal for us to complete a meaningful environmental analysis, even in the absence of definitive cost information. At the time of proposal, we had available both estimates from a trade magazine provided by the manufacturer (Weissler, 2008), as well as estimates of price provided in the initial submission from the manufacturer (EPA–HQ–OAR–2008–0664–0013). The estimates of price provided by the manufacturer were claimed as confidential business information and thus were not available in the record to the public.

We typically use this type of information for purposes of determining market penetration for a particular substance, so that we can evaluate how much of the substitute will likely be used and thus the environmental risks it might pose. In this case, however, because the automobile industry tends to prefer use of a single substitute, information on the cost of the substitute was not critical to our analysis. Thus, in conducting our environmental analysis, we took a conservative approach, assuming that all new MVAC systems began using HFO–1234yf by 2020 (*i.e.,* full market penetration). We also considered an even more conservative scenario, in which HFO–1234yf would be the only refrigerant used for stationary air conditioning and for refrigeration as of 2020, as well as for MVAC. Even with these highly conservative assumptions, we found that there would not be sufficient negative environmental impacts due to emissions of HFO–1234yf to warrant finding it unacceptable.

In the proposal, we mentioned a cost estimate for HFO–1234yf of $40–$60/lb (Weissler, 2008). More recently, the first automobile manufacturer announcing its intention to use HFO–1234yf confirmed that this range does not underestimate prices of HFO–1234yf and is consistent with the manufacturer's long-term purchase contracts (Sciance, 2010). Thus, the most recent information shows costs to be similar to those we considered at the time of proposal. This data contradicts the late commenter's assertion that the manufacturer's effective monopoly would result in significantly different, higher costs that would invalidate EPA's earlier analysis. In any event, assuming that costs were higher as suggested by the commenter, then we expect that use of HFO–1234yf would be less than assumed for our health and environmental risk analysis. As mentioned in the proposal, emissions, and thus the resulting environmental effects such as impacts on local air quality or on production of TFA, would be expected to be less under a scenario with higher prices and less use of HFO–1234yf. Our analysis assumes widespread use and thus its results would be protective.

We note that where a new chemical is introduced, there is some uncertainty in the price. At best, the manufacturer can provide rough estimates of price and of market share before the chemical is produced in commercial quantities and becomes subject to supply and demand pressures. EPA's requirement for information on cost, anticipated availability in the market, and anticipated market share (40 CFR 82.178(a)(14) through (16)) should not be construed as requiring precise, detailed cost estimates based upon a well-defined methodology. As noted above, we use these numbers for the purposes of predicting market penetration and thus how much of a particular substitute might be used and thus pose an environmental risk. As we did for HFO–1234yf, we typically take an environmentally-protective approach to our evaluation, assuming use at least as high as that the cost and availability information may indicate.

Comment: A late commenter stated that the information in the record is insufficient for EPA to make a statutory finding that HFO–1234yf is "currently or potentially available." The commenter stated that a previous decision by the United States Court of Appeals for the District of Columbia Circuit (*Honeywell International, Inc.* v. *EPA,* 374 F.3d 1363 (D.C. Cir. 2004)) implied that an interpretation of the term "available" in CAA section 612(c)(2) could potentially consider economic factors if EPA adopted such an approach as a reasonable interpretation of the statutory language. The commenter states that EPA should obtain information as to the anticipated cost of HFO–1234yf if the manufacturer does not grant licenses to produce.

Response: The CAA does not require that EPA find a substitute to be available or potentially available when finding it acceptable. Section 612(c) states: "* * * It shall be unlawful to replace any class I or class II substance with any substitute substance which the Administrator determines may present adverse effects to human health or the environment, where the Administrator has identified an alternative to such replacement that—reduces the overall risk to human health and the environment; and is currently or potentially available. * * *"

This section makes clear that it is not the substitute under review that must be available or potentially available, but rather alternative replacements for ODS that EPA determines pose less overall risk to human health and the environment than the substitute being reviewed. Thus, if there are alternatives to the substance under review that are currently or potentially available and that pose less risk, EPA cannot find the substitute under review acceptable. Section 612(c) establishes no requirement that EPA must determine that the substitute under review is "available." *See also* 40 CFR 82.180(b) (describing types of listing decisions EPA can make in reviewing substitutes [26]). We note that even if EPA was required to determine that the substitute under review is available or potentially available before it could make an acceptability determination, we believe that the available information supports that HFO–1234yf is potentially available. EPA's definition of "potentially available" at 40 CFR 82.172 provides that "potentially available" is defined as any alternative for which adequate health, safety, and environmental data, as required for the SNAP notification process, exist to make a determination of acceptability, and which the Agency reasonably believes to be technically feasible, even if not all testing has yet been completed and the alternative is not yet produced or sold. This definition makes explicit that it is not necessary to have perfect information on a substitute nor is it necessary for the substitute to be produced or sold in order for EPA to consider it "potentially available." Instead, it is necessary for EPA to find the health, safety and environmental data adequate to make a determination of acceptability, and for the Agency to reasonably believe that the alternative is "technically feasible," in order for the alternative to be potentially available. We believe the record contains adequate information showing that HFO–1234yf

[26] The regulations for the SNAP program include cost and availability as one of the criteria for review as to whether a substitute is acceptable or unacceptable as a replacement for ozone depleting substances (82.180(a)(7)(vii)), along with a number of criteria for different aspects of health and environmental impacts. Cost and availability are included as criteria because they affect assumptions we may make about a substitute regarding its risks, *i.e.,* we need to know its cost and availability so we can make assumptions about the risk it might pose. In this case, we assumed that HFO–1234yf would be used widely across the industry in new MVACs because widespread use of a single refrigerant in new car models has been the industry practice with MVAC systems. Thus, more detail on cost and availability of the substitute was not necessary in order to identify assumptions we should make for estimating risk.

is potentially available. The manufacturer has submitted the information required under 40 CFR 82.178 (*e.g.,* pre-manufacture notice form and TSCA/SNAP addendum form containing: Name and description of the substitute, physical and chemical information, information on ODP and global warming impacts, toxicity data, data on environmental fate and transport, flammability, exposure, cost and estimated production). The submitter has also provided unique fittings as required under appendix D to subpart G of 40 CFR part 82. Thus, we believe that there is "adequate health, safety, and environmental data." Even if the commenter were correct about claims that higher costs would result if the manufacturer does not grant licenses for production, as discussed above, this does not affect the adequacy of the health, safety, and environmental data for HFO–1234yf, because we have protectively assumed widespread use that would result in more emissions and greater environmental impacts. In addition, based on the experimental work conducted by the automobile industry, we reasonably believe that HFO–1234yf is technically feasible as a refrigerant. Thus, HFO–1234yf would still be "potentially available" under the SNAP program's definition.

One commenter points to *Honeywell International, Inc.* v. *EPA,* 374 F.3d 1363 in urging EPA to explicitly include cost as a consideration in determining whether a substitute is "potentially available." In that case, the court vacated and remanded a SNAP decision in which EPA listed a foam blowing substitute as acceptable subject to "narrowed use limits" on the basis that for some niche foam blowing uses, the substitutes that were already listed as acceptable might not be available. Under the narrowed use limits, the end-user would need to demonstrate and document that other substitutes were not technically feasible for a particular use. The court vacated and remanded EPA's rule on the basis that EPA had considered cost in concluding that already listed substitutes might not be available based on "technical" feasibility, and that EPA had not attempted to justify the rule on the ground that the statute allows it to consider economic factors in making its SNAP determinations. The court left open the question of whether EPA could attempt to interpret the term "available" in section 612(c) as allowing for consideration of costs.

Again, we note that "available or potentially available" applies only to the substitutes against which the substitute at issue is being compared. The Agency has not decided whether consideration of the cost of other substitutes should be a factor to consider in determining whether they are available or potentially available and thus should (or should not) be used for comparison to a substitute under review. However, we note that for purposes of the substitute under review, the Agency firmly believes that cost should not be the primary or sole basis for finding a substitute unacceptable. EPA's role is to determine the health and environmental risk associated with the use of substitutes and the market should serve to address the issue of costs. Costs will necessarily be a factor considered by the automobile manufacturers in deciding which substitute to use.

Comment: Two commenters stated that EPA needed to perform further analysis on the potential small business impacts and costs of EPA's regulations and the introduction of HFO–1234yf. A commenter representing recyclers of automobiles and scrap metal expressed concern about the regulatory burden and costs that automotive recyclers are likely to incur if they must manage flammable refrigerants that are regulated as hazardous waste under EPA's regulations implementing the Resource Conservation and Recovery Act (RCRA). The same commenter also suggests that the RCRA subtitle C regulations would need to be changed to alleviate the hazardous-waste management requirements for handling HFO–1234yf. The other commenter mentioned the costs to service and repair shops, end-of-life vehicle recyclers, and automobile dealerships, and stated that EPA needed to analyze costs to these small businesses under the Regulatory Flexibility Act (RFA). This latter commenter stated that EPA should determine if a significant change in price and supply expectations would affect the way that these businesses handle and deal with automobile repairs and recycling.

Response: The RFA applies only when there are small entities subject to the requirements of the proposed or final rule. 5 U.S.C. § 604(a)(3). We believe the potential burden of complying with RCRA regulations placed on those recycling or recovering a substitute is generally not pertinent to a decision of whether HFO–1234yf should be found acceptable under SNAP. To the extent the commenters are suggesting that we must evaluate such costs for purposes of the Regulatory Flexibility Act, we note that under the RFA we evaluate costs imposed by the enforceable regulations being promulgated. To the extent the costs referred to by the commenter are already imposed under RCRA, they would not be new costs, but costs associated with the relevant RCRA regulations. Moreover, under this SNAP final rule, EPA is not requiring the use of HFO–1234yf, and thus the costs associated with its use are not due to enforceable regulatory requirements under SNAP. To the extent there are enforceable requirements for those persons who choose to use this new substitute, those requirements (the "use conditions") apply primarily to manufacturers of automobiles and MVAC systems, because they concern design of MVAC systems. The one use condition of the rule that applies to servicing of MVAC systems, and thus, could apply to small businesses, is the requirement for specific unique service fittings. However, EPA's existing SNAP regulations at appendix D to subpart G of 40 CFR part 82 already require unique service fittings as specified by the refrigerant manufacturer. Thus, the costs of purchasing new unique fittings for this refrigerant are imposed by the pre-existing regulation. This rule specifies the requirements for the type of unique fitting, in accordance with the fittings provided to EPA by the manufacturer. These fittings are part of the SAE J639 standard. It is not clear that there would be any cost differential between these specific unique fittings and others that the automotive industry could adopt instead. For these reasons, EPA is able to certify that this regulation will not create a significant impact on a significant number of small entities.

Regulations concerning disposal of refrigerant from MVAC systems and other refrigerant-containing appliances under section 608 of the CAA are at subpart F of 40 CFR part 82. Cost and benefit estimates for these regulations are at *http://www.regulations.gov*, docket EPA–HQ–OAR–2003–0167. EPA notes that there may be costs of servicing or of disposal (end-of-life) to small businesses under future regulations under section 609 or 608 of the CAA. We will conduct an analysis of such costs, and any potential significant impacts on small entities, as necessary, as part of those future rulemakings.

Comment: A commenter stated that to comply with requirements of the Unfunded Mandates Reform Act (UMRA), EPA needed to perform further analysis on the potential costs of EPA's SNAP regulations for HFO–1234yf to determine if the rule would result in the expenditure of $100 million or more per year by the private sector. In particular, the commenter stated that EPA must obtain more information on pricing and

the effect of the manufacturer's patent to analyze this.

Response: UMRA applies only to "enforceable duties" imposed on State, local, and Tribal governments or on the private sector. The SNAP rule does not impose duties on governments. As we have noted previously, the SNAP program does not mandate the use of any specific substitute for ozone depleting substances. Rather, through this action, we are expanding the choices of MVAC refrigerants available to the private sector. The issue raised by the commenter concerning the cost of the refrigerant and the effect of the manufacturer's patent on pricing is not related to any requirement of the rule, and thus, EPA is not required to consider that cost under UMRA.

VIII. How does the SNAP program work?

A. What are the statutory requirements and authority for the SNAP program?

Section 612 of the Clean Air Act (CAA) requires EPA to develop a program for evaluating alternatives to ozone-depleting substances (ODS). EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

1. Rulemaking

Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (*i.e.,* chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (*i.e.,* hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

2. Listing of Unacceptable/Acceptable Substitutes

Section 612(c) requires EPA to publish a list of the substitutes unacceptable for specific uses and to publish a corresponding list of acceptable alternatives for specific uses. The list of acceptable substitutes is found at *http://www.epa.gov/ozone/snap/lists/index.html* and the lists of "unacceptable", "acceptable subject to use conditions", and "acceptable subject to narrowed use limits" substitutes are found at subpart G of 40 CFR part 82.

3. Petition Process

Section 612(d) grants the right to any person to petition EPA to add a substance to, or delete a substance from, the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional six months.

4. 90-Day Notification

Section 612(e) directs EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

5. Outreach

Section 612(b)(1) states that the Administrator shall seek to maximize the use of Federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

6. Clearinghouse

Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. What are EPA's regulations implementing section 612?

On March 18, 1994, EPA published the original rulemaking (59 FR 13044) which established the process for administering the SNAP program and issued EPA's first lists identifying acceptable and unacceptable substitutes in the major industrial use sectors (subpart G of 40 CFR part 82). These sectors include: Refrigeration and air conditioning; foam blowing; cleaning solvents; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors compose the principal industrial sectors that historically consumed the largest volumes of ODS.

Section 612 of the CAA requires EPA to list as acceptable only those substitutes that do not present a significantly greater risk to human health and the environment as compared with other substitutes that are currently or potentially available.

C. How do the regulations for the SNAP program work?

Under the SNAP regulations, anyone who plans to market or produce a substitute to replace a class I or II ODS in one of the eight major industrial use sectors must provide notice to the Agency, including health and safety information on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to the person planning to introduce the substitute into interstate commerce,[27] typically chemical manufacturers, but may also include importers, formulators, equipment manufacturers, or end-users [28] when they are responsible for introducing a substitute into commerce.

The Agency has identified four possible decision categories for substitutes: acceptable; acceptable subject to use conditions; acceptable subject to narrowed use limits; and unacceptable. Use conditions and narrowed use limits are both considered "use restrictions" and are explained below. Substitutes that are deemed acceptable with no use restrictions (no use conditions or narrowed use limits) can be used for all applications within the relevant end-uses within the sector. Substitutes that are acceptable subject to use restrictions may be used only in accordance with those restrictions. It is illegal to replace an ODS with a substitute listed as unacceptable, unless certain exceptions (*e.g.,* test marketing, research and development) provided by the regulation are met.

After reviewing a substitute, the Agency may determine that a substitute is acceptable only if certain conditions in the way that the substitute is used are met to minimize risks to human health and the environment. EPA describes such substitutes as "acceptable subject to use conditions." Entities that use these substitutes without meeting the

[27] As defined at 40 CFR 82.104 "interstate commerce" means the distribution or transportation of any product between one state, territory, possession or the District of Columbia, and another state, territory, possession or the District of Columbia, or the sale, use or manufacture of any product in more than one state, territory, possession or District of Columbia. The entry points for which a product is introduced into interstate commerce are the release of a product from the facility in which the product was manufactured, the entry into a warehouse from which the domestic manufacturer releases the product for sale or distribution, and at the site of United States Customs clearance.

[28] As defined at 40 CFR 82.172 "end-use" means processes or classes of specific applications within major industrial sectors where a substitute is used to replace an ozone-depleting substance.

associated use conditions are in violation of section 612 of the Clean Air Act and EPA's SNAP regulations.

For some substitutes, the Agency may permit a narrowed range of use within an end-use or sector. For example, the Agency may limit the use of a substitute to certain end-uses or specific applications within an industry sector. The Agency requires a user of a narrowed use substitute to demonstrate that no other acceptable substitutes are available for their specific application by conducting comprehensive studies. EPA describes these substitutes as "acceptable subject to narrowed use limits." A person using a substitute that is acceptable subject to narrowed use limits in applications and end-uses that are not consistent with the narrowed use limit is using the substitute in an unacceptable manner and is in violation of section 612 of the CAA and EPA's SNAP regulations.

The Agency publishes its SNAP program decisions in the **Federal Register** (FR). EPA publishes decisions concerning substitutes that are deemed acceptable subject to use restrictions (use conditions and/or narrowed use limits), or for substitutes deemed unacceptable, as proposed rulemakings to allow the public opportunity to comment, before publishing final decisions.

In contrast, EPA publishes decisions concerning substitutes that are deemed acceptable with no restrictions in "notices of acceptability," rather than as proposed and final rules. As described in the rule initially implementing the SNAP program (59 FR 13044), EPA does not believe that rulemaking procedures are necessary to list alternatives that are acceptable without restrictions because such listings neither impose any sanction nor prevent anyone from using a substitute.

Many SNAP listings include "comments" or "further information" to provide additional information on substitutes. Since this additional information is not part of the regulatory decision, these statements are not binding for use of the substitute under the SNAP program. However, regulatory requirements so listed are binding under other regulatory programs. The "further information" classification does not necessarily include all other legal obligations pertaining to the use of the substitute. While the items listed are not legally binding under the SNAP program, EPA encourages users of substitutes to apply all statements in the "further information" column in their use of these substitutes. In many instances, the information simply refers to sound operating practices that have already been identified in existing industry and/or building-codes or standards. Thus, many of the statements, if adopted, would not require the affected user to make significant changes in existing operating practices.

D. Where can I get additional information about the SNAP program?

For copies of the comprehensive SNAP lists of substitutes or additional information on SNAP, refer to EPA's Ozone Depletion Web site at *http://www.epa.gov/ozone/snap/index.html.* For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published March 18, 1994 (59 FR 13044), codified at subpart G of 40 CFR part 82. A complete chronology of SNAP decisions and the appropriate citations are found at *http://www.epa.gov/ozone/snap/chron.html.*

IX. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a "significant regulatory action." It raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. Today's action is an Agency determination. It contains no new requirements for reporting. The only new recordkeeping requirement involves customary business practice. Today's rule requires minimal record-keeping of studies done to ensure that MVAC systems using HFO–1234yf meet the requirements set forth in this rule. Because it is customary business practice that OEMs conduct and keep on file Failure Mode and Effect Analysis (FMEA) on any potentially hazardous part or system from the beginning of production of a car model until three or more years after production of the model ends, we believe this requirement will not impose an additional paperwork burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations in subpart G of 40 CFR part 82 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control numbers 2060–0226. The OMB control numbers for EPA's regulations 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 rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; for NAICS code 336111 (Automobile manufacturing), a small business has < 1000 employees; for NAICS code 336391 (Motor Vehicle Air-Conditioning Manufacturing), a small business has < 750 employees; (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 final rule on small entities, I certify that this action will not have a significant adverse economic impact on a substantial number of small entities. The only new requirement on small entities in this final rule is a requirement specifying the type of unique service fittings required when servicing MVAC systems using the refrigerant HFO–1234yf. Existing regulations at appendix D to subpart G of 40 CFR part 82 already require that there be unique service fittings for each refrigerant used in MVAC systems. Thus, the costs of purchasing new unique fittings for this refrigerant have already been imposed by the pre-existing regulation. This rule specifies the requirements for which type of unique fitting, in accordance with the fittings provided to EPA by the manufacturer. These fittings are part of the SAE J639 standard. It is not clear that there would be any cost differential between these specific unique fittings

and others that the automotive industry could adopt instead. Thus, cost impacts of this final rule on small entities are expected to be small. This final rule is expected to relieve burden for some small entities, such as car repair shops, by allowing them the flexibility to use a new refrigerant that otherwise would have been prohibited under previous requirements at appendix B to subpart G of 40 CFR part 82 and by allowing them to use the easy-to-use "quick-connect" fittings for this refrigerant. Other final rule requirements apply to original equipment manufacturers, which are not small entities. These final rule requirements are the least burdensome option for regulation.

Original equipment manufacturers are not mandated to move to MVAC systems using HFO–1234yf. EPA is simply listing HFO–1234yf as an acceptable alternative with use conditions in new MVAC systems. This rule allows the use of this alternative to ozone-depleting substances in the MVAC sector and outlines the conditions necessary for safe use. By approving this refrigerant under SNAP, EPA provides additional choice to the automotive industry which, if adopted, would reduce the impact of MVACs on the global environment. This rulemaking does not mandate the use of HFO–1234yf as a refrigerant in new MVACs.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that 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. Today's rule does not affect State, local, or Tribal governments. The enforceable requirements of today's rule related to system design and documentation of the safety of alternative MVAC systems affect only a small number of original equipment manufacturers. Further, those requirements are consistent with requirements that the automotive industry has already adopted through consensus standards of SAE International. We expect that most manufacturers of automobiles and MVAC systems would attempt to meet those requirements or something very similar, even in the absence of EPA's regulations. The only requirement that is applied more widely than for original equipment manufacturers is a requirement specifying the type of unique service fittings required when servicing MVAC systems using the refrigerant HFO–1234yf. Existing regulations at appendix D to subpart G of 40 CFR part 82 already require that there be unique service fittings for each refrigerant used in MVAC systems. The fittings required in this final rule are part of the SAE J639 standard. Thus, the costs of this rule are consistent with standard industry practice and are expected to be much less than $100 million per year.

This action provides additional options allowing greater flexibility for industry in designing consumer products. The impact of this rule on the private sector will be less than $100 million per year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This regulation applies directly to facilities that use these substances and not to governmental entities. This rule does not mandate a switch to HFO–1234yf and the limited direct economic impact on entities from this rulemaking is less than $100 million annually.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This regulation applies directly to facilities that use these substances and not to governmental entities. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (59 FR 22951, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have Tribal implications, as specified in Executive Order 13175. It does not significantly or uniquely affect the communities of Indian Tribal governments, because this regulation applies directly to facilities that use these substances and not to governmental entities. Thus, Executive Order 13175 does not apply to this rule.

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

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks

addressed by this action present a disproportionate risk to children. This action's health and risk assessments are discussed in sections V and VII.D of the preamble and in documents EPA–HQ–OAR–2008–0664–0036 and HQ–OAR–2008–0664–0038 in the docket for this rulemaking.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action could impact manufacturing and repair of MVAC systems using an alternative refrigerant. This rule does not mandate a switch to HFO–1234yf. Preliminary information indicates that these new systems are more energy efficient than currently available systems in some climates. Therefore, we conclude that this rule is not likely to have a significant adverse effect on energy supply, distribution or use.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. EPA has decided to use SAE International's most recent version of the SAE J1739 and SAE J639 standards. These standards can be obtained from *http://www.sae.org/technical/standards/*. These standards address safety and reliability issues in motor vehicle design, including MVAC systems using alternative refrigerants.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in 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 final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. HFO–1234yf is a non-ozone-depleting substance with a low GWP. Based on the toxicological and atmospheric work described earlier, HFO–1234yf will not have any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This final rule requires specific use conditions for MVAC systems, if car manufacturers chose to make MVAC systems using this low GWP refrigerant alternative.

K. Congressional Review Act

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 rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective May 31, 2011.

X. References

The documents below are referenced in the preamble. All documents are located in the Air Docket at the address listed in section titled **ADDRESSES** at the beginning of this document. Unless specified otherwise, all documents are available in Docket ID No. EPA–HQ–OAR–2008–0664 at *http://www.regulations.gov.*

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List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: February 24, 2011.

Lisa P. Jackson,

Administrator.

For the reasons set out in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart G—Significant New Alternatives Policy Program

■ 2. Appendix B to Subpart G of Part 82 is amended as follows:

■ a. By adding one new entry to the end and by adding a note at the end of the first table.

■ b. By revising the entry for "CFC–12 Motor Vehicle Air Conditioners (Retrofit and New Equipment/NIKs)" in the table titled "Refrigerants—Unacceptable Substitutes".

The additions and revisions read as follows:

Appendix B to Subpart G of Part 82—Substitutes Subject to Use Restrictions and Unacceptable Substitutes

REFRIGERANTS—ACCEPTABLE SUBJECT TO USE CONDITIONS

Application	Substitute	Decision	Conditions	Comments
*	*	*	*	*
CFC–12 Automobile Motor Vehicle Air Conditioning (New equipment in passenger cars and light-duty trucks only).	HFO–1234yf as a substitute for CFC–12.	Acceptable subject to use conditions.	Manufacturers must adhere to all of the safety requirements listed in the Society of Automotive Engineers (SAE) Standard J639 (adopted 2011), including requirements for: unique fittings, flammable refrigerant warning label, high-pressure compressor cutoff switch and pressure relief devices. For connections with refrigerant containers of 20 lbs or greater, use fittings consistent with SAE J2844. Manufacturers must conduct Failure Mode and Effect Analysis (FMEA) as provided in SAE J1739 (adopted 2009). Manufacturers must keep the FMEA on file for at least three years from the date of creation.	Additional training for service technicians recommended. Observe requirements of Significant New Use Rule at 40 CFR 721.10182. HFO–1234yf is also known as 2,3,3,3-tetrafluoro-prop-1-ene (CAS No 754–12–1).

* * * * *

Note: The use conditions in this appendix contain references to certain standards from SAE International. The standards are incorporated by reference and the referenced sections are made part of the regulations in part 82:

1. SAE J639. Safety Standards for Motor Vehicle Refrigerant Vapor Compression Systems. February 2011 edition. SAE International.

2. SAE J1739. Potential Failure Mode and Effects Analysis in Design (Design FMEA), Potential Failure Mode and Effects Analysis in Manufacturing and Assembly Processes (Process FMEA). January 2009 edition. SAE International.

3. SAE J2844. R–1234yf (HFO–1234yf) New Refrigerant Purity and Container Requirements for Use in Mobile Air-Conditioning Systems. February 2011 edition. SAE International.

The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from SAE Customer Service, 400 Commonwealth Drive, Warrendale, PA 15096–0001 USA; e-mail: *CustomerService@sae.org;* Telephone: 1–877–606–7323 (U.S. and Canada only) or 1–724–776–4970 (outside the U.S. and Canada); Internet address: *http://store.sae.org/dlabout.htm.*

You may inspect a copy at U.S. EPA's Air Docket; EPA West Building, Room 3334; 1301 Constitution Ave., NW.; Washington, DC or at the National Archives and Records Administration (NARA). For questions regarding access to these standards, the telephone number of EPA's Air Docket is 202–566–1742. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

* * * * *

REFRIGERANTS—UNACCEPTABLE SUBSTITUTES

End-use	Substitute	Decision	Comments
*	*	*	*
CFC–12 Motor Vehicle Air Conditioners (Retrofit and New Equipment/NIKs).	R–405A	Unacceptable	R–405A contains R–c318, a PFC, which has an extremely high GWP and lifetime. Other Substitutes exist which do not contain PFCs.
	Hydrocarbon Blend B	Unacceptable	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
	Flammable Substitutes, other than R–152a or HFO–1234yf in new equipment.	Unacceptable	The risks associated with using flammable substitutes (except R–152a and HFO–1234yf) in this end-use have not been addressed by a risk assessment. R–152a and HFO–1234yf may be used in new equipment with the use conditions in appendix B to this subpart.

[FR Doc. 2011–6268 Filed 3–28–11; 8:45 am]

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Federal Register

Vol. 76, No. 60

Tuesday, March 29, 2011

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Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
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Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
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FEDERAL REGISTER PAGES AND DATE, MARCH

11075–11314 1
11315–11666 2
11667–11936 3
11937–12268 4
12269–12548 7
12549–12816 8
12817–13058 9
13059–13284 10
13285–13500 11
13501–13878 14
13879–14268 15
14269–14574 16
14575–14776 17
14777–15208 18
15209–15790 21
15791–16230 22
16231–16524 23
16525–16682 24
16683–17018 25
17019–17326 28
17327–17520 29

CFR PARTS AFFECTED DURING MARCH

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revison date of each title.

2 CFR

Proposed Rules:
Ch. XI 16700
Ch. XXIV 11395
Ch. XXVII 11163

3 CFR

Proclamations:
8628 11927
8629 11929
8630 11931
8631 11933
8632 11935
8633 12265
8634 12817
8635 12819
8636 12821
8637 15209
8638 16523
8639 17327
8640 17329

Executive Orders:
13566 11315
13567 13277
13568 13497

Administrative Orders:
Memorandums:
Memorandum of March 4, 2011 12823
Memorandum of March 8, 2011 13499
Memorandum of March 11, 2011 14273
Notice of March 2, 2011 12267
Notice of March 8, 2011 13283

Presidential Determinations:
No. 2011–7 of March 7, 2011 14269
No. 2011–8 of March 7, 2011 14271

4 CFR

81 12549

5 CFR

5901 14777

Proposed Rules:
315 13100
831 11684
842 11684
Ch. VII 15859
Ch. XXVI 16700
Ch. XXVIII 11163
Ch. XLII 15224
Ch. LXV 11395

6 CFR

37 12269

Proposed Rules:
Ch. I 13526
5 12609

7 CFR

1 11667
35 14275
205 13501
932 11937
1150 14777
1218 11939
1245 14278
1738 13770

Proposed Rules:
28 16321
59 12887
210 15225
220 15225
319 .....13890, 13892, 14320, 15225, 16700
929 16322
930 13528
946 16323
985 11971
1206 13530
1218 16324
1463 15859

8 CFR

212 16231
1274a 16525

Proposed Rules:
Ch. I 13526
214 11686
299 11686
Ch. V 11163

9 CFR

56 15791
93 16683
94 15211
145 15791
146 15791
147 15791

10 CFR

72 .....12825, 17019
429 12422
430 .....12422, 12825
431 12422
712 12271

Proposed Rules:
35 17362
50 12295
52 16549
72 17037
170 14748
171 14748
430 13101
431 11396
600 13300
603 13300
609 13300
611 13300

11 CFR

110 16233

12 CFR

226 11319
326 14793
334 14793
702 16234
707 16235
708a 13504
708b 13504
932 11668
1208 17331
1225 11668
1704 17332

Proposed Rules:

202 13896
222 13902
226 11598
229 16862
380 16324
567 12611
700 16345
701 16345
702 16345
703 11164
704 11164
709 11164
741 ....16345, 16570
742 11164
1301 17038
1320 17047
Ch. XVII 11395

13 CFR

124 12273

Proposed Rules:

Ch. I 13532
121 ....14323, 16703
124 16703
125 16703
126 16703
127 16703
Ch. III 12616

14 CFR

21 12250
23 17332
25 ....12250, 14794, 14795, 15798, 17022, 17334
27 12274
39 ....11324, 11940, 12277, 12556, 12845, 13059, 13061, 13063, 13065, 13067, 13069, 13072, 13074, 13075, 13078, 13080, 14796, 14797, 15800, 15802, 15805, 15808, 15814, 15818, 15820, 15823, 16526
71 ....12278, 13082, 13083, 13084, 13086, 13505, 14799, 14800, 14801, 14802, 15825, 16530
73 12558
91 ....16236, 16239
95 11675
97 ....11942, 11944, 16686, 16689
119 16239
121 ....12550, 12559
129 ....12550, 15212

Proposed Rules:

Ch. I 11699, 16349
21 14592
25 ....14341, 14819, 17062
33 11172
39 ....11174, 12617, 12619, 12624, 12627, 12629, 12634, 13534, 13536, 13539, 13541, 13543, 13546, 13921, 13924, 13926, 14346, 14349, 15229, 15864, 15867, 15870, 15872, 16579, 16582, 17362, 17364
71 ....11978, 12298, 12643, 12645, 14820, 14822, 14823, 14824, 15231, 16348
73 11399
119 14592
121 ....11176, 14592
125 14592
135 14592
139 12300
141 14592
142 14592
145 14592
Ch. II 11699
Ch. III 11699

15 CFR

750 12279
902 15826

Proposed Rules:

285 17367
400 12887
Ch. IX 13549

16 CFR

Proposed Rules:

301 13550
640 13902
698 13902

17 CFR

211 17192
230 15841
240 11327

Proposed Rules:

Ch. I 14826
1 14825
3 12888
4 11701
16 14825
23 13101
37 13101
38 ....13101, 14825
39 ....13101, 16587, 16588
239 12896
240 ....14472, 15874, 16707
242 12645
270 12896
274 12896

18 CFR

35 16658
40 ....16240, 16250, 16263, 16277, 16691
410 16285

Proposed Rules:

35 11177

19 CFR

12 ....13879, 14575, 16531
102 ....14575, 16531
141 ....14575, 15841, 16531
144 ....14575, 16531
146 ....14575, 16531
163 ....14575, 16531

Proposed Rules:

Ch. I 13526
351 15233

20 CFR

404 16531

Proposed Rules:

404 ....11402, 13111, 13506
405 13111
408 11402
416 ....11402, 13111, 13506
422 11402
Ch. IV 15224
Ch. V 15224
655 15130
Ch. VI 15224
Ch. VII 15224
Ch. IX 15224

21 CFR

1 12563
14 12563
17 12563
113 11892
172 16285
173 11328
179 15841
201 12847
312 13880
314 13880
510 ....11330, 16532
516 11331
520 ....11330, 12563, 17025, 17336
522 ....17226, 17336
526 17336
529 ....16532, 16533, 17026, 17336
556 16290
558 ....11330, 16533, 16534, 17026
866 16292
1308 11075

Proposed Rules:

310 12916
866 16350
Ch. II 11163

22 CFR

62 17027

Proposed Rules:

Ch. I 13931
120 16588
122 16588
123 ....13928, 16353, 16588
126 13928
129 16588
205 16712

23 CFR

460 12847

Proposed Rules:

Ch. I 11699
Ch. II 11699
Ch. III 11699

24 CFR

Ch. XV 11946

Proposed Rules:

Ch. I 11395
Ch. II 11395
Ch. III 11395
Ch. IV 11395
Ch. V 11395
Ch. VI 11395
Ch. VIII 11395
Ch. IX 11395
Ch. X 11395
Ch. XII 11395

26 CFR

1 11956
301 13880

Proposed Rules:

1 15887
301 ....13932, 14827

27 CFR

Proposed Rules:

Ch. II 11163

28 CFR

0 15212
35 13285
36 13286
541 11078

Proposed Rules:

Ch. I 11163
16 15236
26 11705
Ch. III 11163
Ch. V 11163
Ch. VI 11163
Ch. XI 13931

29 CFR

1630 16978
4022 13883
4044 13883

Proposed Rules:

Ch. II 15224
Ch. IV 15224
Ch. V 15224
503 15130
Ch. XVII 15224
Ch. XXV 15224
4022 13304

30 CFR

250 11079
917 12849
918 12852
926 12857

Proposed Rules:

Ch. I 15224
70 12648
71 12648
72 12648
75 ....11187, 12648
90 12648
920 13112
938 ....12920, 16714

31 CFR

356 11079

Proposed Rules:

33 13526
223 14592
Ch. IX 11163

32 CFR

706 12859

Proposed Rules:

Ch. I 16700
Ch. V 16700
Ch. VI 16700
Ch. VII 16700
Ch. XII 16700

33 CFR

3 13508
100 ....13884, 15214, 17339
117 ....11332, 11679, 11959, 11960, 13288, 13289, 14279, 14803, 14804, 16294, 16296, 16297, 17339
165 ....11334, 11337, 11961,

14279, 15216
401 13088
Proposed Rules:
Ch. I 13553
100 15244
110 15246
117 ....13312, 16715
165 14829
Ch. II 16700

36 CFR

7 17027
242 12564
294 17341
1281 11337
Proposed Rules:
7 15888
Ch. III 16700
Ch. XI 17064

37 CFR

380 13026
Proposed Rules:
Ch. 1 15891

38 CFR

17 11338
51 11339
76 14282
Proposed Rules:
3 14600
17 16354
51 16354
59 11187

39 CFR

111 ....14284, 16534
121 16534
965 15218
Proposed Rules:
111 ....13704, 16588
121 16588
172 13313
177 13313
952 13937

40 CFR

49 17028
52 ....11080, 11082, 11083, 11963, 12280, 12587, 12860, 13511, 14584, 14805, 15852, 16696, 17343, 17347
60 ....15372, 15704
63 ....12863, 13514, 14807, 15554, 15608
72 17288
75 17288
80 15855
81 ....12587, 13289, 14812, 15219
82 17488
98 14812
174 14289
180 ....11340, 11344, 11965, 12873, 12877, 16297, 16301, 16308
241 15456
261 16534
271 12283
272 12283
300 ....11350, 13089
Proposed Rules:
Ch. I 11980, 14840
51 15249
52 ....11190, 11983, 12302, 12305, 12306, 12651, 13567, 13569, 13944, 13962, 14602, 14606, 14611, 14616, 14626, 14631, 14831, 14835, 15249, 15892, 15895, 16168, 16358, 16365, 16593, 16718, 17368, 17373
55 15898
60 15266
63 ....12923, 13852, 14636, 14839, 15266
70 ....12926, 15249
71 15249
132 14351
141 11713
142 11713
152 14358
158 14358
174 ....14358, 17374
180 17374
271 12307
272 12307
281 11404
300 13113
Ch. II 14840
Ch. III 14840
Ch. IV 11163, 14840
Ch. V 14840
Ch. VI 14840
Ch. VII 14840, 16700

41 CFR

105–735 15856
Proposed Rules:
Ch. 50 15224
Ch. 60 15224
Ch. 61 15224
Ch. 101 15859
Ch. 102 15859
Ch. 105 15859
Ch. 128 11163
Subtitle F 15859

42 CFR

413 13515
488 15106
Proposed Rules:
5 12307
71 13120
81 15268
410 13292
416 13292
419 13292
1007 14637

44 CFR

64 ....12596, 14293
Proposed Rules:
Ch. I 13526
67 ....12308, 12665, 13569, 13570, 13571, 13572, 14359, 14360, 15900, 16722

45 CFR

1180 13097
2522 17347
Proposed Rules:
155 13553
Ch. V 11163
1305 14841

46 CFR

Ch. I 13526
16 14818
170 16697
Ch. III 13526
520 11351
530 11680
531 11680
532 11351
Proposed Rules:
Ch. II 11699

47 CFR

1 ....13295, 13296, 17032, 17347
2 17347
11 12600
25 14297
63 ....13295, 13296
73 ....11680, 12292, 13524, 15857
74 11680
87 ....17347, 17353
90 11681
Proposed Rules:
Ch. I 14871
1 ....12308, 13800, 16367
6 13800
7 13800
8 13800
20 12308
36 ....11632, 13576
43 12308
51 11407
53 11407
54 ....11632, 16482
61 11632
63 11407
64 ....11407, 11632, 16367
69 11632
73 ....11737, 13579, 13966, 14362, 14855, 14856
76 17071
79 14856
97 16375

48 CFR

Ch. 1 14542
1 14543
2 14543
5 14548
6 14559
7 14543
8 14548
10 14562
13 14566
15 ....14559, 14568
16 ....14543, 14548, 14562
18 14548
19 ....14559, 14566
22 14570
25 14570
30 14570
31 14571
32 14543
38 14548
42 14543
44 14562
50 14543
52 ....14562, 14570
Ch. 2 11969
207 11361
209 11363
212 11371
215 13297
217 14587
225 ....14588, 14589
227 11363
232 11371
241 14587
246 14590
252 ....11363, 11371, 14589, 14590
Ch. 34 12796
Proposed Rules:
Ch. 1 16700
52 16700
54 16700
Ch. 2 16700
203 13327
209 14641
211 ....11190, 11985, 12666
212 ....11190, 11985, 12666
216 11410
217 11411
231 11414
252 ....11190, 11985, 12666, 13327, 14641
Ch. 5 15859
532 13329
908 11985
945 11985
970 11985
Ch. 12 11699
1401 15901
1402 15901
1415 15901
1417 15901
1419 15901
1436 15901
1452 15901
Ch. 24 11395
Ch. 28 11163
Ch. 29 15224
Ch. 61 15859

49 CFR

1 15221
109 11570
1155 16538
Proposed Rules:
Ch. I 11699
171 11191
173 ....11191, 14643
178 11191
180 11191
Ch. II 11699
234 11992
288 16200
Ch. III 11699
385 13121
390 ....13121, 14366
391 14366
395 13121
Ch. V 11699
571 ....11415, 11417, 11418, 15903
585 11418
Ch. VI 11699
665 13580
Ch. VII 11699
Ch. VIII 11699
Ch. X 11699
Ch. XI 11699
Ch. XII 13526

50 CFR

16 15857
17 11086
92 17353
100 12564
217 16311
223 12292
224 14299
300 14300
622 ....12604, 12605, 12882,

12883, 16547, 16698
648 .....11373, 13887, 17032
660 .....11381, 11969, 17033
665.....13297, 15222
679 .....11111, 11139, 11161, 11393, 11394, 12293, 12606, 12607, 12883, 12884, 13097, 13098, 14319, 15826, 16699, 17034, 17360

Proposed Rules:

17 .....12667, 12683, 13121, 14126, 14210, 15919, 15932, 16046
18.....13454
Ch. II 13549
223 .....12308, 14882, 14883
224 .....12308, 15932, 16595
Ch. III 13549
Ch. IV.....13549
Ch. VI.....13549
622.....13122, 15275
635 .....13583, 14884, 15276
648 .....11737, 11858, 14644, 16595
660.....13592
665.....13330, 14367
679.....13331
680.....13593, 17088

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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H.J. Res. 48/P.L. 112–6
Additional Continuing Appropriations Amendments, 2011 (Mar. 18, 2011; 125 Stat. 23)
Last List March 7, 2011

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