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FEDERAL REGISTER

Vol. 76 Friday,
No. 78 April 22, 2011

Pages 22603–22784

OFFICE OF THE FEDERAL REGISTER

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Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 215, 220, 225, and 226

RIN 0584–AE03

Geographic Preference Option for the Procurement of Unprocessed Agricultural Products in Child Nutrition Programs

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The 2008 Farm Bill amended the Richard B. Russell National School Lunch Act to direct that the Secretary of Agriculture encourage institutions operating Child Nutrition Programs to purchase unprocessed locally grown and locally raised agricultural products. Effective October 1, 2008, institutions receiving funds through the Child Nutrition Programs may apply an optional geographic preference in the procurement of unprocessed locally grown or locally raised agricultural products. This provision applies to institutions in all of the Child Nutrition Programs, including the National School Lunch Program, School Breakfast Program, Fresh Fruit and Vegetable Program, Special Milk Program for Children, Child and Adult Care Food Program and Summer Food Service Program, as well as to purchases made for these programs by the Department of Defense Fresh Program. The provision also applies to State agencies making purchases on behalf of any of the aforementioned Child Nutrition Programs. The purpose of this rule is to finalize the geographic preference option in Child Nutrition Programs.

DATES: This rule is effective May 23, 2011.

FOR FURTHER INFORMATION CONTACT: Julie Brewer, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22302, or by telephone at (703) 305–2590.

SUPPLEMENTARY INFORMATION:

Background

Section 4302 of Public Law 110–246, the Food, Conservation, and Energy Act of 2008, amended section 9(j) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(j)) to require the Secretary of Agriculture to encourage institutions operating Child Nutrition Programs to purchase unprocessed locally grown and locally raised agricultural products. Pursuant to section 4407 of Public Law 110–246, beginning October 1, 2008, institutions receiving funds as participants in the Child Nutrition Programs may apply an optional geographic preference in the procurement of unprocessed locally grown or locally raised agricultural products. This provision applies to institutions operating all of the Child Nutrition Programs, including the National School Lunch Program, School Breakfast Program, Fresh Fruit and Vegetable Program, Special Milk Program, Child and Adult Care Food Program and Summer Food Service Program, as well as to purchases made for these programs by the Department of Defense Fresh Program. The provision does not apply to purchases made by the Department. However, the provision does also apply to State agencies making purchases on behalf of any of the aforementioned Child Nutrition Programs. The provisions were initially implemented through policy memoranda and explanatory question and answer communications dated January 9, 2009, July 22, 2009, and October 9, 2009.

The Department published a proposed rule on April 19, 2010, at 75 FR 20316 to solicit comments on the incorporation of this procurement option in Child Nutrition Program regulations. The rule also served to define the term "unprocessed locally grown or locally raised agricultural products" to ensure that both the intent of Congress in providing for such a procurement option was met and that any such definition would facilitate ease of implementation for institutions participating in the Child Nutrition Programs. The comment period ended on June 18, 2010. The Department received 77 comments on the proposed rule. The following discussion provides information on the comments as well as a discussion of the clarifications and changes made to the proposal based on the comments received.

General Comments

In general, the comments received by the Department were very supportive of the regulation as proposed. Fifty-eight comments commended the Department for clarifying previous interpretations of the geographic preference option for procurement. Forty-four commentors stated that they believed the updated language of the rule more closely complied with the Congressional Conference Report language that indicated that there is no intent to preclude "de minimus handling and preparation such as necessary to present an agricultural product to a school food authority in a useable form." Forty-seven comments supported the provision of the rule allowing the purchasing entity, such as local school food authorities, to determine the local area to which a geographic preference will be applied, indicating that they agreed with the Department's view that individual circumstances and product availability leads to the most successful local and regional procurement programs.

Procurement Issues

As indicated in the proposed rule, traditionally, a geographic preference established for procurements provides bidders located in a specified geographic area additional points or credit calculated during the evaluation of the proposals or bids received in response to a solicitation. A geographic preference is not a procurement set-aside for bidders located in the specified geographic area, guaranteeing them a certain level or percentage of business. In addition, including a geographic preference in a procurement does not preclude a bidder from outside the specified geographic area from competing for, and possibly being awarded, the contract subject to the geographic preference. Rather, a geographic preference is a tool that gives bidders in a specified geographic area a specific, defined advantage in the procurement process. We received a number of comments specifically

requesting guidance on how to apply the geographic preference option in procurement specifications and procedures as well as questions on procurement processes in general. The Department published a policy memorandum for program cooperators on general procurement and geographic preference issues on February 1, 2011 and will be publishing additional guidance on procurement provisions associated with implementation of the geographic preference option included in this final rule as needed. Therefore, no changes have been made to the procurement-specific provisions included in the proposed rule and those procurement provisions are finalized as proposed.

Geographic Area

By utilizing the statutorily established geographic preference option in Child Nutrition Programs, purchasing institutions, such as States, school food authorities, child care institutions and Summer Food Service Program (SFSP) sponsors, may specifically identify the geographic area within which unprocessed locally raised and locally grown agricultural products will originate. As indicated in the proposed rule, a responsive bidder would offer to provide unprocessed locally raised and locally grown agricultural products from the specifically identified geographic area. In most cases, we would expect that a bidder would be located in the identified geographic area, though it is possible for a responsive bidder to be located outside of that area. These procurements may be accomplished through informal or formal procurement procedures, as required by respective Child Nutrition Program regulations.

The proposed rule provided for allowing institutions operating the Child Nutrition Programs to specifically define geographic areas from which they will seek to procure unprocessed local agricultural products. It was proposed that each institution, whether it be a school food authority, a child care institution or an SFSP sponsor, determine how to define the geographic area. As indicated previously, 47 comments supported allowing the purchasing entity to define the local area in which the geographic preference option will be applied. No objections to this provision were received, therefore it is finalized in this rule as proposed.

One comment specifically recommended that the "Buy American" provisions of § 210.21 and § 220.16 of the National School Lunch Program and School Breakfast Program regulations be specifically noted in this amendment to those programs regulations. In response to that comment, the Department reiterates that all other regulatory requirements of the Child Nutrition Programs must be complied with when implementing the geographic preference option. When specifying the local area from which items will be purchased using the geographic procurement option, purchasing entities must ensure that the "Buy American" requirements of the regulations are complied with and included in the procurement specifications. No change, however, has been made in the regulatory language of this final rule.

Definition of Unprocessed Agricultural Products

As provided in the Joint Explanatory Statement of the Committee of Conference in House Report 110–627, the term "unprocessed" precludes the use of geographic preference in procuring agricultural products that have significant value added components. The Conference report also noted the acceptability of *de minimus* handling and preparation "such as may be necessary to present an agricultural product to a school food authority in a useable form, such as washing vegetables, bagging greens, butchering livestock and poultry, pasteurizing milk, and putting eggs in a carton."

For the purpose of implementing the geographic preference procurement option in the Child Nutrition Programs, the Department proposed a definition of "unprocessed agricultural products." The guiding principles in developing the definition were that the definition should:

(1) Comply with the language and reflect the intent of the statute;

(2) Ensure that any processing of agricultural products results in only minimal value added to such products; and

(3) Facilitate ease of use of such products for institutions.

The definition of "unprocessed agricultural products" included in the proposed rule specifically prohibited any processing method that alters the inherent character of the agricultural product. To that end, we included in the proposed definition a list of acceptable food handling and preservation techniques for purposes of applying the geographic preference procurement option. Such techniques included: General heat transfer methods such as cooling, refrigerating and freezing; size adjustment through size reduction (peeling, slicing, dicing, cutting and grinding); drying/dehydration; washing; vacuum packing and bagging; pasteurization for milk; the application of high water pressure ("cold pasteurization"); butchering of livestock and poultry and the cleaning of fish. The Department asserted that these handling and preservation techniques both complied with the intent of the statute and did not alter the inherent character of agricultural products subjected to them.

While two commentors supported the definition as proposed, a number of comments regarding the food handling and preservation techniques included in the definition were received. The following discussion outlines those comments by issue and the decisions made by the Department in response to the comments in this final rule.

Combination Packages of Vegetables and Fruits

Fifty comments were received expressing support for the addition of combination packages of local, frozen, bagged vegetables such as zucchini and summer squash or fresh vegetable roast packages such as winter squash, turnips and beets. The commentors indicated that the "inherent character" of the vegetables is not being altered in any way when packaged in such a manner and fits within the "de minimus" handling and preparation requirements intended by Congress. In addition, such packaging conforms with the language of the statute with regard to presenting the product in usable form. The Department agrees with the comments and, therefore, has revised the definition of "unprocessed agricultural products" to include such combination packaged items in this final rule.

Frozen Products

One commentor indicated that frozen products should be included in the definition. The proposed rule included frozen products and the final rule retains frozen products as acceptable as a preservation technique. Two comments were received requesting that, in order to ensure that flash frozen products are included in the definition, the Department specify Individually Quick Frozen (IQF) as an acceptable preservation technique. The final rule retains inclusion of frozen products as acceptable but the Department does not wish to include specific techniques for freezing since technology changes over time and such specific references to technique may necessitate future amendments to the regulation in response to changes in technology.

Canned and Other Heat Preserved Products

Three comments were received requesting that canned products be included in the definition of

"unprocessed agricultural products." One commentor wanted to allow pasteurized cider and pickled products to be considered "unprocessed" for purposes of specifying a geographic preference for procurement. While canned, pickled and pasteurized products are acceptable for service in the Child Nutrition Programs, such products would not be considered to be subject to a geographic procurement preference because heat processing does not meet the "de minimus" standard of processing established by Congress as assessed by the Department. Therefore, no change in this regulation has been made in response to these comments.

Formed Products

Fifty comments were received supporting allowing foods such as ground beef and other meat patties to be included in the definition of "unprocessed agricultural products". Those comments assert that such products have been handled in a manner consistent with "de minimus" exceptions in that they are ground then formed similar to cutting carrots into sticks or coin shapes. The commentors indicated that contracting separately for further processing of ground meat products which does not change the inherent character of that product would be costly and time consuming for the purchasing entities. Five other commentors recommended allowing meat patties made with pure meat and containing no fillers or additives as meeting the criteria for geographic preference procurement. The Department agrees with these commentors and has revised the definition to include formed products that contain no additives or fillers as acceptable for purchase using the geographic preference procurement option.

Other Products

Forty-one comments were received recommending that cutting chicken or other meat into fajita strips and filleting fish be allowed as acceptable as meeting the definition of "unprocessed agricultural products". The Department wishes to point out that fish filets would be considered to be "cleaned" and cut, and slicing products into strips would be considered to be "cut", both of which are included in the definition as proposed. One commentor requested that ground flour be allowed to be considered as acceptable. The Department wishes to clarify that ground products are allowed and that the grinding of grain into flour would be considered to be acceptable as a ground product subject to the geographic preference procurement option. Therefore, there is no change to the definition in response to these comments.

Preservatives

Forty-six comments were received requesting clarification as to whether or not preservatives were allowed in products subject to the geographic preference procurement option. Specifically, they requested clarification as to whether or not ascorbic acid to hold color or prevent oxidation once a fruit or vegetable product was cut or chopped was acceptable. The Department agrees that this should be addressed and has provided for the addition of ascorbic acid and/or other preservatives that retain the color of a product or prevent oxidation to the definition of "unprocessed agricultural products". However, no other preservatives used for any other purpose are considered to be acceptable.

Packaging

One commentor requested that portion packaging be explicitly recognized as meeting the requirements of the rule. The Department wishes to point out that packaging is recognized as allowable with regard to the definition of "unprocessed agricultural products". The size of such packaging included in the procurement specifications is made at the discretion of the purchasing entity. Therefore, no change in response to this comment has been made in this final rule.

High Water Pressure Cold Pasteurization

One commentor expressed concern that the term "high water pressure cold pasteurization" included in the definition of "unprocessed agricultural product" could be interpreted to mean irradiation. The Department's intent was to use this term in the definition to reference a washing technique. Since "washing" is already included in the definition of "unprocessed locally grown or locally raised agricultural products" and in response to this comment, the term "high water pressure (cold pasteurization)" is removed from the definition.

This final rule prohibits the application of the geographic preference procurement option for products subjected to processing methods not included in the definition of "unprocessed agricultural products".

This final rule adds new paragraphs to §§ 210.21, 215.14a, 220.16, 225.17 and 226.22 of Title 7, CFR, to include the geographic preference procurement option and define the term "unprocessed locally grown or locally raised agricultural products".

Applicability to the Fresh Fruit and Vegetable Program

The geographic preference procurement option is applicable to purchases made in the Fresh Fruit and Vegetable Program, 42 U.S.C. 1769a (FFVP). However, this provision shall only be applied within the context of the FFVP's requirement that produce utilized in the program be fresh. The definition of "unprocessed locally grown or locally raised agricultural products" does not change the basic statutory requirement that only fresh produce may be purchased using funds for the Fresh Fruit and Vegetable Program. Development of regulations pertaining to the requirements for the Fresh Fruit and Vegetable Program are currently in process and the provisions relating to the geographic preference procurement option will be included in that proposed rule, as appropriate.

Executive Order 12866

This rule has been determined to be not significant and was not reviewed by the Office Management and Budget in conformance with Executive Order 12866.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). It has been certified that this rule will not have a significant economic impact on a substantial number of small entities.

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, the Department 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, or Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) that

impose costs on State, local, or Tribal governments or to the private sector of $100 million or more in any one year. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The National School Lunch Program and the School Breakfast Program are listed in the Catalog of Federal Domestic Assistance under No. 10.555 and 10.553, respectively. The Special Milk Program is listed under No. 10.556. The Child and Adult Care Food Program is listed under No. 10.558 and the Summer Food Service Program for Children is listed under No. 10.559. For the reasons set forth in the final rule in 7 CFR Part 3015, Subpart V and related Notice (48 FR 29115, June 24, 1983), these programs are included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 13132

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. The Food and Nutrition Service (FNS) has considered the impact of this rule on State and local governments and has determined that this rule does not have federalism implications. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a federalism summary impact statement is not required.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless specified in the **DATES** section of the final rule. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed this rule in accordance with Departmental Regulations 4300–4, "Civil Rights Impact Analysis," and 1512–1, "Regulatory Decision Making Requirements." After a careful review of the rule's intent and provisions, FNS has determined that this rule is not intended to limit or reduce in any way the ability of protected classes of individuals to receive benefits on the basis of their race, color, national origin, sex, age or disability nor is it intended to have a differential impact on minority owned or operated business establishments, and woman- owned or operated business establishments that participate in the Child Nutrition Programs. This rule simply allows institutions that participate in the Child Nutrition Programs the option to apply a geographic preference should such institutions wish to procure unprocessed locally grown or locally raised agricultural products.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR part 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule does not contain information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995.

E-Government Act Compliance

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

Executive Order 13175

E.O. 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. In late 2010 and early 2011, USDA engaged in a series of consultative sessions to obtain input by Tribal officials or their designees concerning the impact of this rule on the Tribe or Indian Tribal governments, or whether this rule may preempt Tribal law. Reports from these consultations will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA will respond in a timely and meaningful manner to all Tribal government requests for consultation concerning this rule and will provide additional venues, such as webinars and teleconferences, to periodically host collaborative conversations with Tribal officials or their designees concerning ways to improve this rule in Indian country.

We are unaware of any current Tribal laws that could be in conflict with this final rule.

List of Subjects

7 CFR Part 210

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Penalties, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 215

Food assistance programs, Grant programs—education, Grant programs—health, Infants and children, Milk, Reporting and recordkeeping requirements.

7 CFR Part 220

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs.

7 CFR Part 225

Food assistance programs, Grant programs—health, Infants and children, Labeling, Reporting and recordkeeping requirements.

7 CFR Part 226

Accounting, Aged, Day care, Food assistance programs, Grant programs, Grant programs—health, Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR Parts 210, 215, 220, 225, and 226 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

■ 1. The authority citation for 7 CFR Part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

Subpart E—State Agency and School Food Authority Responsibilities

■ 2. In § 210.21, paragraph (g) is added to read as follows:

§ 210.21 Procurement.

* * * * *

(g) *Geographic preference.* (1) A school food authority participating in the Program, as well as State agencies making purchases on behalf of such school food authorities, may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the school food authority making the purchase or the State agency making purchases on behalf of such school food authorities have the discretion to determine the local area to which the geographic preference option will be applied;

(2) For the purpose of applying the optional geographic procurement preference in paragraph (g)(1) of this section, "unprocessed locally grown or locally raised agricultural products" means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); the addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

■ 3. The authority citation for 7 CFR Part 215 continues to read as follows:

Authority: 42 U.S.C. 1772 and 1779.

■ 4. In § 215.14a, paragraph (e) is added to read as follows:

§ 215.14a Procurement standards.

* * * * *

(e) *Geographic preference.* A school food authority participating in the Program may apply a geographic preference when procuring milk. When utilizing the geographic preference to procure milk, the school food authority making the purchase has the discretion to determine the local area to which the geographic preference option will be applied.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

■ 5. The authority citation for 7 CFR Part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 6. In § 220.16, paragraph (f) is added to read as follows:

§ 220.16 Procurement.

* * * * *

(f) *Geographic preference.* (1) School food authorities participating in the Program, as well as State agencies making purchases on behalf of such school food authorities, may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the school food authority making the purchase or the State agency making purchases on behalf of such school food authorities have the discretion to determine the local area to which the geographic preference option will be applied;

(2) For the purpose of applying the optional geographic preference in paragraph (f)(1) of this section, "unprocessed locally grown or locally raised agricultural products" means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

* * * * *

PART 225—SUMMER FOOD SERVICE PROGRAM

■ 7. The authority citation for 7 CFR Part 225 continues to read as follows:

Authority: Secs. 9, 13 and 14, Richard B. Russell National School Lunch Act, as amended, (42 U.S.C. 1758, 1761 and 1762a).

■ 8. In § 225.17, paragraph (e) is added to read as follows:

§ 225.17 Procurement standards.

* * * * *

(e) *Geographic preference.* (1) Sponsors participating in the Program may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the sponsor making the purchase has the discretion to determine the local area to which the geographic preference option will be applied;

(2) For the purpose of applying the optional geographic preference in paragraph (e)(1) of this section, "unprocessed locally grown or locally raised agricultural products" means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

■ 9. The authority citation for 7 CFR Part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, 17, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

■ 10. In § 226.22, paragraph (n) is added to read as follows:

§ 226.22 Procurement standards.

* * * * *

(n) *Geographic preference.* (1) Institutions participating in the Program

may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the institution making the purchase has the discretion to determine the local area to which the geographic preference option will be applied;

(2) For the purpose of applying the optional geographic preference in paragraph (n)(1) of this section, "unprocessed locally grown or locally raised agricultural products" means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

Dated: April 18, 2011.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2011–9843 Filed 4–21–11; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

7 CFR Part 4280

Notice of a Public Meeting on the Rural Energy for America Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The Rural Business-Cooperative Service (RBS) will hold two informational Webinars for the Rural Energy for America Program (REAP) associated with the recently published REAP interim rule and Notice of Funds Availability (NOFA). Participation will be limited for each Webinar to the first two hundred registrants.

DATES: The Webinars will be held on Friday, April 29, 2011, and on Monday, May 2, 2011, from 2 p.m. to 4 p.m. EDT both days. You must register, as described in the **ADDRESSES** section, by noon EDT April 27, 2011, for the April 29, 2011, Webinar and by noon EDT April 28, 2011, for the May 2, 2011, Webinar.

ADDRESSES: To participate in one of the Webinars, you must register for one of the Webinars by sending an e-mail to: *energydivision@wdc.usda.gov*. You must include in the SUBJECT line the date of the Webinar for which you wish to participate, and in the body of the e-mail, please provide the participant's name, e-mail address, mailing address, and telephone number. You must submit your e-mail by the applicable deadline listed in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Donnetta Rigney, Rural Business-Cooperative Service, U.S. Department of Agriculture, Stop 3225, 1400 Independence Avenue, SW., Washington, DC 20250–3221, Telephone: (202) 720–9812.

SUPPLEMENTARY INFORMATION: The REAP interim rule and the NOFA were published in the **Federal Register** on April 14, 2011. In order to familarize the public with the content of the REAP interim rule, representatives of the Department of Agriculture are conducting the two Webinars. The purpose of these Webinars is to provide information on the interim rule for the Rural Energy for America Program, focusing on the provisions associated with flexible fuel pumps and other significant changes being implemented through the interim rule. Participants will be afforded the opportunity to ask questions on the material included in the presentation.

Please note that formal comments on the interim rule will not be accepted during the Webinar. Instead, the public has an opportunity to comment formally on the interim rule as provided in the interim rule published in the **Federal Register** on April 14, 2011 (76 FR 21110).

All prospective registrants will be notified by the Agency via e-mail if they are or are not among the first two hundred registrants for one of the two Webinars.

Participants are responsible for ensuring their systems are compatible with the Webinar software.

Dated: April 18, 2011.

Judith A. Canales,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2011–9725 Filed 4–21–11; 8:45 am]

BILLING CODE 3410–XY–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1610

[CPSC Docket No. CPSC–2010–0086]

Third Party Testing for Certain Children's Products; Clothing Textiles: Revisions to Terms of Acceptance of Children's Product Certifications Based on Third Party Conformity Assessment Body Testing Prior to Commission's Acceptance of Accreditation

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of requirements; revision of retrospective testing terms.

SUMMARY: The U.S. Consumer Product Safety Commission ("CPSC," "Commission," or "we") issues this notice amending the terms under which it will accept certifications for children's products based on third party conformity assessment body (laboratory) testing to the flammability regulations at 16 CFR part 1610 that occurred before the Commission's acceptance of the accreditation of the third party conformity assessment body.[1] We are taking this action in response to a request from certain members of the clothing textile industry to reduce unnecessary retesting of clothing textiles that have been tested already and found to be in compliance with CPSC regulations.

DATES: *Effective Date:* The revision announced in this document is effective April 22, 2011.

FOR FURTHER INFORMATION CONTACT: Robert "Jay" Howell, Assistant Executive Director for the Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; e-mail: *rhowell@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 14(a)(3)(B)(vi) of the CPSA, as added by section 102(a)(2) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110–314, directs the CPSC to publish a notice of requirements for accreditation of third party conformity assessment bodies to assess children's products for conformity with "other children's product safety rules." Section 14(f)(1) of

[1] The Commission voted 4–0–1 to publish this revision to the notice of requirements for clothing textiles. Commissioners Nancy A. Nord and Anne M. Northup each issued a statement, and the statements can be found at *http://www.cpsc.gov/pr/statements.html.*

the CPSA defines "children's product safety rule" as "a consumer product safety rule under [the CPSA] or similar rule, regulation, standard, or ban under any other Act enforced by the Commission, including a rule declaring a consumer product to be a banned hazardous product or substance." Under section 14(a)(3)(A) of the CPSA, each manufacturer (including the importer) or private labeler of products subject to a children's product safety rule must have products that are manufactured more than 90 days after the Commission has established and published notice of the requirements for accreditation tested by a third party conformity assessment body accredited to do so, and must issue a certificate of compliance with the applicable regulations based on that testing. Section 14(a)(2) of the CPSA requires that certification be based on testing of sufficient samples of the product, or samples that are identical in all material respects to the product. The Commission also emphasizes that, irrespective of certification, the product in question must comply with applicable CPSC requirements (*see, e.g.,* section 14(h) of the CPSA).

In the **Federal Register** of August 18, 2010 (75 FR 51016), we published a notice of requirements providing the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing pursuant to 16 CFR part 1610, "Standard for the Flammability of Clothing Textiles," which sets minimum standards for flammability of clothing textiles under the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*) (FFA). The notice of requirements stated that its publication had the effect of lifting the stay of enforcement with regard to testing and certification of children's products under 16 CFR part 1610. This meant that each manufacturer of clothing textiles that are children's products must have any such product manufactured after November 16, 2010, tested by a third party conformity assessment body accredited to do so, and must issue a certificate of compliance based on that testing (75 FR at 51018).

We addressed testing performed by a third party conformity assessment body prior to the Commission's acceptance of its accreditation, or "retrospective" testing, in section IV of the notice of requirements. We stated that we would accept a certificate of compliance with the standard included in 16 CFR part 1610 based on testing performed by an accredited third party conformity assessment body (including a government-owned or -controlled conformity assessment body, and a firewalled conformity assessment body), prior to the Commission's acceptance of its accreditation if:

- The product was tested by a third party conformity assessment body that was ISO/IEC 17025 accredited by an ILAC–MRA member at the time of the test. For firewalled conformity assessment bodies, the firewalled conformity assessment body must be one that the Commission accredited by order at or before the time the product was tested, even though the order will not have included the test methods in the regulations specified in this notice. If the third party conformity assessment body has not been accredited by a Commission order as a firewalled conformity assessment body, the Commission will not accept a certificate of compliance based on testing performed by the third party conformity assessment body before it is accredited, by Commission order, as a firewalled conformity assessment body;
- The third party conformity assessment body's application for testing using the test methods in 16 CFR part 1610 is accepted by the CPSC on or before October 18, 2010;
- The product was tested under 16 CFR part 1610 on or after August 18, 2010;
- The accreditation scope in effect for the third party conformity assessment body at the time of testing expressly included testing to 16 CFR part 1610;
- The test results show compliance with the applicable current standards and/or regulations; and
- The third party conformity assessment body's accreditation, including inclusion in its scope of 16 CFR part 1610, remains in effect through the effective date for mandatory third party testing and manufacturer certification for conformity with 16 CFR part 1610.

75 FR at 51019 through 51020.

II. Requests for Revision

On December 2, 2010, the American Apparel and Footwear Association (AAFA) submitted a letter to the Commission requesting that we "extend the testing and certification date by an additional 60 days," and that we amend section IV of the notice of requirements "to accept third party tests done on or after August 18, 2009 by testing facilities accredited on or before November 16, 2010." (The AAFA letter may be viewed at *http://www.regulations.gov* in the docket folder for docket number CPSC–2010–0086.)

The AAFA based its request for an extension of the testing and certification date on our authority in section 102(a)(3)(F) of the CPSIA, which states:

> If the Commission determines that an insufficient number of third party conformity assessment bodies have been accredited to permit certification for a children's product safety rule under the accelerated schedule required by this paragraph, the Commission may extend the deadline for certification to such rule by not more than 60 days.

15 U.S.C. 2063(a)(3)(F). The AAFA contended that there is an insufficient number of CPSC-accepted third party laboratories accredited to 16 CFR part 1610. It presented three arguments in support of this contention. First, it argued that although there were 67 CPSC-accepted laboratories accredited to test to 16 CFR part 1610 as of November 16, 2010, those laboratories were not geographically distributed in such a way as to meet industry needs. Second, it stated a concern that many apparel manufacturers are not aware of their obligation to use CPSC-accepted laboratories. Third, the AAFA also asserted that many companies were unaware that the stay of enforcement on the testing and certification requirements for children's apparel had been lifted.

The AAFA stated that limiting acceptable retrospective tests to those conducted since August 18, 2010, would "further back up testing facilities and be an unnecessary burden on business * * * [and would] put at a disadvantage those companies who had taken the proactive step to engage in third party testing" prior to August 18, 2010. It noted that many textiles are tested before they are manufactured into garments and explained that in some cases, the time that elapses between when a textile has been tested and when the garment is produced can be "several months or even years." In addition, the AAFA stated that limiting retrospective tests to those conducted since August 18, 2010, "unnecessarily adversely affects the continuing guarantees * * * issued * * * pursuant to Section 8 of the FFA." Section 8 of the FFA provides that a manufacturer or supplier of clothing textiles may issue a guaranty, based on reasonable and representative testing, that the clothing textile complies with FFA standards. The holder of a valid guaranty is not subject to criminal prosecution under section 7 of the FFA (penalties) for a violation of section 3 of the FFA (prohibited transactions). A continuing guaranty is a notarized declaration filed with the Commission in which the manufacturer avers that it has conducted the requisite reasonable and representative product testing and that the testing shows that the product conforms to 16 CFR part

1610. A continuing guaranty remains valid for three years (and at such other times as any change occurs in the legal business status of the person filing the guaranty).

III. The Response to the Requests

A. Request To Extend the Testing and Certification Date by an Additional 60 Days

We decline to extend the date by which a manufacturer of a children's product subject to 16 CFR part 1610 must have such product tested by a third party conformity assessment body accredited to do so and must issue a certificate of compliance based on that testing. We have the authority to grant such a request only if there is insufficient laboratory capacity. The existence of 67 CPSC-accepted labs accredited to test to 16 CFR part 1610 as of November 16, 2010, belies the claim of insufficient laboratory capacity, even if the laboratories are not distributed geographically as the AAFA would prefer.

We also disagree with the AAFA's assertion, as another basis for an extension, that some manufacturers are not fully aware that children's product certifications must be based on testing conducted by CPSC-accepted third party laboratories, and that many companies are unaware that the stay of enforcement on the testing and certification requirements had been lifted for children's apparel. The CPSIA became law in August 2008, and we published the notice of requirements pertaining to 16 CFR part 1610 in the **Federal Register** on August 18, 2010. The statute's existence, as well as the publication of the notice of requirements for 16 CFR part 1610, provided notice of these manufacturers' legal obligations. Additionally, the Commission encourages the apparel and textile trade associations to educate the industry on their obligations under the CPSIA and FFA.

Finally, we note that section 14(a)(3)(E) of the CPSA authorizes the Commission to extend the deadline for certification "by not more than 60 days." Such a time period is measured from the date on which such certification would have been required. In this case, the certification requirement became effective for products manufactured after November 16, 2010; therefore, a 60-day extension, had it been granted, would have expired in mid-January 2011. Thus, the AAFA's request for an extension is moot.

B. Request To Accept, for Children's Product Certification Purposes, Tests Pursuant to 16 CFR Part 1610 Conducted by Accredited Third Party Laboratories Since August 18, 2009

We have considered AAFA's request and, through this notice, are revising our position regarding "Limited Acceptance of Children's Product Certifications Based on Third Party Conformity Assessment Body Testing Prior to the Commission's Acceptance of Accreditation." Due to the nature of the wearing apparel industry, there is a possible significant time lapse between fabric testing and the finished garment. This could mean that some products that were tested previously by laboratories that have since become CPSC-accepted, would need to be retested. Therefore, we agree that revising our position on "retrospective" testing is appropriate because it will reduce further the potential need for redundant testing. We will accept children's product certifications based on third party conformity assessment body testing, prior to our acceptance of accreditation, under the following conditions:

- At the time of product testing, the product was tested by a third party conformity assessment body that was ISO/IEC 17025 accredited by an accreditation body that is a signatory to the ILAC–MRA;
- The third party conformity assessment body's application for testing using the test methods in 16 CFR part 1610 is accepted by the CPSC on or before November 16, 2010;
- The product was tested under 16 CFR part 1610 on or after August 18, 2009;
- The accreditation scope in effect for the third party conformity assessment body at the time of testing expressly included testing to 16 CFR part 1610;
- The test results show compliance with the applicable current standards and/or regulations; and
- The third party conformity assessment body's accreditation, including inclusion in its scope of 16 CFR part 1610, remains in effect through the effective date for mandatory third party testing and manufacturer certification for conformity with 16 CFR part 1610.

Dated: April 19, 2011.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2011–9790 Filed 4–21–11; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2011–N–0003]

Implantation or Injectable Dosage Form New Animal Drugs; Enrofloxacin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Bayer HealthCare LLC. The supplemental NADA provides for the addition of a pathogen to the indications for use of enrofloxacin solution in cattle, as a single injection, for the treatment of respiratory disease.

DATES: This rule is effective April 22, 2011.

FOR FURTHER INFORMATION CONTACT: Cindy L. Burnsteel, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8341, *e-mail: cindy.burnsteel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Bayer HealthCare LLC, Animal Health Division, P.O. Box 390, Shawnee Mission, KS 66201, filed a supplement to NADA 141–068 for BAYTRIL 100 (enrofloxacin), an injectable solution. The supplemental NADA provides for the addition of *Mycoplasma bovis* to the pathogens in the indication for use of enrofloxacin solution in cattle, as a single injection, for the treatment of bovine respiratory disease (BRD). The supplemental NADA is approved as of March 10, 2011, and the regulation in 21 CFR 522.812 is amended to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and § 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval qualifies for 3

years of marketing exclusivity beginning on the date of approval.

The Agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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 Part 522

Animal drugs.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. In § 522.812, revise paragraph (e)(2)(ii) to read as follows:

§ 522.812 Enrofloxacin.

* * * * *

(e) * * *

(2) * * *

(ii) *Indications for use*—(A) *Single-dose therapy:* For the treatment of bovine respiratory disease (BRD) associated with *Mannheimia haemolytica, Pasteurella multocida, Histophilus somni,* and *Mycoplasma bovis* in beef and non-lactating dairy cattle.

(B) *Multiple-day therapy:* For the treatment of bovine respiratory disease (BRD) associated with *Mannheimia haemolytica, Pasteurella multocida,* and *Histophilus somni* in beef and non-lactating dairy cattle.

* * * * *

Dated: April 15, 2011.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 2011–9765 Filed 4–21–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9518]

RIN 1545–BJ52

Specified Tax Return Preparers Required To File Individual Income Tax Returns Using Magnetic Media; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document describes a correction to final regulations (TD 9518) that were published in the **Federal Register** on Wednesday, March 30, 2011 (76 FR 17521) providing guidance to specified tax return preparers who prepare and file individual income tax returns using magnetic media pursuant to section 6011(e)(3) of the Internal Revenue Code.

DATES: This correction is effective on April 22, 2011, and is applicable to individual income tax returns filed after December 31, 2010.

FOR FURTHER INFORMATION CONTACT: Keith L. Brau, (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 6011 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9518) contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9518) which were the subject of FR Doc. 2011–7571 is corrected as follows:

On page 17528, column 2, under CFR Part Heading "PART 301—PROCEDURE AND ADMINISTRATION", the language "**Par. 4**. The authority citation for part 301 is amended by adding an entries in numerical order to read, in part, as follows:" is corrected to read "**Par. 4.** The authority citation for part 301 is amended by adding entries in numerical order to read, in part, as follows:".

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2011–9737 Filed 4–21–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

[Docket ID: DoD–2011–OS–0004]

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary, DoD.

ACTION: Direct final rule with request for comments.

SUMMARY: The Office of the Secretary of Defense is exempting those records contained in DMDC 12 DoD, entitled "Joint Personnel Adjudication System (JPAS)", when investigatory material is compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that such material would reveal the identity of a confidential source.

This direct final rule makes nonsubstantive changes to the Office of the Secretary Privacy Program rules. These changes will allow the Department to add an exemption rule to the Office of the Secretary of Defense Privacy Program rules that will exempt applicable Department records and/or material from certain portions of the Privacy Act. This change will allow the Department to move part of the Department's personnel security program records from the Defense Security Service Privacy Program to the Office of the Secretary of Defense Privacy Program. This direct final rule is consistent with the rule previously published at 32 CFR 321.13(h) and another rule is being published to remove and reserve 321.13(h). This will improve the efficiency and effectiveness of DoD's program by preserving the exempt status of the applicable records and/or material when the purposes underlying the exemption(s) are valid and necessary.

This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

DATES: The rule will be effective on July 1, 2011 unless comments are received that would result in a contrary determination. Comments will be accepted on or before June 21, 2011.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard at (703) 588–6830.

SUPPLEMENTARY INFORMATION:

Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes dealing with DoD's management of its Privacy Progams. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive orders.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 95–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no additional information collection requirements on the public under the Paperwork Reduction Act of 1995.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been determined that this Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

PART 311—OFFICE OF THE SECRETARY OF DEFENSE AND JOINT STAFF PRIVACY PROGRAM

■ 1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1986 (5 U.S.C. 522a).

■ 2. Section 311.8 is amended by adding paragraph (c)(18) as follows:

§ 311.8 Procedures for exemptions.

* * * * *

(c) * * *

(18) *System identifier and name:* DMDC 12 DoD, Joint Personnel Adjudication System (JPAS).

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) from subsections (c)(3) and (d) when access to accounting disclosure and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From subsection (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. It is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

* * * * *

Dated: April 8, 2011.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–9745 Filed 4–21–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

[Docket ID: DoD–2011–OS–0010]

Privacy Act; Implementation

AGENCY: Office of the Secretary, DoD.

ACTION: Direct final rule with request for comments.

SUMMARY: The Office of the Secretary of Defense is proposing to exempt one (1) new system of records, DA&M 01, entitled, "Civil Liberties Program Case Management System" from subsections (c)(3); (d)(1), (2), (3), (4); (e)(1) and (e)(4)(G), (H), (I); and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k).

This direct final rule makes nonsubstantive changes to the Office of the Secretary Privacy Program rules. These changes will allow the Department to add an exemption rule to the Office of the Secretary of Defense Privacy Program rules that will exempt applicable Department records and/or material from certain portions of the Privacy Act. This will improve the efficiency and effectiveness of DoD's program by preserving the exempt status of the applicable records and/or material when the purposes underlying the exemption(s) are valid and necessary.

This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

DATES: The rule will be effective on July 1, 2011 unless comments are received that would result in a contrary determination. Comments will be accepted on or before June 21, 2011.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, Room 3C843, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard at (703) 588–6830.

SUPPLEMENTARY INFORMATION:

Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes dealing with DoD's management of its Privacy Progams. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive orders.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no additional information collection requirements on the public under the Paperwork Reduction Act of 1995.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act of 1995"

It has been determined that this Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

PART 311—[AMENDED]

■ 1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1986 (5 U.S.C. 522a).

■ 2. Section 311.8 is amended by adding paragraph (c)(19) as follows:

§ 311.8 Procedures for exemptions.

* * * * *

(c) * * *

(19) System identifier and name: DA&M 01, Civil Liberties Program Case Management System.

(i) *Exemptions:* Records contained in this System of Records may be

exempted from the requirements of subsections (c)(3); (d)(1), (2), (3), and (4); (e)(1) and (e)(4)(G), (H), and (I); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1). Records may be exempted from these subsections or, additionally, from the requirements of subsections (c)(4); (e)(2), (3), and (8) of the Privacy Act of 1974 consistent with any exemptions claimed under 5 U.S.C. 552a (j)(2) or (k)(1), (k)(2), or (k)(5) by the originator of the record, provided the reason for the exemption remains valid and necessary. An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and is published at 32 CFR part 311.

(ii) *Authority:* 5 U.S.C. 552a (j)(2), (k)(1), (k)(2), or (k)(5).

(iii) *Reasons:* (A) From subsections (c)(3) (accounting of disclosures) because an accounting of disclosures from records concerning the record subject would specifically reveal an intelligence or investigative interest on the part of the Department of Defense and could result in release of properly classified national security or foreign policy information.

(B) From subsections (d)(1), (2), (3) and (4) (record subject's right to access and amend records) because affording access and amendment rights could alert the record subject to the investigative interest of law enforcement agencies or compromise sensitive information classified in the interest of national security. In the absence of a national security basis for exemption, records in this system may be exempted from access and amendment to the extent necessary to honor promises of confidentiality to persons providing information concerning a candidate for position. Inability to maintain such confidentiality would restrict the free flow of information vital to a determination of a candidate's qualifications and suitability.

(C) From subsection (e)(1) (maintain only relevant and necessary records) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. It is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. In the absence of a national security basis for exemption under subjection (k)(1), records in this system may be exempted from the relevance requirement pursuant to subjection (k)(5) because it is not possible to determine in advance what exact information may assist in determining the qualifications and suitability of a candidate for position. Seemingly irrelevant details, when combined with other data, can provide a useful composite for determining whether a candidate should be appointed.

(D) From subsections (e)(4)(G) and (H) (publication of procedures for notifying subject of the existence of records about them and how they may access records and contest contents) because the system is exempted from subsection (d) provisions regarding access and amendment, and from the subsection (f) requirement to promulgate agency rules. Nevertheless, the Office of the Secretary of Defense has published notice concerning notification, access, and contest procedures because it may, in certain circumstances, determine it appropriate to provide subjects access to all or a portion of the records about them in this system of records.

(E) From subsection (e)(4)(I) (identifying sources of records in the system of records) because identifying sources could result in disclosure of properly classified national defense or foreign policy information, intelligence sources and methods, and investigatory techniques and procedures. Notwithstanding its proposed exemption from this requirement the Office of the Secretary of Defense identifies record sources in broad categories sufficient to provide general notice of the origins of the information it maintains in this system of records.

(F) From subsection (f) (agency rules for notifying subjects to the existence of records about them, for accessing and amending records, and for assessing fees) because the system is exempt from subsection (d) provisions regarding access and amendment of records by record subjects. Nevertheless, the Office of the Secretary of Defense has published agency rules concerning notification of a subject in response to his request if any system of records named by the subject contains a record pertaining to him and procedures by which the subject may access or amend the records. Notwithstanding exemption, the Office of the Secretary of Defense may determine it appropriate to satisfy a record subject's access request.

Dated: April 8, 2011.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–9746 Filed 4–21–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2008–OS–0053]

32 CFR Part 322

Privacy Act; Implementation

AGENCY: National Security Agency/Central Security Services, DoD.

ACTION: Final rule.

SUMMARY: The National Security Agency/Central Security Services (NSA/CSS) is adding an exemption rule for the system of records GNSA 23, "NSA/CSS Operations Security Support Program and Training Files" when an exemption has been previously claimed for the records in another Privacy Act system of records. The exemption is intended to preserve the exempt status of the record when the purposes underlying the exemption for the original records are still valid and necessary to protect the contents of the records.

DATES: *Effective Date:* April 22, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Hill at (301) 688–6527.

SUPPLEMENTARY INFORMATION: The proposed rule was published on May 19, 2008 (73 FR 28767–29768). No comments were received.

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 95–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no additional information collection requirements on the public under the Paperwork Reduction Act of 1995.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been determined that this Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 322

Privacy.

Accordingly, 32 CFR part 322 is amended as follows:

PART 322—[AMENDED]

■ 1. The authority citation for 32 CFR part 322 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Section 322.7 is amended by redesignating paragraphs (r) and (s) as paragraphs (s) and (t) and adding a new paragraph (r) to read as follows:

§ 322.7 Exempt systems of records.

* * * * *

(r) GNSA 23.

(1) *System name:* NSA/CSS Operations Security Support and Program Files.

(2) *Exemption.* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(4) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(3) *Authority:* 5 U.S.C. 552a(k)(4).

(4) *Reasons:* (i) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(ii) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(iii) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(iv) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(v) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

Dated: April 8, 2011.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–9740 Filed 4–21–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2011–OS–0003]

32 CFR Part 322

Privacy Act; Implementation

AGENCY: National Security Agency/Central Security Service, DoD.

ACTION: Direct final rule with request for comments.

SUMMARY: The National Security Agency/Central Security Service is deleting an exemption rule and adding a new exemption rule. The exemption rule for GNSA 13, entitled "Archive Records" is being deleted in its entirety; a new exemption rule for GNSA 28, entitled "Freedom of Information Act, Privacy Act and Mandatory Declassification Review Records" is being added to exempt those records that have been previously claimed for the records in another Privacy Act system of records. To the extent that copies of exempt records from those other systems of records are entered into these case records, NSA/CSS hereby claims the same exemptions for the records as claimed in the original primary system of records of which they are a part.

This direct final rule makes nonsubstantive changes to the National Security Agency/Central Security Service Privacy Program rules. These changes will allow the Department to exempt records from certain portions of the Privacy Act. This will improve the efficiency and effectiveness of DoD's program by preserving the exempt status of the records when the purposes underlying the exemption for the original records are still valid and necessary to protect the contents of the records.

This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

DATES: The rule will be effective on July 1, 2011 unless comments are received that would result in a contrary determination. Comments will be accepted on or before June 21, 2011.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket management System Office, Room 3C843, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Hill at (301) 688–6527.

SUPPLEMENTARY INFORMATION:

Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes dealing with DoD's management of its Privacy Progams. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive orders.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no additional information collection requirements on the public under the Paperwork Reduction Act of 1995.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do 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.

List of Subjects in 32 CFR Part 322

Privacy.

Accordingly, 32 CFR part 322 is amended as follows:

PART 322—NATIONAL SECURITY AGENCY/CENTRAL SECURITY SERVICE PROGRAM

■ 1. The authority citation for 32 CFR part 322.7 continues to read as follows:

Authority: Privacy Act of 1974, Pub. L. 93–579, Stat. 1896 (5 U.S.C. 552a).

■ 2. In § 322.7, remove and reserve paragraph (l) and add paragraph (u) to read as follows:

§ 322.7 Exempt systems of records.

* * * * *

(u) ID: GNSA 28 (General Exemption)

(1) *System name:* Freedom of Information Act, Privacy Act and Mandatory Declassification Review Records.

(2) *Exemption:* During the processing of letters and other correspondence to the National Security Agency/Central Security Service, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those "other" systems of records are entered into this system, the National Security Agency/Central Security Service hereby claims the same exemptions for the records from those "other" systems that are entered into this system, as claimed for the original primary system of which they are a part.

(3) *Authority:* 5 U.S.C. 552a(k)(2) through (k)(7).

(4) *Reasons:* During the course of a FOIA/Privacy Act and/or MDR action, exempt materials from other system of records may become part of the case records in this system of records. To the extent that copies of exempt records from those other systems of records are entered into these case records, NSA/CSS hereby claims the same exemptions for the records as claimed in the original primary system of records of which they are a part. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

Dated: April 8, 2011.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–9742 Filed 4–21–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

[Docket ID: USN–2010–0036]

Privacy Act of 1974; Implementation

AGENCY: Department of the Navy, DoD.

ACTION: Direct final rule with request for comments.

SUMMARY: The Department of the Navy is reinstating an exemption rule that was inadvertently deleted for system of records notice N03834–1, entitled "Special Intelligence Personnel Access File (April 28, 1999, 64 FR 22840)".

This direct final rule makes nonsubstantive changes to the Department of the Navy Privacy Program rules. These changes will allow the Department to exempt records from certain portions of the Privacy Act. This will improve the efficiency and effectiveness of DoD's program by

preserving the exempt status of the records when the purposes underlying the exemption are valid and necessary to protect the contents of the records.

This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

DATES: The rule will be effective on July 1, 2011 unless comments are received that would result in a contrary determination. Comments will be accepted on or before June 21, 2011.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, Room 3C843, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is of make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson at (202) 685–6545.

SUPPLEMENTARY INFORMATION:

Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes dealing with DoD's management of its Privacy Progams. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive orders.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no additional information collection requirements on the public under the Paperwork Reduction Act of 1995.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been determined that Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that Privacy Act rules for the Department of Defense do not have federalism implications. The rules do 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.

List of Subjects in 32 CFR Part 701

Privacy.

Accordingly, 32 CFR part 701 is amended as follows:

Subpart G—Privacy Act Exemptions

■ 1. The authority citation for 32 CFR part 701 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. In § 701.128, add paragraph (f) to read as follows:

§ 701.128 Exemptions for specific Navy record systems.

* * * * *

(f) *System identifier and name:*

(1) N03834–1, Special Intelligence Personnel Access File.

(2) *Exemption:* (i) Information specifically authorized to be classified under E.O. 12,958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(ii) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(iii) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

(3) *Authority:* 5 U.S.C. 552a(k)(1) and (k)(5).

(4) *Reasons:* (i) Exempted portions of this system contain information that has been properly classified under E.O. 12356, and that is required to be kept secret in the interest of national defense or foreign policy.

(ii) Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for access to classified information and was obtained by providing an express or implied assurance to the source that his or her identity would not be revealed to the subject of the record.

* * * * *

Dated: April 8, 2011.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–9749 Filed 4–21–11; 8:45 am]

BILLING CODE 5001–06–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2011–19, *et al.*]

Product List Update

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is updating the postal product lists. This action reflects the disposition of recent dockets, as reflected in Commission orders, and a publication policy adopted in a recent Commission order. The referenced policy assumes periodic updates. The updates are identified in the body of this document. The product lists, which are re-published in their entirety, include these updates.

DATES: *Effective Date:* April 22, 2011.

Applicability Dates: March 1, 2011 (Parcel Select Contract 1(MC2011–16 and CP2011–53)); March 15, 2011 (Discover Financial Services 1 (MC2011–19 and R2011–3)); March 28, 2011 (Competitive Ancillary Services (MC2011–23 and CP2011–62)); and April 6, 2011 (Lightweight Commercial Parcels (MC2011–22)).

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel at 202–789–6820.

SUPPLEMENTARY INFORMATION: This document identifies recent updates to the product lists, which appear as 39 CFR Appendix A to Subpart A of Part 3020—Mail Classification Schedule.[1] Publication of updated product lists in the **Federal Register** is addressed in the Postal Accountability and Enhancement Act (PAEA) of 2006.

Authorization. The Commission process for periodic publication of updates was established in Order No. 445, April 22, 2010.

Changes. Since publication of the product lists in the **Federal Register** on February 22, 2011 (76 FR 9648), the following additions to the market dominant and competitive product list have been made:

1. Parcel Select Contract 1 (MC2011–16 and CP2011–53), added March 1, 2011 (Order No. 686);
2. Discover Financial Services 1 (MC2011–19 and R2011–3), added March 15, 2011 (Order No. 694);
3. Competitive Ancillary Services (MC2011–23 and CP2011–62), added March 28, 2011 (Order No. 703); and
4. Lightweight Commercial Parcels (MC2011–22), added April 6, 2011 (Order No. 710)

Updated product lists. The referenced changes to the market dominant and competitive product lists are identified following the Secretary's signature.

List of Subjects in 39 CFR Part 3020

Administrative practice and procedure; Postal Service.

By the Commission.

Shoshana M. Grove,

Secretary.

For the reasons discussed in the preamble, the Postal Regulatory Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise Appendix A to Subpart A of Part 3020—Mail Classification Schedule to read as follows:

Appendix A to Subpart A of Part 3020—Mail Classification Schedule

Part A—Market Dominant Products

1000 Market Dominant Product List
First-Class Mail
  Single-Piece Letters/Postcards
  Bulk Letters/Postcards
  Flats
  Parcels
  Outbound Single-Piece First-Class Mail International
  Inbound Single-Piece First-Class Mail International
Standard Mail (Regular and Nonprofit)
  High Density and Saturation Letters
  High Density and Saturation Flats/Parcels
  Carrier Route
  Letters
  Flats
  Not Flat-Machinables (NFMs)/Parcels
Periodicals
  Within County Periodicals
  Outside County Periodicals
Package Services
  Single-Piece Parcel Post
  Inbound Surface Parcel Post (at UPU rates)
  Bound Printed Matter Flats
  Bound Printed Matter Parcels
  Media Mail/Library Mail
Special Services
  Ancillary Services
  International Ancillary Services
  Address Management Services
  Caller Service
  Change-of-Address Credit Card Authentication
  Confirm
  Customized Postage
  International Reply Coupon Service
  International Business Reply Mail Service
  Money Orders
  Post Office Box Service
  Stamp Fulfillment Services
Negotiated Service Agreements
  Bookspan Negotiated Service Agreement
  Bank of America Corporation Negotiated Service Agreement
  Discover Financial Services 1
  HSBC North America Holdings Inc. Negotiated Service Agreement
  The Bradford Group Negotiated Service Agreement
  Inbound International
  Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Market Dominant Services (MC2010–12 and R2010–2)
  The Strategic Bilateral Agreement Between United States Postal Service and Koninklijke TNT Post BV and TNT Postl pakketservice Benelux BV, collectively "TNT Post" and China Post Group–United States Postal Service Letter Post Bilateral Agreement (MC2010–35, R2010–5 and R2010–6)
Market Dominant Product Descriptions
First-Class Mail
  Single-Piece Letters/Postcards
  Bulk Letters/Postcards
  Flats
  Parcels
  Outbound Single-Piece First-Class Mail International
  Inbound Single-Piece First-Class Mail International
Standard Mail (Regular and Nonprofit)
  High Density and Saturation Letters
  High Density and Saturation Flats/Parcels
  Carrier Route
  Letters
  [Reserved for Product Description]
  Flats
  Not Flat-Machinables (NFMs)/Parcels
Periodicals
  Within County Periodicals
  Outside County Periodicals
Package Services
  Single-Piece Parcel Post
  Inbound Surface Parcel Post (at UPU rates)
  Bound Printed Matter Flats
  Bound Printed Matter Parcels
  Media Mail/Library Mail
Special Services
  Ancillary Services
  Address Correction Service
  Applications and Mailing Permits
  Business Reply Mail
  Bulk Parcel Return Service
  Certified Mail
  Certificate of Mailing
  Collect on Delivery
  Delivery Confirmation
  Insurance
  Merchandise Return Service
  Parcel Airlift (PAL)
  Registered Mail
  Return Receipt
  Return Receipt for Merchandise
  Restricted Delivery
  Shipper-Paid Forwarding
  Signature Confirmation
  Special Handling
  Stamped Envelopes
  Stamped Cards
  Premium Stamped Stationery
  Premium Stamped Cards
  International Ancillary Services
  International Certificate of Mailing
  International Registered Mail
  International Return Receipt

[1] Docket Nos. MC2011–19 and R2011–3; MC2011–16 and CP2011–53; MC2011–22; MC2011–23 and CP2011–62.

International Restricted Delivery
Address List Services
Caller Service
Change-of-Address Credit Card Authentication
Confirm
International Reply Coupon Service
International Business Reply Mail Service
Money Orders
Post Office Box Service
[Reserved for Product Description]
Negotiated Service Agreements
HSBC North America Holdings Inc. Negotiated Service Agreement
Bookspan Negotiated Service Agreement
Bank of America Corporation Negotiated Service Agreement
The Bradford Group Negotiated Service Agreement

Part B—Competitive Products

2000 Competitive Product List
Express Mail
Express Mail
Outbound International Expedited Services
Inbound International Expedited Services
Inbound International Expedited Services 1 (CP2008–7)
Inbound International Expedited Services 2 (MC2009–10 and CP2009–12)
Inbound International Expedited Services 3 (MC2010–13 and CP2010–12)
Inbound International Expedited Services 4 (MC2010–37 and CP2010–126)
Lightweight Commercial Parcels
Priority Mail
Priority Mail
Outbound Priority Mail International
Inbound Air Parcel Post (at non-UPU rates)
Royal Mail Group Inbound Air Parcel Post Agreement
Inbound Air Parcel Post (at UPU rates)
Parcel Return Service
Parcel Select
International
International Priority Airlift (IPA)
International Surface Airlift (ISAL)
International Direct Sacks—M–Bags
Global Customized Shipping Services
Inbound Surface Parcel Post (at non-UPU rates)
Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services (MC2010–14 and CP2010–13—Inbound Surface Parcel Post at Non-UPU Rates and Xpresspost-USA)
International Money Transfer Service—Outbound
International Money Transfer Service—Inbound
International Ancillary Services
Special Services
Address Enhancement Service
Competitive Ancillary Services
Greeting Cards and Stationery
Premium Forwarding Service
Shipping and Mailing Supplies
Negotiated Service Agreements
Domestic
Express Mail Contract 1 (MC2008–5)
Express Mail Contract 2 (MC2009–3 and CP2009–4)
Express Mail Contract 3 (MC2009–15 and CP2009–21)
Express Mail Contract 4 (MC2009–34 and CP2009–45)
Express Mail Contract 5 (MC2010–5 and CP2010–5)
Express Mail Contract 6 (MC2010–6 and CP2010–6)
Express Mail Contract 7 (MC2010–7 and CP2010–7)
Express Mail Contract 8 (MC2010–16 and CP2010–16)
Express Mail Contract 9 (MC2011–1 and CP2011–2)
Express Mail Contract 10 (MC2011–12 and CP2011–48)
Express Mail Contract 11 (MC2011–14 and CP2011–50)
Express Mail & Priority Mail Contract 1 (MC2009–6 and CP2009–7)
Express Mail & Priority Mail Contract 2 (MC2009–12 and CP2009–14)
Express Mail & Priority Mail Contract 3 (MC2009–13 and CP2009–17)
Express Mail & Priority Mail Contract 4 (MC2009–17 and CP2009–24)
Express Mail & Priority Mail Contract 5 (MC2009–18 and CP2009–25)
Express Mail & Priority Mail Contract 6 (MC2009–31 and CP2009–42)
Express Mail & Priority Mail Contract 7 (MC2009–32 and CP2009–43)
Express Mail & Priority Mail Contract 8 (MC2009–33 and CP2009–44)
Parcel Select & Parcel Return Service Contract 1 (MC2009–11 and CP2009–13)
Parcel Return Service Contract 1 (MC2009–1 and CP2009–2)
Parcel Return Service Contract 2 (MC2011–6 and CP2011–33)
Parcel Select Contract 1 (MC2011–16 and CP2011–53)
Parcel Select & Parcel Return Service Contract 2 (MC2009–40 and CP2009–61)
Priority Mail Contract 1 (MC2008–8 and CP2008–26)
Priority Mail Contract 2 (MC2009–2 and CP2009–3)
Priority Mail Contract 3 (MC2009–4 and CP2009–5)
Priority Mail Contract 4 (MC2009–5 and CP2009–6)
Priority Mail Contract 5 (MC2009–21 and CP2009–26)
Priority Mail Contract 6 (MC2009–25 and CP2009–30)
Priority Mail Contract 7 (MC2009–25 and CP2009–31)
Priority Mail Contract 8 (MC2009–25 and CP2009–32)
Priority Mail Contract 9 (MC2009–25 and CP2009–33)
Priority Mail Contract 10 (MC2009–25 and CP2009–34)
Priority Mail Contract 11 (MC2009–27 and CP2009–37)
Priority Mail Contract 12 (MC2009–28 and CP2009–38)
Priority Mail Contract 13 (MC2009–29 and CP2009–39)
Priority Mail Contract 14 (MC2009–30 and CP2009–40)
Priority Mail Contract 15 (MC2009–35 and CP2009–54)
Priority Mail Contract 16 (MC2009–36 and CP2009–55)
Priority Mail Contract 17 (MC2009–37 and CP2009–56)
Priority Mail Contract 18 (MC2009–42 and CP2009–63)
Priority Mail Contract 19 (MC2010–1 and CP2010–1)
Priority Mail Contract 20 (MC2010–2 and CP2010–2)
Priority Mail Contract 21 (MC2010–3 and CP2010–3)
Priority Mail Contract 22 (MC2010–4 and CP2010–4)
Priority Mail Contract 23 (MC2010–9 and CP2010–9)
Priority Mail Contract 24 (MC2010–15 and CP2010–15)
Priority Mail Contract 25 (MC2010–30 and CP2010–75)
Priority Mail Contract 26 (MC2010–31 and CP2010–76)
Priority Mail Contract 27 (MC2010–32 and CP2010–77)
Priority Mail Contract 28 (MC2011–2 and CP2011–3)
Priority Mail Contract 29 (MC2011–3 and CP2011–4)
Priority Mail Contract 30 (MC2011–9 and CP2011–44)
Priority Mail Contract 31 (MC2011–10 and CP2011–46)
Priority Mail Contract 32 (MC2011–11 and CP2011–47)
Priority Mail Contract 33 (MC2011–13 and CP2011–49)
Priority Mail Contract 34 (MC2011–17 and CP2011–56)
Priority Mail Contract 35 (MC2011–18 and CP2011–57)
Priority Mail–Non-Published Rates
Priority Mail–Non-Published Rates 1 (MC2011–15 and CP2011–51)
Outbound International
Direct Entry Parcels Contracts
Direct Entry Parcels 1 (MC2009–26 and CP2009–36)
Global Direct Contracts (MC2009–9, CP2009–10, and CP2009–11)
Global Expedited Package Services (GEPS) Contracts
GEPS 1 (CP2008–5, CP2008–11, CP2008–12, CP2008–13, CP2008–18, CP2008–19, CP2008–20, CP2008–21, CP2008–22, CP2008–23 and CP2008–24)
Global Expedited Package Services 2 (CP2009–50)
Global Expedited Package Services 3 (MC2010–28 and CP2010–71)
Global Expedited Package Services—Non-published Rates 2 (MC2010–29 and CP2011–45)
Global Plus Contracts
Global Plus 1 (CP2008–8, CP2008–46 and CP2009–47)
Global Plus 1A (MC2010–26, CP2010–67 and CP2010–68)
Global Plus 1B (MC2011–7, CP2011–39 and CP2011–40)
Global Plus 2 (MC2008–7, CP2008–48 and CP2008–49)
Global Plus 2A (MC2010–27, CP2010–69 and CP2010–70)
Global Plus 2B (MC2011–8, CP2011–41 and CP2011–42)
Inbound International
Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 (MC2010–34 and CP2010–95)
Inbound Direct Entry Contracts with Foreign Postal Administrations

Inbound Direct Entry Contracts with Foreign Postal Administrations (MC2008–6, CP2008–14 and MC2008–15)
Inbound Direct Entry Contracts with Foreign Postal Administrations 1 (MC2008–6 and CP2009–62)
International Business Reply Service Competitive Contract 1 (MC2009–14 and CP2009–20)
International Business Reply Service Competitive Contract 2 (MC2010–18, CP2010–21 and CP2010–22)
Competitive Product Descriptions
Express Mail
Express Mail
Outbound International Expedited Services
Inbound International Expedited Services
Priority
Priority Mail
Outbound Priority Mail International
Inbound Air Parcel Post
Parcel Select
Parcel Return Service
International
International Priority Airlift (IPA)
International Surface Airlift (ISAL)
International Direct Sacks—M-Bags
Global Customized Shipping Services
International Money Transfer Service
Inbound Surface Parcel Post (at non-UPU rates)
International Ancillary Services
International Certificate of Mailing
International Registered Mail
International Return Receipt
International Restricted Delivery
International Insurance
Negotiated Service Agreements
Domestic
Outbound International
Part C—Glossary of Terms and Conditions [Reserved]
Part D—Country Price Lists for International Mail [Reserved]

[FR Doc. 2011–9782 Filed 4–21–11; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0102; FRL–8871–4]

Triflusulfuron-Methyl; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of triflusulfuron-methyl in or on beet, garden, roots and beet, garden, tops. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective April 22, 2011. Objections and requests for hearings must be received on or before June 21, 2011, and must be filed in accordance with the instructions provided in 40 CFR part 178 (*see* also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0102. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Laura Nollen, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (703) 305–7390; *e-mail address: nollen.laura@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- 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 to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0102 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before June 21, 2011. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0102, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The

Docket Facility telephone number is (703) 305–5805.

II. Summary of Petitioned-For Tolerances

In the **Federal Register** of March 19, 2010 (75 FR 13277) (FRL–8813–2), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9E7669) by IR–4, 500 College Road East, Suite 201 W., Princeton, NJ 08540. The petition requested that 40 CFR 180.492 be amended by establishing tolerances for residues of the herbicide triflusulfuron-methyl, 2-[[[[[4-(dimethylamino)-6-(2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]amino]carbonyl]amino]sulfonyl]-3-methylbenzoate, in or on beet, garden, roots at 0.01 parts per million (ppm); and beet, garden, tops at 0.02 ppm. That notice referenced a summary of the petition prepared on behalf of IR–4 by DuPont Crop Protection, the registrant, which is available in the docket, *http://www.regulations.gov.* Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

EPA has revised the tolerance expression for all established commodities to be consistent with current Agency policy and has made a technical correction to the chemical name. The reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. * * *"

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for triflusulfuron-methyl, including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with triflusulfuron-methyl follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Triflusulfuron-methyl is of low acute toxicity when administered orally, dermally, or via inhalation. It is not a dermal sensitizer or irritant, and causes only minor transient irritation to the eye. The primary target organs identified for triflusulfuron-methyl are the liver, testes, and red blood cells. Hematological and histopathological changes consistent with mild hemolytic anemia were observed in the rat and the dog. Following subchronic and/or chronic dietary exposure, increased incidence of testicular interstitial hyperplasia was observed in the rat, and testicular atrophy and reduced size were observed in the dog. Liver effects including histopathology and increased weight were observed in the dog and mouse, but not in the rat.

No evidence of neurotoxicity was observed except for a statistically significant increase in sciatic nerve myelin/axon degeneration in female rats at the highest dose tested in the rat combined chronic toxicity/carcinogenicity study. However, the incidence was high in all dose groups, no increases were seen in the interim sacrifice groups or in shorter-term studies, and it is commonly observed in older rats.

In the rat developmental toxicity study, no developmental effects were noted, whereas maternal toxicity was observed (decreased body weight gain, food consumption and feed efficiency). Abortions occurred in the rabbit developmental toxicity study at a dose that also caused significant maternal toxicity, including mortality, clinical signs, sharply reduced food consumption and decreased weight gain. In the rat reproductive toxicity study, decreased parental body weight/weight gain and offspring weight during lactation were observed at the mid and high doses. No reproductive effects were observed.

Triflusulfuron-methyl is classified as a possible human carcinogen (Group C) under the 1986 Cancer Guidelines, based on an increased incidence of benign testicular interstitial cell adenomas in male rats in the combined chronic/carcinogenicity toxicity study and evidence of clastogenicity in some *in vitro* genotoxicity studies. A special mechanistic study that evaluated hormonal changes in male rats provided insufficient information to establish a nonlinear mode of action for the formation of these tumors. Additionally, although a statistically significant incidence of hepatocellular adenomas was noted in a carcinogenicity study in mice, it was within the historical control range and not considered as part of the weight-of-evidence for determination of cancer classification. Because the observed tumors were benign and found in only one species, and only at significantly higher dose levels than the dose selected for the point of departure, the chronic reference dose (RfD) is considered protective of potential carcinogenicity for risk assessment purposes.

Specific information on the studies received and the nature of the adverse effects caused by triflusulfuron-methyl as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document "Triflusulfuron-methyl: Revised Human Health Risk Assessment for Use in Garden Beet." at pages 34–38 in docket ID number EPA–HQ–OPP–2010–0102.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a RfD—and a safe margin of exposure

(MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.* A summary of the toxicological endpoints for triflusulfuron-methyl used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR TRIFLUSULFURON-METHYL FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (Females 13–49 years of age and General population, including infants and children).	Not required. An appropriate endpoint for this risk assessment was not identified.		
Chronic dietary (All populations)	NOAEL= 2.44 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.0244 mg/kg/day. cPAD = 0.0244 mg/kg/day.	Chronic oral toxicity/carcinogenicity in the rat LOAEL = 30.6 mg/kg/day based on decreased body weight/weight gain, hematological changes (primarily males) and increased interstitial cell hyperplasia (males).
Cancer (Oral, dermal, inhalation)	Classification: Possible Human Carcinogen (Group C, 1986 Cancer Guidelines), based on increased incidence of testicular interstitial cell adenomas in rats. The RfD is considered adequately protective of these effects.		

FQPA SF = Food Quality Protection Act Safety Factor.
PAD = population adjusted dose (a = acute, c = chronic).
UF_A = extrapolation from animal to human (interspecies).
UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to triflusulfuron-methyl, EPA considered exposure under the petitioned-for tolerances as well as all existing triflusulfuron-methyl tolerances in 40 CFR 180.492. EPA assessed dietary exposures from triflusulfuron-methyl in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for triflusulfuron-methyl; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used the food consumption data from the USDA 1994–1996 and 1998 Continuing Surveys of Food Intakes by Individuals (CSFII). As to residue levels in food, EPA utilized tolerance-level residues and 100 percent crop treated (PCT) for all commodities.

iii. *Cancer.* EPA determines whether quantitative cancer exposure and risk assessments are appropriate for a food-use pesticide based on the weight of the evidence from cancer studies and other relevant data. Cancer risk is quantified using a linear or nonlinear approach. If sufficient information on the carcinogenic mode of action is available, a threshold or non-linear approach is used and a cancer RfD is calculated based on an earlier noncancer key event. If carcinogenic mode of action data are not available, or if the mode of action data determines a mutagenic mode of action, a default linear cancer slope factor approach is utilized. Based on the data summarized in Unit III.A., EPA has concluded that the use of the chronic RfD is considered protective of potential carcinogenicity for risk assessment purposes.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for triflusulfuron-methyl. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for triflusulfuron-methyl in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of triflusulfuron-methyl. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of triflusulfuron-methyl for chronic exposures for non-cancer assessments are estimated to be 0.005 parts per billion (ppb) for surface water and 0.50 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 0.50 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Triflusulfuron-methyl is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other

substances that have a common mechanism of toxicity." EPA has not found triflusulfuron-methyl to share a common mechanism of toxicity with any other substances, and triflusulfuron-methyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that triflusulfuron-methyl does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, *see* EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The triflusulfuron-methyl toxicity database is adequate to evaluate potential increased susceptibility of infants and children, and includes developmental toxicity studies in rat and rabbit and a 2-generation toxicity study in rat. No developmental effects were seen in the rat developmental toxicity study. In the rabbit developmental toxicity study, abortions were observed at a dose that also caused significant maternal toxicity, including mortality, clinical signs, sharply reduced food consumption and decreased weight gain. In the rat 2-generation reproductive toxicity study, decreased parental body weight/weight gain and F1 pup weight during lactation were observed at the mid and high doses. No reproductive effects were observed.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for triflusulfuron-methyl is complete except for immunotoxicity testing. Recent changes to 40 CFR part 158 require immunotoxicity testing (OPPTS Guideline 870.7800) for pesticide registration. However, the existing data are sufficient for endpoint selection for exposure/risk assessment scenarios, and for evaluation of the requirements under the FQPA. There was no evidence of direct immunotoxicity in the available studies. Hemolytic anemia, an effect associated with exposure to some sulfonylurea compounds, was observed for triflusulfuron-methyl. Immune-mediated hemolysis following binding to red blood cells has been reported for sulfonylurea drugs such as chlorpromamide, although it is not clear that the hemolytic anemia observed with triflusulfuron-methyl is related to the immune system. However, the hemolytic effects seen in the studies were of low concern because the effects were sporadic and marginal (< 10% below controls) and a large margin of safety for the effects was provided by the selection of the PODs. In the rat, significant hematological alterations and regenerative changes were observed at doses ≥ 100-fold above the selected PODs. Effects in the dog were seen at doses ≥ 15-fold higher. The Agency does not believe that an immunotoxicity study will provide a POD lower than that currently used for risk assessment; therefore, an additional UF is not needed to account for the lack of this study.

ii. Although a statistically significant increase in sciatic nerve myelin/axon degeneration in high dose female rats was observed in the triflusulfuron-methyl rat combined chronic toxicity/carcinogenicity study, the incidence was high in all dose groups, no increases were seen in the interim sacrifice groups or in shorter-term studies, and the lesion is commonly observed in older rats. Therefore, EPA did not consider this finding to be evidence of frank neurotoxicity, and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that triflusulfuron-methyl results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground water and surface water modeling used to assess exposure to triflusulfuron-methyl in drinking water. These assessments will not underestimate the exposure and risks posed by triflusulfuron-methyl.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, triflusulfuron-methyl is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to triflusulfuron-methyl from food and water will utilize < 1% of the cPAD for children 3–5 years old, the population group receiving the greatest exposure. There are no residential uses for triflusulfuron-methyl. Therefore, the chronic aggregate risk estimates are equivalent to the chronic dietary (food + water) risk estimates.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Short- and intermediate-term adverse effects were identified; however, triflusulfuron-methyl is not registered for any use patterns that would result in short- or intermediate-term residential exposure. Short- and intermediate-term risk is assessed based on short- and intermediate-term residential exposure plus chronic dietary exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short- and intermediate-term risk), no further assessment of short- and intermediate-

term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for triflusulfuron-methyl.

4. *Aggregate cancer risk for U.S. population.* Based on the discussion in Unit III.C.iii., the chronic dietary risk assessment is protective of any potential cancer effects.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to triflusulfuron-methyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology, a high-performance liquid chromatography with ultraviolet detection (HPLC–UV) method (Method AMR 1930–91), is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; *telephone number:* (410) 305–2905; *e-mail address: residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There are currently no Codex MRLs established for residues of triflusulfuron-methyl in or on commodities associated with this petition. However, this action was a work share agreement with Canada's Pesticide Management Regulatory Agency (PMRA). While the tolerance for beet, garden, roots at 0.01 ppm is harmonized with PMRA, the tolerance for beet, garden, tops at 0.02 ppm is not harmonized with PMRA's MRL of 0.01 ppm for that commodity. Based on the submitted residue data, garden beet tops had residue levels equal to 0.01 ppm; given the level of uncertainty for quantification around the limit of quantitation (0.01 ppm), EPA has determined that a tolerance for beet, garden, tops at 0.02 ppm is appropriate.

C. Response to Comments

EPA received one comment to the Notice of Filing that made a general objection to the presence of any pesticide residues on crops and stated that EPA should set no pesticide tolerance greater than zero. The Agency understands the commenter's concerns and recognizes that some individuals believe that pesticides should be banned completely. However, the existing legal framework provided by section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA) states that tolerances may be set when persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute. This citizen's comment appears to be directed at the underlying statute and not EPA's implementation of it; the citizen has made no contention that EPA has acted in violation of the statutory framework.

D. Revisions to Petitioned-For Tolerances

EPA has revised the tolerance expression to clarify: (1) That, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of triflusulfuron-methyl not specifically mentioned; and (2) that compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression. Additionally, EPA has revised the chemical name from triflusulfuron methyl to triflusulfuron-methyl in order to reflect the preferred common name of the chemical.

V. Conclusion

Therefore, tolerances are established for residues of triflusulfuron-methyl, (methyl 2-[[[[[4-(dimethylamino)-6-(2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]amino]carbonyl]amino]sulfonyl]-3-methylbenzoate), in or on beet, garden, roots at 0.01 ppm; and beet, garden, tops at 0.02 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal governments, on the relationship between the national government and the States or Tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995

(NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 15, 2011.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.492 is amended by revising the section heading and paragraph (a) introductory text and alphabetically adding the following commodities to the table in paragraph (a) to read as follows:

§ 180.492 Triflusulfuron-methyl; tolerances for residues.

(a) *General.* Tolerances are established for residues of triflusulfuron-methyl, including its metabolites and degradates, in or on the commodities listed in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only triflusulfuron-methyl (methyl 2-[[[[[4-(dimethylamino)-6-(2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]amino]carbonyl]amino]sulfonyl]-3-methylbenzoate) in or on the following commodities:

Commodity	Parts per million
Beet, garden, roots	0.01
Beet, garden, tops	0.02
* * * * *	

* * * * *

[FR Doc. 2011–9849 Filed 4–21–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1503

[Docket No. TSA–2009–0014; Amendment No. 1503–4]

RIN 1652–AA66

Reporting of Security Issues

AGENCY: Transportation Security Administration, DHS.

ACTION: Final rule.

SUMMARY: The Transportation Security Administration (TSA) is adding procedures by which any person will receive a receipt for reporting a problem, deficiency, or vulnerability related to transportation security, including the security of aviation, maritime, railroad, motor carrier vehicle, or pipeline transportation, or any mode of public transportation, such as mass transit, in accordance with the "Implementing Recommendations of the 9/11 Commission Act of 2007" (9/11 Act).

DATES: Effective May 23, 2011.

FOR FURTHER INFORMATION CONTACT: Traci Klemm, Office of Chief Counsel, TSA–2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6002; telephone (571) 227–3596; facsimile (571) 227–1380; e-mail *traci.klemm@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Document

You can get an electronic copy using the Internet by—

(1) Searching the electronic Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov;*

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html;* or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for "Research Center" at the top of the page.

In addition, copies are available by writing or calling the person in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information and advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT**. Persons can obtain further information regarding SBREFA on the Small Business Administration's Web page at *http://www.sba.gov/advo/laws/law_lib.html.*

Background

In the immediate aftermath of the events on September 11, 2001, the Federal Aviation Administration (FAA) established a task force to respond to the large volume of incoming phone calls, e-mails, and letters from the public. On June 1, 2002, the Transportation Security Administration (TSA) assumed responsibility for this response to the public, creating what is now known as the TSA Contact Center (TCC). The TCC is a widely-publicized open line for the public to contact TSA. As such, it has also provided a mechanism through which TSA may receive information about potential threats to transportation security from both well-meaning persons and those with harmful intent.

In December 2004, TCC availability was expanded to 24 hours a day, 7 days a week, 365 days per year, primarily to ensure continuous review for threat-related contacts. The current process for public reporting of potential security violations, threat information or criminal activities, vulnerabilities and intelligence was put in place after the DHS Office of Inspector General assessed the Agency's actions to improve the handling of threat and non-threat communications following an incident where a college student was testing security.[1]

TSA also has ongoing initiatives within the various transportation modes, such as the General Aviation Secure Program, that includes hotline numbers to alert TSA of security concerns.[2] Information from these reporting options, along with reports of other security incidents and concerns required by various TSA regulations, is received and processed by the same analytical components of TSA. Through

[1] See unclassified summary at: *http://www.dhs.gov/xoig/assets/mgmtrpts/OIG_05-51_Sep05.pdf.*

[2] See *http://www.tsa.gov/what_we_do/tsnm/general_aviation/programs_sp.shtm#general_aviation* for more information on the General Aviation Secure Program.

the Transportation Security Operations Center (TSOC) and other TSA components, information is also routinely passed to TSA's partners for appropriate response.

The "Implementing Recommendations of the 9/11 Commission Act" (9/11 Act) requires the Secretary of Homeland Security to establish, by regulation, a process for any person to report transportation-related security problems, deficiencies, or vulnerabilities and promptly receive an acknowledging receipt for their report.[3] This requirement is included in provisions to protect transportation-sector employees from discrimination or other retaliation for reporting or preventing violations of Federal laws related to transportation safety or security.[4]

Summary of the Rule

This rule, which implements the 9/11 requirements, establishes the process for any person [5] to receive a receipt for making a report to TSA regarding any transportation-related security problem, deficiency, or vulnerability. This mechanism to receive a receipt for reports applies to all modes of transportation, including aviation, commercial motor vehicle, maritime, pipeline, public transportation, and railroad transportation.

In § 1503.3(a) of the rule, TSA designates the addresses and a telephone number that a person must use in order to obtain a receipt for their report. In order to obtain a receipt, the person must use one of these reporting mechanisms and provide valid contact information.

Paragraph (b) indicates how TSA will provide a receipt acknowledging the report. Reports submitted by mail or through the Internet will receive written confirmation. Internet receipts will include the content of the report. Reports submitted by phone will receive a call identifier number. The call identifier number is linked to a copy of the information as recorded by TSA, which will be maintained according to TSA's record retention schedules (currently, these records are scheduled to be retained by TSOC for two years). To receive a written copy of the report, the person will need to contact TSA at the address identified in the rule within two years of their call and request a paper copy.

Paragraph (c) reiterates TSA's commitment to review and consider all information received and to take appropriate steps.

Paragraph (d) clarifies that a report made voluntarily under this subpart will not satisfy any separate legal obligation of any person to report information to TSA or any other Government agency under any other law. Operators must comply with those provisions regardless of whether a report has been submitted through the new part 1503 procedures.

Finally, paragraph (e) is a reminder that these reporting mechanisms are not to be used for reporting immediate or emergency security or safety concerns. These concerns should be immediately reported to the appropriate emergency services operator, such as by calling 911. Alleged waste, fraud, and abuse in TSA programs should be reported to the Department of Homeland Security Inspector General: (800) 323–8603, or *DHSOIGHOTLINE@dhs.gov.*

Authorities

As previously discussed, the 9/11 Act requires DHS to issue this regulation for transportation security-related reports affecting public transportation, rail, and motor carriers. TSA has determined that the security benefits of receiving these reports applies to modes of transportation not enumerated in the statute: Aviation, maritime, and pipeline.

Aspects of this rule not required by the 9/11 Act are supported by TSA's statutory authority to enhance security for all modes of transportation.[6] TSA has broad regulatory authority and may issue, rescind, and revise such regulations as are necessary to carry out its transportation security functions.[7]

Changes From the Notice of Proposed Rulemaking (NPRM)

This final rule adopts the regulations proposed in the NPRM [8] with minor revisions. A scope provision has been added. Addresses for providing reports by mail, through the Internet, or by phone have been added to 49 CFR part 1503. Information on how to obtain a receipt has also been provided. This preamble does not address technical corrections or corrected typographical errors.

While the text of the rule has not been significantly altered since the NPRM, the costs estimated for this regulation have been significantly lowered. At the time that the NPRM was published, TSA intended to extensively publicize the reporting mechanism for use by the general public to report any transportation-related security concern. The costs in the NPRM reflected that assumption. Since that time, however, DHS has launched the "See Something, Say Something" campaign.

The "See Something, Say Something" campaign is part of DHS's commitment to promoting a vigilant citizenry that actively participates in protecting national security. In her September 2010 speech to first responders at the NYC Emergency Operations Center, Secretary Napolitano noted in her prepared remarks: "Recall that it was a New York street vendor who tipped off a policeman about the bombing attempt in Times Square. It was a group of passengers on Flight 253 who intervened to stop the bombing attempt on Christmas Day." She then continued, "Making individuals and citizens better informed and empowered is crucial, and DHS has therefore launched, and is expanding, a national campaign around a slogan you probably know well: 'If You See Something, Say Something.' " The purpose of the campaign, as stated by the Secretary, is to raise "awareness of potential terrorist tactics, and emphasizing the importance of reporting suspicious activity to law enforcement."

The implementation of that campaign has changed TSA's assumptions regarding how the mechanisms required by the 9/11 Act are likely to be used. Where the NPRM estimated costs based on the most currently available number of all security-related calls to the Contact Center and then increased that amount based on additional publicity, TSA now assumes that most reports under this rule will be made by a subset of the individuals who contact TSA with security concerns, primarily made up of employees within the transportation sector seeking a reporting mechanism that will provide them with documentation of their report in the event they may need it in the future. This results in far fewer estimated reports resulting from the mechanisms

[3] Public Law 110–53, 121 Stat. 266 (August 3, 2007), sections 1413(i) (public transportation), 1521(i) (railroad carriers), and 1536(i) (commercial motor vehicles); these sections are codified in the United States Code at 6 U.S.C. 1142, 49 U.S.C. 20109, and 49 U.S.C. 31105, respectively. Future references will be to the codified sections.

[4] *Id.*

[5] For purpose of TSA regulations, "person" is defined in 49 CFR 1500.3.

[6] See 49 U.S.C. 114(d). The TSA Administrator's current authorities under ATSA have been delegated to him by the Secretary of Homeland Security. Section 403(2) of the Homeland Security Act (HSA) of 2002, Public Law 107–296, 116 Stat. 2315 (Nov. 25, 2002), transferred all functions of TSA, including those of the Secretary of Transportation and the Under Secretary of Transportation of Security related to TSA, to the Secretary of Homeland Security. Pursuant to DHS Delegation Number 7060.2, the Secretary of Homeland Security delegated to the Administrator, subject to the Secretary's guidance and control, the authority vested in the Secretary with respect to TSA, including that in sec. 403(2) of the HSA.

[7] 49 U.S.C. 114(l)(1).

[8] Published in the **Federal Register** on August 26, 2009 (74 FR 43088).

under this final rule than estimated in the NPRM.

As a result, the estimated costs have been significantly reduced from those provided in the NPRM. This specifically relates to estimates for the number of reports received and the TSA costs for processing those reports. In addition, TSA has developed new automated mechanisms for providing receipts to persons who report security concerns through e-mail; all security-related reports, regardless of whether they are being made as a result of this rule or for other reasons, will automatically receive an e-mail receipt. This substantially reduces the potential costs for TSA.

Public Comments on the NPRM

The public comment period for the NPRM closed on October 26, 2009. TSA received two public comments, from a commercial airline and a trade association representing members of the aviation industry. TSA addresses these comments below.

Including the Aviation Industry

Comments: One commenter objected to including the aviation industry in the scope of this rule because this sector is already highly regulated and required to report suspicious activities and events. As part of these requirements, they assert that knowledgeable employees report deficiencies, incidents, and vulnerabilities. They question whether untrained persons will be able to "identify true vulnerabilities within commercial aviation without the understanding or comprehension of our security programs?"

TSA Response: This rule does not create a reporting requirement; it provides a voluntary reporting and receipt mechanism. Therefore, it is neither imposing an additional regulatory burden upon the industry nor duplicating the requirements for air carriers or other owner/operators to report security incidents and events. It is intended to provide a mechanism for anyone reporting transportation-related security problems, deficiencies, and vulnerabilities to obtain a receipt of their report. TSA is not limiting the scope for who can benefit from this mechanism, recognizing that transportation employees and members of the general public are capable of identifying things that are out of the ordinary. TSA will evaluate the information and determine whether further investigation or validation is necessary and by whom.

While the language regarding the reporting and receipt mechanism is inclusive, referencing "any person,"[9] we note that the requirement for TSA to develop this mechanism is contained in statutory provisions that are focused on providing protections for surface transportation employees who report concerns to authorities and are subsequently subject to retaliation, discharge, or discrimination.[10] The 9/11 Act can be seen as an extension of these protections previously enacted for aviation employees.[11] The processes set forth in this rule provide all transportation-related employees with the ability to obtain a receipt for reports.

TSA Rewards Program

Comments: As noted in the preamble of the NPRM,[12] TSA is in the process of developing a program to confer monetary or other recognition on persons who provide valuable information to TSA about criminal acts or other violations relating to transportation security. One commenter raised questions regarding how TSA is planning to administer a rewards program for persons who provide valuable information related to transportation security.

TSA Response: The rewards program is still under development. Any information regarding implementation of a rewards program by TSA will be contained in other documents when appropriate.

Costs of the Rule

Comments: One commenter asserted that implementation of this rule will cost the taxpayers $1,000,000 annually and provide no benefit. They asserted the "traveling consumer should not bear the monetary burden of this program."

TSA response: Costs for implementing this statutorily-required rule have been revised and are discussed in Economic Impact Analyses section of this preamble. TSA disagrees that there is no benefit from providing this mechanism. It is important for the public, travelers, and employees to remain vigilant and play an active role in keeping the country's transportation network, and the people who rely on it, safe and secure. Similar to the "If You See Something, Say Something" campaign originally implemented by New York City's Metropolitan Transit Authority, it is important to raise awareness and ensure reporting of vulnerabilities and weaknesses in security measures that could make the transportation sector a weak target for terrorists and others with malicious intent.

Coordination With the "General Aviation Hotline" Program

Comments: One commenter urged TSA to ensure that the processes identified in this rule complement the existing "General Aviation Hotline" program. They state that this program is well known within the general aviation industry and is part of an ongoing effort to develop a more comprehensive reporting for aviation security.

TSA response: The mechanism created by this rule complements the General Aviation Hotline program. The General Aviation Hotline program, also known as the General Aviation Secure Program, was developed by TSA's Office of Transportation Sector Network Management (TSNM) General Aviation Division by working with the industry and community to build upon the Airport Watch program, encouraging everyone to be vigilant about General Aviation security and report any unusual activities to TSA. Now seen in the context of the Department of Homeland Security's broader "See Something, Say Something Campaign," the program includes a number where suspicions regarding operations can be reported, such as pilots appearing to be under the control of others, unfamiliar persons loitering around the field, suspicious aircraft lease or rental requests, anyone making threats, and unusual, suspicious activities or circumstances. Information from reports made by persons under this rule will be processed and analyzed through the same TSA component as information received through the General Aviation program, providing TSA with a more comprehensive picture of threats and vulnerabilities to transportation security.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*) requires that TSA consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA, 44 U.S.C. section 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. As protection provided by the Paperwork Reduction Act, as amended, 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. TSA has determined there are no current or new information

[9] 6 U.S.C. 1142(i), 49 U.S.C. 20109(i), and 49 U.S.C. 31105(i).

[10] 6 U.S.C. 1142, 49 U.S.C. 20109, and 49 U.S.C. 31105.

[11] See 49 U.S.C. 42121.

[12] See 74 FR 43090 (August 26, 2009).

collection requirements associated with this rule.

Economic Impact Analyses

Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order (EO) 12866, Regulatory Planning and Review,[13] directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) requires agencies to consider the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

Executive Order 12866 Assessment

In conducting these analyses, TSA determined:

1. This rulemaking is not a "significant regulatory action" as defined in the Executive Order.
2. This rulemaking will not have a significant economic impact on a substantial number of small entities.
3. This rulemaking will not constitute a barrier to international trade.
4. This rulemaking does not impose an unfunded mandate on State, local, or Tribal governments, or on the private sector.

The basis for these conclusions is set forth below.

Costs

This rule enhances the ability for any person to report to TSA—via regular mail, through the Internet, or telephone—security problems, deficiencies, or vulnerabilities related to aviation, maritime, railroad, motor vehicle, pipeline, or public transportation. As previously discussed, when TSA prepared its initial draft of this rule, it intended to extensively publicize the reporting mechanism for use by the general public to report any transportation-related security concern. The costs in the NPRM reflected that assumption. Since that time, however, DHS has developed the "See Something, Say Something" campaign. The implementation of that campaign has changed TSA's assumptions for how the reporting and receipt mechanisms required by the 9/11 Act are likely to be used.

TSA now assumes that most reports under this rule will be made by a subset of the general population, primarily made up of employees within the transportation sector seeking a reporting mechanism that will provide them with documentation of their report in the event they may need it in the future. This results in far fewer estimated reports under this final rule than estimated in the NPRM. As a result, the estimated costs have been significantly reduced from those provided in the NPRM. This specifically relates to estimates for the number of reports received and the TSA costs for processing those reports. In addition, TSA has developed new automated mechanisms for providing receipts to persons who report security concerns through e-mail; all security-related reports, regardless of whether they are being made as a result of this rule or for other reasons, will automatically receive an e-mail receipt. Consistent with the estimates of the NPRM, TSA assumes that the costs associated with the operation of this reporting system will be incurred by TSA and the person making the report.

TSA currently provides the public with the ability to communicate security concerns by contacting TSA's Contact Center (1–866–289–9673) or through the TSA Web site (*http://www.tsa.gov*), by clicking on the "Contact Us" link at the top of the home page, clicking on the "Security Issues" link, and submitting an online form describing the security-related issue (received by TSA as an e-mail). If someone misses that link and scrolls on down the page, there is another heading ("Security Violations and Concerns") that provides an additional opportunity to submit a report.

As a result of this rulemaking, the "Security Violation and Concerns" section of the site will include a hyperlink back to the "Security Issues" form and the additional contact addresses identified in this rule. Therefore, this analysis of costs and benefits assumes that all Web-based reports under this rule will be through the "Security Issues" form on TSA's Web site. As noted, the public will also be able to make reports by contacting TSA directly through a designated phone number or submitting a report through the mail to a designated address.

There is no accurate method for gauging how many additional e-mail messages, telephone calls, and letters reporting transportation security concerns these changes to the Web site could generate. While estimating an accurate cost to the public of voluntarily reporting security concerns to TSA is difficult, one can use fiscal year (FY) 2010 TSA Contact Center (TCC) data as a starting point to estimate the cost of potential scenarios. For this analysis, we assumed that the rule will incrementally expand the number of security-related telephone calls and e-mail messages TSA received in FY 2010 by 25 percent.

In FY 2010, the TCC fielded 393 security-related telephone calls that could be categorized as reporting a transportation-related security problem, deficiency, or vulnerability. (While the TCC may receive many more calls that a person has self-selected to be "security-related," not all of those are within the scope of what is anticipated to be relevant to this rule.) These calls are addressed by security specialists who help determine whether the issue involves an issue related to transportation security or other complaints or concerns that the caller may have. They also determine whether the information provided will fit within the scope of the rule. Issues requiring action by TSA are routed to the appropriate TSA components. The security specialists also route information relevant to sister agencies to their designated points of contact. According to the TCC, the average telephone conversation involving a security specialist during FY 2010 lasted 3.25 minutes. For purposes of the NPRM, TSA estimated the calls would last approximately 4 minutes.[14] However, the Transportation Security Operations Center (TSOC), which will start fielding these calls in FY 2011, assumes that calls from the public as a result of this rule will mostly come from a subset of callers who want a receipt acknowledging their call; processing these calls may require more detailed information than the average call. This primarily includes the information needed to provide the person with a receipt, which is not required for all calls received by TSOC. TSOC considers ten minutes to be a reasonable estimate for the length of such a call. If one projects that the public will place 98 additional calls ($.25 \times 393$) as a result of the rule (for the purposes of this analysis, TSA assumes that all of these

[13] 58 FR 51735 (Oct. 4, 1993).

[14] See 75 FR 43090.

calls will be from individuals wanting a receipt and providing the necessary contact information), then the public would spend 980 minutes (98 calls at about 10 minutes per call) on the telephone with TSA. At $19.32 per hour,[15] the total annual cost to the public for the additional telephone calls will be $316 ($19.32 per hour × 980 minutes/60 minutes per hour).

To estimate the cost of contacting TSA electronically, this analysis used other data collected by the TCC as a starting point. In FY 2010 the TCC received 1,527 security-related e-mail messages from customers who logged onto the TSA Web site and used the links described above. TSA receives information submitted through the Web site in the form of an e-mail. As noted under the analysis for phone calls, the TCC may receive many more e-mails that a person has self-selected than are within the scope of what is anticipated to be relevant to this rule. The estimates reflect those e-mails that are relevant to the rule.

If one assumes that TSA will receive an additional 382 e-mail messages (1,527 × .25) as a result of this rule and that the average e-mail message will require thirty minutes to prepare, one can modify the value-of-time formula used to calculate the FY 2010 cost of security-related telephonic reports to TSA to estimate the cost to the public of e-mailing its concerns: 382 e-mail messages × 30/60 hours per e-mail message × $19.32 per hour = $3,690. TSA has doubled the time estimate assumed in the NPRM due to the more detailed information one would expect to be provided; a person who is reporting a security vulnerability or deficiency is likely to have more information regarding security requirements that are not being followed.[16] Because the receipt mechanism for persons making reports through TSA's Web site is automated, any person who reports through this mechanism will receive a receipt if they provide contact information.

The rule will also allow the public to report transportation-related security problems, deficiencies, and vulnerabilities by regular mail (the mailing address will be posted on the TSA Web site). As previously noted, TSA assumes the majority of persons contacting TSA by mail and requesting a receipt will be subset of the general population, primarily made up of employees within the transportation sector seeking a reporting mechanism that will provide them with documentation of their report in the event they may need it in the future. In addition, TSA also assumes that most persons will report by e-mail as they will be provided with a more comprehensive verification of their report as the automated e-mail will include the exact text that they submitted. As a result, the estimated costs have been significantly reduced from those provided in the NPRM. If one projects that this rule will generate 50 letters per year and that it takes the average letter writer 30 minutes to write a report and 15 minutes to mail it, the value of the public's time for this exercise equates to $725 (50 letters × 45/60 hour per letter × $19.32 per hour). This increase in time from the NPRM is consistent with that for the other reporting mechanisms. When the cost of postage is included (50 letters × $.44 per stamp = $22), using regular mail to report transportation security-related problems, deficiencies, and vulnerabilities to TSA will cost the public $747.

The projected cost of the three modes of communication—$316 for telephone calls, $3,690 for Web-based communications, and $747 for regular mail—is $4,753. As reporting under this rule is voluntary, the public would assume this direct cost voluntarily; the cost is not imposed by this rule.

In addition to this direct cost to the public, TSA will incur expenses in handling the increased volume of reports. Although it is not feasible to accurately establish the number of additional telephonic, e-mail, and regular mail reports this rule will generate, TSOC is prepared to dedicate one full time equivalent (FTE) employee (at an overall cost of $80,208[17] per year) to handle the increased volume of communications. In addition to the labor costs associated with responding to the increase in security-related contacts, TSA will incur two non-labor expenses. This reduction from the estimates in the NPRM[18] is consistent with the reductions in estimates for the public.

The hardware and software needed to implement the "auto-response" function for Web-based reports will cost $2,060 ($1,100 for a dedicated desktop computer and $960 for software). This feature provides an electronic receipt including the content of their report to anyone who uses the "Security Issues" Web form on the TSA Web site to submit security concerns (people who contact TSA by phone will be provided a unique identifier number for the call).

Persons who submit reports by mail will receive a receipt in the mail. If one projects that this rule will generate 50 letters per year and that all the letters will have return addresses, the cost of mailing a response will be $22 (50 letters × $.44 per stamp = $22).

Taken together, the estimated labor expense ($80,208) and receipt processes ($2,060 for auto-response and $22 for mail) yield a total annual cost to TSA of $82,290.[19]

Benefits

This rulemaking provides the following benefits:

1. It reminds the public that TSA wants to receive these reports, possibly alerting TSA to transportation security concerns that may otherwise have been overlooked. It is quite possible that reports from the public could prevent a national security problem that otherwise would have gone unaddressed.

2. It encourages employees and other persons who may hesitate to make a report for fear of retaliation or other adverse action to obtain the necessary documentation to support any future claims under 6 U.S.C. 1142, 49 U.S.C. 20109, 49 U.S.C. 31105, and 49 U.S.C. 42121.

Regulatory Flexibility Act Assessment

The Regulatory Flexibility Act (RFA) of 1980 requires that agencies perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. For purposes of the RFA, small entities include small businesses, not-for-profit organizations, and small governmental

[15] For purposes of this rulemaking, TSA uses the May 2009 Bureau of Labor Statistics (BLS) mean hourly wage rate for all Transportation and Material Moving Occupations (SOC Code 53–0000), adjusted for inflation. To access this information, go to the following BLS Web sites: *http://data.bls.gov/cgi-bin/print.pl/oes/2009/may/naics2_48-49.htm* and *http://www.bls.gov/cpi/cpid1012.pdf*. The $19.00 mean hourly wage rate found at the first Web site is converted to 2010 dollars by multiplying it times 1.0168, the amount by which the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) rose between 2009 and 2010 (215.262/211.703 = 1.0168).

[16] See 75 FR 43091.

[17] Data from TSA's Office of Financial Management show that this was the average amount of personal compensation and benefits paid out in FY 2010 to a G–Band employee. The total comprises $51,933 in base pay and $28,275 in benefits.

[18] See 75 FR 43091.

[19] TSOC will incur no incremental costs for training because in-house training has already been funded. There also will be no additional expenses for space, computers, and telephones; existing equipment at TSOC will be used to handle the expected increase in telephonic and electronic reporting.

jurisdictions. Individuals and States are not included in the definition of a small entity.

This rule enhances the public's ability to report security concerns voluntarily to TSA. TSA and the public will incur some costs in the operation of this enhanced reporting system. As stated previously, the public will voluntarily assume the direct cost of reporting problems and deficiencies to TSA; the cost is not imposed by this rule. TSA certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. TSA has assessed the potential effect of this rulemaking and has determined that it will impose the same costs on domestic and international entities and thus have a neutral trade impact.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and Tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action."

This rulemaking does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply and TSA has not prepared a statement under the Act.

Executive Order 13132, Federalism

TSA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact Analysis

The energy impact of the action has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Part 1503

Administrative practice and procedure, Investigations, Law enforcement, Penalties, Transportation.

The Amendments

For the reasons set forth in the preamble, the Transportation Security Administration amends part 1503 in chapter XII of title 49, Code of Federal Regulations to read as follows:

PART 1503—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

■ 1. The authority citation for part 1503 is revised to read as follows:

Authority: 6 U.S.C. 1142; 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 114, 20109, 31105, 40113–40114, 40119, 44901–44907, 46101–46107, 46109–46110, 46301, 46305, 46311, 46313–46314.

■ 2. Add subpart A to part 1503 to read as follows:

Subpart A—General

Sec.

§ 1503.1 Scope.
§ 1503.3 Reports by the public of security problems, deficiencies, and vulnerabilities.

Subpart A—General

§ 1503.1 Scope.

This part provides information on TSA's investigative and enforcement procedures.

§ 1503.3 Reports by the public of security problems, deficiencies, and vulnerabilities.

This section prescribes the reporting mechanisms that persons may use in order to obtain a receipt for reports to TSA regarding transportation-related security problems, deficiencies, and vulnerabilities.

(a) Any person who reports to TSA a transportation security-related problem, deficiency, or vulnerability—including the security of aviation, commercial motor vehicle, maritime, pipeline, any mode of public transportation, or railroad transportation—will receive a receipt for their report if they provide valid contact information and report through one of the following:

(1) U.S. mail to Transportation Security Administration HQ, TSA–2; Attn: 49 CFR 1503.3 Reports; 601 South 12th Street; Arlington, VA 20598–6002;

(2) Internet at *http://www.tsa.gov/contact,* selecting "Security Issues"; or

(3) Telephone (toll-free) at 1–866–289–9673.

(b) Reports submitted by mail will receive a receipt through the mail, reports submitted by the Internet will receive an e-mail receipt, and reports submitted by phone will receive a call identifier number linked to TSA documents held according to published record schedules. To obtain a paper copy of reports provided by phone, the person who made the report, or their authorized representative, must contact TSA at the address identified in (a)(1) of this section within that period and provide the identifier number.

(c) TSA will review and consider the information provided in any report submitted under this section and take appropriate steps to address any problems, deficiencies, or vulnerabilities identified.

(d) Nothing in this section relieves a person of a separate obligation to report information to TSA under another provision of this title, a security program, or a security directive, or to another Government agency under other law.

(e) Immediate or emergency security or safety concerns should be reported to the appropriate local emergency services operator, such as by telephoning 911. Alleged waste, fraud, and abuse in TSA programs should be reported to the Department of Homeland Security Inspector General: telephone (toll-free) 1–800–323–8603, or e-mail *DHSOIGHOTLINE@dhs.gov.*

Issued in Arlington, Virginia, on April 1, 2011.

John S. Pistole,

Administrator.

[FR Doc. 2011–9629 Filed 4–21–11; 8:45 am]

BILLING CODE 9110–05–P

Proposed Rules

Federal Register
Vol. 76, No. 78
Friday, April 22, 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.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Services Agency

7 CFR Part 1942

RIN 0575–AC78

Community Facility Loans

AGENCY: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, Farm Services Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The U.S. Department of Agriculture proposes to amend its regulations to maintain consistency with standard industry contracts and to make minor revisions to streamline processing applications. These revisions are needed to conform with market and industry changes by updating, clarifying, and modifying the regulatory requirements for community facility construction and development. The amendments to the regulation will streamline current processes and provide for faster reviews of alternate construction contract methods (such as Design/Build and Construction Management) by the Agency's National Office. This rule can also apply to applications under the Rural Business-Cooperative Service Programs.

DATES: Written comments on the proposed rule must be received on or before June 21, 2011 to be assured of consideration.

ADDRESSES: You may submit comments on this rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or another mail courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street, SW., 7th Floor, Suite 701, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street, SW., address listed above.

FOR FURTHER INFORMATION CONTACT: William Downs, Technical Support Branch, Program Support Staff, Rural Housing Service, U.S. Department of Agriculture, STOP 0761, 1400 Independence Avenue, SW., Washington, DC 20250–0761; Telephone: 202–720–1499; FAX: 202–690–4335; E-mail: *william.downs@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Classification

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

Civil Justice Reform

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. No person is required to apply for funding under this program, but if they do apply and are selected for funding, they must comply with the requirements applicable to the Federal program funds. This rule is not retroactive. It will not affect agreements entered into prior to the effective date of this rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Regulatory Flexibility Act

The Administrator of the Agency has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. The construction requirements and policies being revised will apply equally to all applicants, regardless of size of the applicant organization. Further, these changes will give all applicants greater flexibility in developing projects. Therefore, a regulatory flexibility analysis was not performed.

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, Rural Development must prepare, to the extent practicable, a written statement including a cost benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. With certain exceptions, section 205 of UMRA requires Rural Development 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. This proposed rule contains no Federal mandates for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.,* an Environmental Impact Statement is not required.

Programs Affected

The programs affected are listed in the Catalog of Federal Domestic Assistance under Numbers 10.769 Rural Business

Enterprise Grants, 10.773 Rural Business Opportunity Grant, 10.766 Community Facilities Loans and Grants, 10.767 Intermediary Relending Program, and 10.854 Rural Economic Development Loan and Grant.

Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Intergovernmental Review

The Agency conducts intergovernmental consultation in the manner delineated in RD Instruction 1940–J, "Intergovernmental Review of Rural Development Programs and Activities," and in 7 CFR part 3015, subpart V. The changes being considered are not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. An intergovernmental review for this revision is not required or applicable.

Paperwork Reduction Act

There are no new reporting and recordkeeping requirements associated with this rule.

E-Government Act Compliance

The Agency is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-GOV compliance related to this proposed rule, please contact Larry Fleming, 202–720–8547.

Background

The proposed change will remove restrictive language in 7 CFR part 1942 that limits projects using alternate construction methods to loans only, and will allow grant funds to be used with design/build and other alternate construction methods. When the regulation was written in the 1970's design/build and construction management were unique forms of contracting that were not commonly used. It was determined that the Agency would not allow grant funds to be used for alternate construction methods. Over time, design/build and construction management became more common in the construction industry. The success or failure rate of such contracting methods has proven to be no greater than the traditional design/bid/build method. Therefore, the Agency has determined that the funding source—loans or grants—should have no determination on the construction method used. Further, these changes streamline processing by allowing contracts up to $250,000 to be reviewed by the State Office. The present regulation, which went into effect in the 1970's, requires all projects over $100,000 be reviewed by the National Office. Additional language is added to describe alternate construction methods: Design/build, construction management constructor, construction management advisor, and fast tracking. Presently, only a definition is given. The new language will help field staff and applicants understand when a project qualifies as an alternate construction method. None of the changes proposed are statutory requirements, and the Agency has determined that these changes better reflect current conditions within the construction industry, and will better streamline processing for applicants.

This change revises the Agency Guide documents used with American Institute of Architects (AIA) contracts for construction to reflect their updated contracts. The AIA revises their contract documents every 10 years. Contracts referenced in the present regulation are replaced with the new updated contracts. New Guides are added for AIA contracts for design/build and construction management. Providing these Guides within the Agency regulation eliminates the need for National Office review of these projects, which reduces review time for the applicant. A new Guide is added listing the Agency requirements for review of alternate contract methods, to assist field staff and applicants.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas.

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

PART 1942—ASSOCIATIONS

1. The authority citation for part 1942 continues to read as follows:

Authority: 7 U.S.C. 1926; 7 U.S.C. 1927, 7 U.S.C. 7901, and Pub. L. 110–246.

Subpart A—Community Facility Loans

2. Section 1942.9 is amended by revising paragraph (b) introductory text and (b)(1) to read as follows:

§ 1942.9 Planning, bidding, contracting, and constructing.

* * * * *

(b) *Contract approval.* The State Director or designee is responsible for approving all construction contracts using legal advice and guidance of OGC as necessary. The use of a contracting method under § 1942.18(1) of this subpart exceeding $250,000 must be concurred by the National Office. When an applicant requests such concurrence, the State Director will submit the following to the National Office.

(1) State Director's and Rural Development engineer/architect's comments and recommendations, and if noncompetitive negotiation per 1942.18(k)(4) is accepted by the Agency, submit an evaluation of previous work of the proposed construction firm.

* * * * *

3. Section 1942.18, paragraph (l) is amended to read as follows:

§ 1942.18 Community facilities—Planning, bidding, contracting constructing.

* * * * *

(l) *Alternate contracting methods.* The services of the consulting engineer or architect and the general construction contractor shall normally be procured from unrelated sources in accordance with paragraph (j)(7) of this section. Alternate contracting methods which combine or rearrange design, inspection or construction services (such as design/build or construction management/constructor) may be used with Rural Development written approval.

(1) The owner will request Rural Development approval by providing the following information to the State Office for review and approval by the State Architect:

(i) The owner's written request to use an unconventional contracting method with a description of the proposed method.

(ii) A proposed scope of work describing in clear, concise terms the technical requirements for the contract. This would include a nontechnical statement summarizing the work to be performed by the contractor and the results expected. Also include the sequence in which the work is to be performed and a proposed construction schedule.

(iii) A proposed firm-fixed-price contract for the entire project which provides that the contractor shall be responsible for any extra cost which

may result from errors or omissions in the services provided under the contract and compliance with all Federal, State, and local requirements effective on the contract execution date.

(iv) An evaluation of the contractor's performance on previous similar projects in which the contractor acted in a similar capacity.

(v) A detailed listing and cost estimate of equipment and supplies not included in the construction contract but which are necessary to properly operate the facility.

(vi) Evidence that a qualified construction inspector who is independent of the contractor has or will be hired.

(vii) Preliminary plans and outline specifications. However, final plans and specifications must be completed and reviewed by Rural Development prior to the start of construction.

(viii) The owner's attorney's opinion and comments regarding the legal adequacy of the proposed contract documents and evidence that the owner has the legal authority to enter into and fulfill the contract.

(2) The State Office may approve design/build or construction management/constructor projects if the contract amount is equal to or less than $250,000.

(3) If the contract amount exceeds $250,000, National Office prior concurrence must be obtained in accordance with § 1942.9(b) of this subpart. Only that information required under § 1942.9(b) of this subpart must be provided to National Office Program Support Staff for review. Additional information, such as plans and specifications, may be submitted by the State Office, if a review of those items is desired.

(4) The design/build method of construction is one in which the architectural and engineering services, normally provided by an independent consultant to the owner, are combined with those of the General Contractor under a single source contract. These services are commonly provided by a design/build firm, a joint venture between an architectural firm and a construction firm, or a company providing pre-engineered buildings and design services.

(5) The Construction Management/constructor (CMc), acts in the capacity of a General Contractor and is actually responsible for the construction. This type of construction management is also referred to as Construction Manager "At Risk". The construction contract is between the owner and the CMc. The CMc, in turn, may subcontract for some or all of the work.

(6) The National Office may approve other alternative contact methods, such as Construction Management/advisor (CMa), with a recommendation from the State Office. The recommendation shall indicate the circumstances which prove this method advantageous to the applicant and the government. A CMa acts in an advisory capacity to the owner, and the actual contract for construction is between the owner and a prime contractor or multiple prime contractors. When a contract for an architect and a CMa are being provided, care must be taken to assure that separate professionals are not being paid to provide similar services. Further, paragraph (e)(3) of this section discourages separate contracts for construction.

(7) All alternate contracting method projects must comply with the requirements for "maximum open and free competition" in paragraph (j)(2) of this section. Choosing an alternate contracting method is not a way to avoid competition. Further information on procurement methods, which must be followed, is provided in paragraph (k) of this section.

* * * * *

Dated: April 1, 2011.

Dallas Tonsager,

Under Secretary, Rural Development.

Dated: April 11, 2011.

Michael Scuse,

Acting Under Secretary, Farm and Foreign Agricultural Services.

[FR Doc. 2011–9630 Filed 4–21–11; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 48

[Docket ID OCC–2011–0007]

RIN 1557–AD42

Retail Foreign Exchange Transactions

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing a rule authorizing national banks, Federal branches or agencies of foreign banks, and their operating subsidiaries to engage in off-exchange transactions in foreign currency with retail customers. The proposed rule also describes various requirements with which national banks, Federal branches or agencies of foreign banks, and their operating subsidiaries must comply to conduct such transactions.

DATES: Comments on this notice of proposed rulemaking must be received by May 23, 2011.

ADDRESSES: Because paper mail in the Washington, DC, area is subject to delay, commenters are encouraged to submit comments by the Federal eRulemaking Portal or e-mail. Please use the title "Retail Foreign Exchange Transactions" to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- Federal eRulemaking Portal—"regulations.gov": Go to *http://www.regulations.gov.* Select "Document Type" of "Proposed Rules," and in "Enter Keyword or ID Box," enter Docket ID "OCC–2011–0007," and click "Search." On "View By Relevance" tab at bottom of screen, in the "Agency" column, locate the proposed rule for the OCC, in the "Action" column, click on "Submit a Comment" or "Open Docket Folder" to submit or view public comments and to view supporting and related materials for this rulemaking action.

Click on the "Help" tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

- *E-mail: regs.comments@occ.treas.gov.*
- *Mail:* Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 2–3, Washington, DC 20219.
- *Fax:* (202) 874–5274.
- *Hand Delivery/Courier:* 250 E Street, SW., Mail Stop 2–3, Washington, DC 20219.

Instructions: You must include "OCC" as the agency name and "Docket ID OCC–2011–0007" in your comment. In general, the OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this

proposed rule by any of the following methods:

- *Viewing Comments Electronically:* Go to *http://www.regulations.gov.* Select "Document Type" of "Proposed Rules," and in "Enter Keyword or ID Box," enter Docket ID "OCC–2011–0007," and click "Search." Comments will be listed under "View By Relevance" tab at bottom of screen. If comments from more than one agency are listed, the "Agency" column will indicate which comments were received by the OCC.
- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.
- *Docket:* You may also view or request available background documents and project summaries using the methods described above.

FOR FURTHER INFORMATION CONTACT: Tena Alexander, Senior Counsel, or Roman Goldstein, Attorney, Securities and Corporate Practices Division, (202) 874–5120.

SUPPLEMENTARY INFORMATION:

I. Background

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act).[1] As amended by the Dodd-Frank Act,[2] the Commodity Exchange Act (CEA) provides that a United States financial institution [3] for which there is a Federal regulatory agency [4] shall not enter into, or offer to enter into, a transaction described in section 2(c)(2)(B)(i)(I) of the CEA with a retail customer [5] except pursuant to a rule or regulation of a Federal regulatory agency allowing the transaction under such terms and conditions as the Federal regulatory agency shall prescribe [6] (a "retail forex rule"). Section 2(c)(2)(B)(i)(I) includes "an agreement, contract, or transaction in foreign currency that * * * is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a))." [7] A Federal regulatory agency's retail forex rule must treat all such futures and options and all agreements, contracts, or transactions that are functionally or economically similar to such futures and options similarly.[8]

Retail forex rules must prescribe appropriate requirements with respect to disclosure, recordkeeping, capital and margin, reporting, business conduct, and documentation requirements, and may include such other standards or requirements as the Federal regulatory agency determines to be necessary.[9] This Dodd-Frank Act amendment to the CEA takes effect 360 days from the enactment of the Act.[10] Therefore, as of July 16, 2011, national banks, Federal branches and agencies of foreign banks, and operating subsidiaries of the foregoing (collectively, national banks) may not engage in a retail forex transaction except pursuant to retail forex rules issued by the OCC.

In addition, on July 21, 2011, the OCC will become the appropriate Federal banking agency for Federal savings associations.[11] The OCC plans to regulate retail forex transactions conducted by Federal savings associations under the same terms as in this proposed rule. However, the OCC cannot issue regulations governing Federal savings associations until July 21, 2011. Therefore, the OCC anticipates issuing on that date an interim final rule with request for public comment that would expand the scope of this regulation to also cover Federal savings associations.

On September 10, 2010, the Commodity Futures Trading Commission (CFTC) adopted a retail forex rule for persons subject to its jurisdiction.[12] After studying and considering the CFTC's retail forex rule, and being mindful of the desirability of issuing comparable rules, the OCC is proposing to adopt a substantially similar rule for national banks wishing to engage in retail forex transactions. The Dodd-Frank Act does not require that retail forex rules be issued jointly, or on a coordinated basis, with any other Federal regulatory agency. The Federal banking agencies (the OCC, Federal Reserve Board, and Federal Deposit Insurance Corporation) are issuing separate proposed rules. However, the Federal banking agencies intend to coordinate their efforts.

For national banks, the requirements in this proposed rule could overlap with applicable expectations contained in the Interagency Statement on Retail Sales of Nondeposit Investment Products (NDIP Policy Statement).[13] The NDIP Policy Statement sets out guidance regarding the OCC's expectations when a national bank engages in the sale of nondeposit investment products to retail customers. The NDIP Policy Statement addresses issues such as disclosure, suitability, sales practices, compensation, and compliance. The OCC preliminarily views retail forex transactions as nondeposit investment products, but the terms "retail forex customer" in this proposed rule and "retail customer" in the NDIP Policy Statement are not necessarily co-extensive. After the effective date of the final version of this proposed rule, the OCC will expect national banks engaging in or offering retail forex transactions to also comply with the expectations set out in the NDIP Policy Statement to the extent such expectations do not conflict with the requirements of the OCC's final retail forex rule.

Question I.1: Does the proposed regulation create issues concerning application of the NDIP Policy Statement to retail forex transactions that the OCC should address?

II. Section-by-Section Description of the Rule

Structure and Approach

The OCC's proposed retail forex rule is modeled on the CFTC's retail forex rule to promote consistent treatment of retail forex transaction regardless of whether a retail forex customer's dealer is a national bank or a CFTC registrant. The proposal includes various changes

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

[2] Dodd-Frank Act § 742(c)(2) (to be codified at 7 U.S.C. 2(c)(2)(E)). In this preamble, citations to the retail forex statutory provisions will be the section where the provisions will be codified in the CEA.

[3] The CEA defines "financial institution" as including "a depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813))." 7 U.S.C. 1a(21)(E). National banks are depository institutions. *See* 12 U.S.C. 1813(a)(1) and (c)(1).

[4] For purposes of the retail forex rules, "Federal regulatory agency" includes "an appropriate Federal banking agency." 7 U.S.C. 2(c)(2)(E)(i)(III). The OCC is the appropriate Federal banking agency for national banks and Federal branches and agencies of foreign banks. 12 U.S.C. 1813(q)(1); Dodd-Frank Act § 721(a)(2) (amending 7 U.S.C. 1a to define "appropriate Federal banking agency" by reference to 12 U.S.C. 1813).

[5] A retail customer is a person who is not an "eligible contract participant" under the CEA.

[6] 7 U.S.C. 2(c)(2)(E)(ii)(I).

[7] 7 U.S.C. 2(c)(2)B(i)(II).

[8] 7 U.S.C. 2(c)(2)(E)(iii)(II).

[9] 7 U.S.C. 2(c)(2)(E)(iii)(I).

[10] *See* Dodd-Frank Act § 754.

[11] Dodd-Frank Act § 312.

[12] *Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries,* 75 FR 55409 (Sept. 10, 2010) (Final CFTC Retail Forex Rule). The CFTC proposed these rules prior to the enactment of the Dodd-Frank Act. *Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries,* 75 FR 3281 (Jan. 20, 2010) (Proposed CFTC Retail Forex Rule).

[13] *See* OCC Bulletin 94–13 (Feb. 24, 1994); *see also* OCC Bulletin 1995–52 (Sept. 22, 1995).

that reflect differences between OCC and CFTC supervisory regimes and differences between national banks and CFTC registrants. For example:

• The OCC's proposed retail forex rule leverages the OCC's existing comprehensive supervision of national banks. For example, the OCC's proposed retail forex rule does not include registration requirements, because national banks are already subject to comprehensive supervision by the OCC. Thus, instead of a registration requirement, national banks must receive a supervisory non-objection to conduct a retail forex business.

• Because national banks are already subject to various capital and other supervisory requirements,[14] the OCC's proposed retail forex rule generally requires national banks wishing to engage in retail forex transactions to be "well capitalized."

Section 48.1—Authority, Purpose, and Scope

This section authorizes a national bank to conduct retail forex transactions.

The OCC notes that some national banks may also engage in retail forex transactions through their foreign branches. The CEA does not clearly define whether foreign branches of national banks may be considered United States financial institutions that can be included in the scope of this proposed rule. Generally, the OCC defines a national bank to include all its branches, foreign and domestic. Using that definition, the proposed retail forex rule would include these branches, and all their transactions would be subject to the terms of this proposed rule.

Question II.1.1: The OCC requests comment on whether this rule should apply to national banks' foreign branches conducting retail forex transactions abroad, whether with U.S. or foreign customers.

Section 48.2—Definitions

This section defines terms specific to retail forex transactions and to the regulatory requirements that apply to retail forex transactions.

The definition of "retail forex transaction" generally includes the following transactions in foreign currency between a national bank and a person that is not an eligible contract participant: [15] (i) A future or option on such a future; [16] (ii) options not traded on a registered national securities exchange; [17] and (iii) certain leveraged or margined transactions.[18] This definition has several important features.

First, certain transactions in foreign currency are not "retail forex transactions." For example, a "spot" forex transaction where one currency is bought for another and the two currencies are exchanged within two days would not meet the definition of a "retail forex transaction," since actual delivery occurs as soon as practicable.[19] Similarly, a "retail forex transaction" does not include a forward contract with a commercial entity that creates an enforceable obligation to make or take delivery, provided the commercial counterparty has the ability to make delivery and accept delivery in connection with its line of business.[20] In addition, the definition does not include transactions done through an exchange, because in those cases the exchange would be the counterparty to both the national bank and the retail forex customer, rather than the national bank directly facing the retail forex customer.

Second, rolling spot forex transactions (so-called *Zelener* [21] contracts), including without limitation such transactions traded on the Internet, through a mobile phone, or on an electronic platform, could fall within the definition's third category; the OCC preliminarily believes that rolling spot transactions should be regulated as retail forex transactions.[22] A rolling spot forex transaction nominally requires delivery of currency within two days, like spot transactions. However, in practice, the contracts are indefinitely renewed every other day and no currency is actually delivered until one party affirmatively closes out the position.[23] Therefore, the contracts are economically more like futures than spot contracts, although courts have held them to be spot contracts in form.[24]

Question II.2.1: Should leveraged or margined forex transactions, including rolling spot forex transactions and functionally or economically similar transactions, be included in the definition of "retail forex transaction"? Would excluding such transactions create a regulatory gap for retail forex products?

This section defines several terms by reference to the CEA, the most important of which is "eligible contract participant." Foreign currency transactions with eligible contract participants are not considered retail forex transactions and are therefore not subject to this rule. In addition to a variety of financial entities, certain governmental entities, businesses, and individuals may be eligible contract participants.[25]

[14] *See, e.g.,* 12 CFR parts 3, 6, and 28.

[15] The definition of "eligible contract participant" is found in the CEA and is discussed below.

[16] 7 U.S.C. 2(c)(2)(B)(i)(I).

[17] 7 U.S.C. 2(c)(2)(B)(i)(I).

[18] 7 U.S.C. 2(c)(2)(C).

[19] *See generally CFTC* v. *Int'l Fin. Servs. (New York), Inc.,* 323 F. Supp. 2d 482, 495 (S.D.N.Y. 2004) (distinguishing between foreign exchange futures contracts and spot contracts in foreign exchange, and noting that foreign currency trades settled within two days are ordinarily spot transactions rather than futures contracts); *see also Bank Brussels Lambert* v. *Intermetals Corp.,* 779 F. Supp. 741, 748 (S.D.N.Y. 1991).

[20] *See generally CFTC* v. *Int'l Fin. Servs. (New York), Inc.,* 323 F. Supp. 2d 482, 495 (S.D.N.Y. 2004) (distinguishing between forward contracts in foreign exchange and foreign exchange futures contracts); *see also* William L. Stein, *The Exchange-Trading Requirement of the Commodity Exchange Act,* 41 Vand. L.Rev. 473, 491 (1988). In contrast to forward contracts, futures contracts generally include several or all of the following characteristics: (i) Standardized nonnegotiable terms (other than price and quantity); (ii) parties are required to deposit initial margin to secure their obligations under the contract; (iii) parties are obligated and entitled to pay or receive variation margin in the amount of gain or loss on the position periodically over the period the contract is outstanding; (iv) purchasers and sellers are permitted to close out their positions by selling or purchasing offsetting contracts; and (v) settlement may be provided for by either (a) cash payment through a clearing entity that acts as the counterparty to both sides of the contract without delivery of the underlying commodity; or (b) physical delivery of the underlying commodity. *See* Edward F. Greene *et al., U.S. Regulation of International Securities and Derivatives Markets* § 14.08[2] (8th ed. 2006).

[21] *CFTC* v. *Zelener,* 373 F.3d 861 (7th Cir. 2004); *see also CFTC* v. *Erskine,* 512 F.3d 309 (6th Cir. 2008).

[22] 7 U.S.C. 2(c)(2)(E)(iii) (requiring that retail forex rules treat all functionally or economically similar transactions similarly); *see* 17 CFR 5.1(m) (defining "retail forex transaction" for CFTC-registered retail forex dealers).

[23] For example, in *Zelener,* the retail forex dealer retained the right, at the date of delivery of the currency to deliver the currency, roll the transaction over, or offset all or a portion of the transaction with another open position held by the customer. *See CFTC* v. *Zelener,* 373 F.3d 861, 868 (7th Cir. 2004).

[24] *See, e.g., CFTC* v. *Erskine,* 512 F.3d 309, 326 (6th Cir. 2008); *CFTC* v. *Zelener,* 373 F.3d 861, 869 (7th Cir. 2004).

[25] The term "eligible contract participant" is defined at 7 U.S.C. 1a(18), and for purposes most relevant to this proposed rule generally includes:

(a) A corporation, partnership, proprietorship, organization, trust, or other entity—

(1) That has total assets exceeding $10,000,000;

(2) The obligations of which under an agreement, contract, or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by certain other eligible contract participants; or

(3) That—

(i) Has a net worth exceeding $1,000,000; and

(ii) Enters into an agreement, contract, or transaction in connection with the conduct of the entity's business or to manage the risk associated with an asset or liability owned or incurred or reasonably likely to be owned or incurred by the entity in the conduct of the entity's business;

(b) Subject to certain exclusions,

(1) A governmental entity (including the United States, a State, or a foreign government) or political subdivision of a governmental entity;

Continued

Question II.2.2: Does the Commodity Exchange Act's definition of "eligible contract participant" appropriately capture who is not a retail customer for purposes of this proposed rule? Should the OCC expand the definition of retail forex customer to include persons who are eligible contract participants? If so, which eligible contract participants should be considered retail forex customers?

Section 48.3—Prohibited Transactions

This section prohibits a national bank and its institution-affiliated parties from engaging in fraudulent conduct in connection with retail forex transactions. This section also prohibits a national bank from acting as a counterparty to a retail forex transaction if the national bank or its affiliate exercises discretion over the customer's retail forex account because the OCC views such self-dealing as inappropriate.

Section 48.4—Supervisory Non-Objection

This section requires a national bank to obtain a written supervisory non-objection prior to engaging in a retail forex business. To obtain such non-objection, the national bank will have to provide such information as the OCC deems necessary to determine that the national bank would satisfy the requirements of the rule. This information will include information on: customer due diligence (including credit evaluations, customer appropriateness, and "know your customer" documentation); new product approvals; haircuts for noncash margin; and conflicts of interest. In addition, the national bank must establish that it has adequate written policies, procedures, and risk measurement and management systems and controls.

National banks engaged in retail forex transactions as of the effective date of this rule who promptly request the OCC's review of their retail forex business will have six months, or a longer period provided by the OCC, to bring their operations into conformance with the rule. Under this rule, a national bank that requests the OCC's review within 30 days of the effective date of the final retail forex rule and submits the information requested by the OCC will be deemed to be operating its retail forex business pursuant to a rule or regulation of a Federal regulatory agency, as required under the Commodity Exchange Act, for such period.[26]

A national bank need not join a futures self-regulatory organization as a condition of conducting a retail forex business.

Section 48.5—Application and Closing Out of Offsetting Long and Short Positions

This section requires a national bank to close out offsetting long and short positions in a retail forex account. The national bank would have to offset such positions regardless of whether the customer has instructed otherwise. The CFTC concluded that "keeping open long and short positions in a retail forex customer's account removes the opportunity for the customer to profit on the transactions, increases the fees paid by the customer and invites abuse."[27] The OCC agrees with this concern. A national bank may offset retail forex transactions as instructed by the retail forex customer or the customer's agent if the instructions do not come from the national bank.

Section 48.6—Disclosure

This section requires a national bank to provide retail forex customers with a risk disclosure statement similar to the one required by the CFTC's retail forex rule, but tailored to address certain unique characteristics of retail forex in national banks. The prescribed risk disclosure statement would describe the risks associated with retail forex transactions. The disclosure statement would make clear that a national bank is prohibited from applying customer losses arising out of retail forex transactions against any property of a customer other than money or property specifically given as margin for retail forex transactions; the national bank may not use rights of set-off to collect margin for or cover losses arising out of retail forex transactions.

In its retail forex rule, the CFTC requires its registrants to disclose to retail customers the percentage of retail forex accounts that earned a profit, and the percentage of such accounts that experienced a loss, during each of the most recent four calendar quarters.[28] The CFTC initially explained that "the vast majority of retail customers who enter these transactions do so solely for speculative purposes, and that relatively few of these participants trade profitably."[29] In its final rule, the CFTC found this requirement appropriate to protect retail customers from "inherent conflicts embedded in the operations of the retail over-the-counter forex industry."[30] The OCC generally agrees with the CFTC and this proposed rule requires this disclosure; however, the OCC invites comments regarding this approach.

Question II.6.1: Does this disclosure provide meaningful information to retail customers of national banks? Would alternative disclosures more effectively accomplish the objectives of the disclosure?

Similarly, the CFTC's retail forex rule requires a disclosure that when a retail customer loses money trading, the dealer makes money on such trades, in addition to any fees, commissions, or spreads.[31] The proposed rule includes this disclosure requirement.

Question II.6.2: Does this disclosure provide meaningful information to retail customers of national banks? Would alternative disclosures more effectively accomplish the objectives of the disclosure?

As proposed, the risk disclosure must be provided as a separate document.

Question II.6.3: Would it be convenient to national banks and retail forex customers to allow the retail forex risk disclosure to be combined with other disclosures that national banks make to their customers? Or would combining disclosures diminish the impact of the retail forex disclosure?

Question II.6.4: Should the rule require disclosure of the fees the national bank charges retail forex customers for retail forex transactions? What fees do national banks currently charge retail forex customers for retail forex transactions? Are there other costs to retail forex customers of engaging in retail forex transactions that national banks should disclose? If so, what are these costs?

Section 48.7—Recordkeeping

This section specifies which documents and records a national bank engaged in retail forex transactions must retain for examination by the OCC. This section also prescribes document maintenance standards.

(2) A multinational or supranational governmental entity; or

(3) An instrumentality, agency or department of an entity described in (b)(1) or (2); and

(c) An individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of—

(1) $10,000,000; or

(2) $5,000,000 and who enters into the agreement, contract, or transaction in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual.

[26] 7 U.S.C. 2(c)(2)(E)(ii)(I).

[27] Proposed CFTC Retail Forex Rule, 75 FR at 3287 n.54.

[28] 17 CFR 5.5(e)(1).

[29] Proposed CFTC Retail Forex Rule, 75 FR at 3289.

[30] Final CFTC Retail Forex Rule, 75 FR at 55412.

[31] 17 CFR 5.5(b).

Section 48.8—Capital Requirements

This section requires that a national bank that offers or enters into retail forex transactions must be "well capitalized" as defined in the OCC's prompt corrective action regulation [32] or the national bank must obtain an exemption from the OCC. In addition, a national bank must continue to hold capital against retail forex transactions as provided in the OCC's capital regulation.[33] This rule does not amend the OCC's prompt corrective action regulation or capital regulation.

Section 48.9—Margin Requirements

Paragraph (a) requires a national bank that engages in retail forex transactions, in advance of any such transaction, to collect from the retail forex customer margin equal to at least two percent of the notional value of the retail forex transaction if the transaction is in a major currency pair, and at least five percent of the notional value of the retail forex transaction otherwise. These margin requirements are identical to the requirements imposed by the CFTC's retail forex rule. A major currency pair is a currency pair with two major currencies. The major currencies currently are the U.S. Dollar (USD), Canadian Dollar (CAD), Euro (EUR), United Kingdom Pound (GBP), Japanese Yen (JPY), Swiss franc (CHF), New Zealand Dollar (NZD), Australian Dollar (AUD), Swedish Kronor (SEK), Danish Kroner (DKK), and Norwegian Krone (NOK).[34] An evolving market could change the major currencies, so the OCC is not proposing to define the term "major currency," but rather expects that national banks will obtain an interpretive letter from the OCC prior to treating any currency other than those listed above as a "major currency." [35]

Question II.9.1: The OCC requests comment on whether it should explicitly define the major currencies or major currency pairs in the proposed rule and whether commenters have any other suggestions on how the OCC should identify a major currency or major currency pair.

For retail forex transactions, margin protects the retail forex customer from the risks related to trading with excessive leverage. The volatility of the foreign currency markets exposes retail forex customers to substantial risk of loss. High leverage ratios can significantly increase a customer's losses and gains. Even a small move against a customer's position can result in a substantial loss. Even with required margin, losses can exceed the margin posted, and if the account is not closed out, and depending on the specific circumstances, the customer could be liable for additional losses. Given the risks that inhere in the trading of retail forex transactions by retail customers, the only funds that should be invested in such transactions are those that the customer can afford to lose.

Prior to the CFTC's rule, non-bank dealers routinely permitted customers to trade with 1 percent margin (leverage of 100:1) and sometimes with as little as 0.25 percent margin (leverage of 400:1). When the CFTC proposed its retail forex rule in January 2010, it proposed a margin requirement of 10 percent (leverage of 10:1). In response to comments, the CFTC reduced the required margin in the final rule to 2 percent (leverage of 50:1) for trades involving major currencies and 5 percent (leverage of 20:1) for trades involving non-major currencies.

Question II.9.2: The OCC believes that these margin requirements are appropriate to protect retail customers, but invites comments on whether the requirements should be adjusted.

Paragraph (b) specifies the acceptable forms of margin that customers may post. National banks must establish policies and procedures providing for haircuts for noncash margin collected from customers and must review these haircuts annually. It may be prudent for national banks to review and modify the size of the haircuts more frequently.

Question II.9.3: Should the OCC provide for haircuts for noncash margin posted for retail forex transactions? If so, what should those haircuts be?

Paragraph (c) requires a national bank to hold each retail forex customer's retail forex transaction margin in a separate account that contains only that customer's retail forex margin. This paragraph is designed to work with the prohibition on set-off in paragraph (e), so that a national bank may not have an account agreement that treats all of a retail forex customer's assets held by a bank as margin for retail forex transactions.

Paragraph (d) requires a national bank to collect additional margin from the customer or to liquidate the customer's position if the amount of margin held by the national bank fails to meet the requirements of paragraph (a). The proposed rule requires the national bank to mark the customer's open retail forex positions and the value of the customer's margin to the market daily to ensure that a retail forex customer does not accumulate substantial losses not covered by margin.

Question II.9.4: How frequently do national banks currently mark retail forex customers' open retail forex positions and the value of the customers' margin to the market? Should the rule require marking customer positions and margin to the market daily, or would more frequent marks be more appropriate in light of the speed at which currency markets move? What is the most frequent mark to market requirement that is practical in light of the characteristics of the forex markets and the assets that retail forex customers may pledge as margin for retail forex transaction?

Paragraph (e) prohibits a national bank from applying a retail forex customer's losses against any asset or liability of the retail forex customer other than money or property given as margin. A national bank's relationship with a retail forex customer may evolve out of a prior relationship of providing financial services or may evolve into such a relationship. Thus it is more likely that a national bank acting as a retail forex counterparty will hold other assets or liabilities of a retail forex customer, for example a deposit account or mortgage, than a retail forex dealer regulated by the CFTC. The OCC believes it is inappropriate to allow a national bank to leave trades open and allow additional losses to accrue that can be applied against a retail forex customer's other assets or liabilities held by the national bank.

Section 48.10—Required Reporting to Customers

This section requires a national bank engaging in retail forex transactions to provide each retail forex customer a monthly statement and confirmation statements.

Question II.10.1: The OCC requests comment on whether this section provides for statements that would be meaningful and useful to retail customers, or whether, in light of the distinctive characteristics of retail forex transactions, other information would be more appropriate.

Section 48.11—Unlawful Representations

This section prohibits a national bank and its institutional-affiliated parties from representing that the Federal government, the OCC, or any other Federal agency has sponsored, recommended, or approved retail forex

[32] 12 CFR part 6.

[33] 12 CFR part 3.

[34] *See* National Futures Association, *Forex Transaction: A Regulatory Guide* 17 (Feb. 2011); New York Federal Reserve Bank, *Survey of North American Foreign Exchange Volume* tbl. 3e (Jan. 2011); Bank for International Settlements, *Report on Global Foreign Exchange Market Activity in 2010* at 15 tbl. B.6 (Dec. 2010).

[35] The Final CFTC Retail Forex Rule similarly does not define "major currency."

transactions or products in any way. This section also prohibits a national bank from implying or representing that it will guarantee against or limit retail forex customer losses or not collect margin as required by section 48.9. This section does not prohibit a national bank from sharing in a loss resulting from error or mishandling of an order, and guaranties entered into prior to effectiveness of the prohibition would only be affected if an attempt is made to extend, modify, or renew them. This section also does not prohibit a national bank from hedging or otherwise mitigating its own exposure to retail forex transactions or any other foreign exchange risk.

Section 48.12—Authorization to Trade

This section requires a national bank to have specific written authorization from a retail forex customer before effecting a retail forex transaction for that customer.

Section 48.13—Trading and Operational Standards

This section largely follows the trading standards of the CFTC's retail forex rule, which were developed to prevent some of the deceptive or unfair practices identified by the CFTC and the National Futures Association.

Under paragraph (a), a national bank engaging in retail forex transactions is required to establish and enforce internal rules, procedures and controls (1) to prevent front running, in which transactions in accounts of the national bank or its related persons are executed before a similar customer order; (2) to establish settlement prices fairly and objectively; and (3) to record and maintain transaction records and make them available to customers.

Paragraph (b) prohibits a national bank engaging in retail forex transactions from disclosing that it holds another person's order unless disclosure is necessary for execution or is made at the OCC's request.

Paragraph (c) ensures that institution-affiliated parties of another retail forex counterparty do not open accounts with a national bank without the knowledge and authorization of the account surveillance personnel of the other retail forex counterparty to which they are affiliated. Similarly, paragraph (d) ensures that institution-affiliated parties of a national bank do not open accounts with other retail forex counterparties without the knowledge and authorization of the account surveillance personnel of the national bank to which they are affiliated.

Paragraph (e) prohibits a national bank engaging in retail forex transactions from (1) entering a retail forex transaction to be executed at a price that is not at or near prices at which other retail forex customers have executed materially similar transactions with the national bank during the same time period, (2) changing prices after confirmation, (3) providing a retail forex customer with a new bid price that is higher (or lower) than previously provided without providing a new ask price that is similarly higher (or lower) as well, and (4) establishing a new position for a retail forex customer (except to offset an existing position) if the national bank holds one or more outstanding orders of other retail forex customers for the same currency pair at a comparable price.

Paragraph (e)(3) does not prevent a national bank from changing the bid or ask prices of a retail forex transaction to respond to market events. The OCC understands that market practice among CFTC-registrants is not to offer requotes, but to simply reject orders and advise customers they may submit a new order (which the dealer may or may not accept). Similarly, a national bank may reject an order and advise customers they may submit a new order.

Question II.13.1: Does this requirement appropriately protect retail forex customers? If not, how it should be modified? Would it be simpler for the rule to simply prohibit requoting, because national banks may instead reject an order and accept new orders from their retail forex customers?

Paragraph (e)(4) requires a national bank engaging in retail forex transactions to execute similar orders in the order they are received. The prohibition prevents a national bank from offering preferred execution to some of its retail forex customers but not others.

Section 48.14—Supervision

This section imposes on a national bank and its agents, officers, and employees a duty to supervise subordinates with responsibility for retail forex transactions to ensure compliance with the OCC's retail forex rule.

Question II.14.1: Does this section impose any additional requirements not already encompassed by safety and soundness standards applicable to national banks and their agents, officers, and employees?

Section 48.15—Notice of Transfers

This section describes the requirements for transferring a retail forex account. Generally, a national bank must provide retail forex customers 30 days' prior notice before transferring or assigning their account. Affected customers may then instruct the national bank to transfer the account to an institution of their choosing or liquidate the account. There are three exceptions to the above notice requirement: a transfer in connection with the receivership or conservatorship under the Federal Deposit Insurance Act; a transfer pursuant to a retail forex customer's specific request; and a transfer otherwise allowed by applicable law. A national bank that is the transferee of retail forex accounts must generally provide the transferred customers with the risk disclosure statement of section 6 and obtain each affected customer's written acknowledgement within 60 days.

Section 48.16—Customer Dispute Resolution

This section imposes limitations on how a national bank may handle disputes arising out of a retail forex transaction. For example, this section would restrict a national bank's ability to require mandatory arbitration for such disputes.

III. Request for Comments

The OCC requests comment on all aspects of the proposed rule, including the questions posed in the preamble. In addition, the OCC requests comments on the following questions:

- *Question III.1:* Does the proposed rule appropriately protect retail forex customers of national banks?
- *Question III.2:* Are the proposed rule's variations from the CFTC retail forex rule appropriately tailored to the differences between national banks and CFTC registrants and the regulatory regimes applicable to each?

To assist in the review of comments, the OCC requests that commenters identify their comments by question number.

IV. Regulatory Analysis

A. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA) generally requires an agency that is issuing a proposed rule to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities. The RFA provides that an agency is not required to prepare and publish an initial regulatory flexibility analysis if the agency certifies that the proposed rule will not, if promulgated as a final rule, have a significant economic impact on a substantial number of small entities. Under regulations issued by the Small Business Administration, a small entity

includes a commercial bank with assets of $175 million or less.[36] The proposed rule would impose recordkeeping and disclosure requirements on banks, including small banks, which engage in retail forex transactions with their customers.

Pursuant to section 605(b) of the RFA, the OCC certifies that this proposed rule will not have a significant economic impact on a substantial number of the small entities it supervises. Accordingly, a regulatory flexibility analysis is not required. In making this determination, the OCC estimated that there are no small banking organizations currently engaging in retail forex transactions with their customers. Therefore, the OCC estimates that no small banking organizations under its supervision would be affected by the proposed rule.

Persons wishing to submit written comments regarding the OCC's certification under the RFA should refer to the instructions for submitting comments in the front of this release. Such comments will be considered and placed in the same public file as comments on the proposal itself.

B. Paperwork Reduction Act

Request for Comment on Proposed Information Collection

In accordance with section 3512 of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this notice of proposed rulemaking have been submitted by the OCC to OMB for review and approval under section 3506 of the PRA and § 1320.11 of OMB's implementing regulations (5 CFR part 1320 *et seq.*). The information collection requirements are found in §§ 48.4–48.7, 48.9–48.10, 48.13, 48.15–48.16.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the estimate of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments should be addressed to: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 2–3, Attention: 1557–NEW, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to 202–874–5274, or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling 202–874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments to the OMB Desk Officer, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., 10235, Washington, DC 20503, or by fax to 202–395–6974.

Proposed Information Collection

Title of Information Collection: Retail Foreign Exchange Transactions.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit.

Respondents: National banks and Federal branches and agencies of foreign banks.

Reporting Requirements

The reporting requirements in § 48.4 would require that, prior to initiating a retail forex business, a national bank provide the OCC with prior notice and obtain a written supervisory non-objection letter. In order to obtain a supervisory non-objection letter, a national bank must have written policies and procedures, and risk measurement and management systems in controls in place to ensure that retail forex transactions are conducted in a safe and sound manner. The national bank must also provide other information required by the OCC, such as documentation of customer due diligence, new product approvals, and haircuts applied to noncash margins. A national bank already engaging in a retail forex business may continue to do so, provided it requests an extension of time.

Disclosure Requirements

Under § 48.5, regarding the application and closing out of offsetting long and short positions, would require a national bank to promptly provide the customer with a statement reflecting the financial result of the transactions and the name of the introducing broker to the account. The customer would provide specific written instructions on how the offsetting transaction should be applied.

Section 48.6 would require that a national bank furnish a retail forex customer with a written disclosure before opening an account that will engage in retail forex transactions for a retail forex customer and receive an acknowledgment from the customer that it was received and understood. It also requires the disclosure by a national bank of its fees and other charges and its profitable accounts ratio.

Section 48.10 would require a national bank to issue monthly statements to each retail forex customer and to send confirmation statements following transactions.

Section 48.13(b) would allow disclosure by a national bank that an order of another person is being held by them only when necessary to the effective execution of the order or when the disclosure is requested by the OCC. Section 48.13(c) would prohibit a national bank engaging in retail forex transactions from knowingly handling the account of any related person of another retail forex counterparty unless it receives proper written authorization, promptly prepares a written record of the order, and transmits to the counterparty copies all statements and written records. Section 48.13(d) would prohibit a related person of a national bank engaging in forex transactions from having an account with another retail forex counterparty unless it receives proper written authorization and copies of all statements and written records for such accounts are transmitted to the counterparty.

Section 48.15 would require a national bank to provide a retail forex customer with 30 days' prior notice of any assignment of any position or transfer of any account of the retail forex customer. It would also require a national bank to which retail forex accounts or positions are assigned or transferred to provide the affected customers with risk disclosure

[36] Small Business Administration regulations define "small entities" to include banks with a four-quarter average of total assets of $175 million or less (13 CFR 121.201).

statements and forms of acknowledgment and receive the signed acknowledgments within 60 days.

The customer dispute resolution provisions in § 48.16 would require certain endorsements, acknowledgments, and signature language. It also would require that within 10 days after receipt of notice from the retail forex customer that they intend to submit a claim to arbitration, the national bank provide them with a list of persons qualified in the dispute resolution and that the customer must notify the national bank of the person selected within 45 days of receipt of such list.

Policies and Procedures; Recordkeeping

Sections 48.7 and 48.13 would require that a national bank engaging in retail forex transactions keep full, complete, and systematic records and establish and implement internal rules, procedures, and controls. Section 48.7 also would require that a national bank keep account, financial ledger, transaction and daily records, as well as memorandum orders, post-execution allocation of bunched orders, records regarding its ratio of profitable accounts, possible violations of law, records for noncash margin, and monthly statements and confirmations. Section 48.9 would require policies and procedures for haircuts for noncash margin collected under the rule's margin requirements, and annual evaluations and modifications of the haircuts.

Estimated PRA Burden

Estimated Number of Respondents: 42 national banks; 3 service providers.

Total Reporting Burden: 672 hours.

Total Disclosure Burden: 54,166 hours.

Total Recordkeeping Burden: 12,416 hours.

Total Annual Burden: 67,254 hours.

C. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 [37] (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that this proposed rule, if adopted as a final rule, will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year.[38] Accordingly, this proposed rule is not subject to section 202 of the Unfunded Mandates Act.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the OCC to use plain language in all proposed and final rules published after January 1, 2000. The OCC invites comment on how to make this proposed rule easier to understand. For example, the OCC requests comment on such questions as:

- Have we organized the material to suit your needs? If not, how could the material be better organized?
- Have we clearly stated the requirements of the rule? If not, how could the rule be more clearly stated?
- Does the rule contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would make the regulation easier to understand?
- What else could we do to make the regulation easier to understand?

List of Subjects in 12 CFR Part 48

Consumer protection, Definitions, Federal branches and agencies, Foreign currencies, Foreign exchange, National banks, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the OCC proposes to add part 48 to Title 12, Chapter I of the Code of Federal Regulations to read as follows:

PART 48—RETAIL FOREIGN EXCHANGE TRANSACTIONS

Sec.
48.1 Authority, purpose, and scope.
48.2 Definitions.
48.3 Prohibited transactions.
48.4 Supervisory non-objection.
48.5 Application and closing out of offsetting long and short positions.
48.6 Disclosure.
48.7 Recordkeeping.
48.8 Capital requirements.
48.9 Margin requirements.
48.10 Required reporting to customers.
48.11 Unlawful representations.
48.12 Authorization to trade.
48.13 Trading and operational standards.
48.14 Supervision.
48.15 Notice of transfers.
48.16 Customer dispute resolution.

Authority: 12 U.S.C. 1, 24, 93a, 161, 1813(q), 1818, 1831o, 3102, 3106a, 3108.

§ 48.1 Authority, purpose and scope.

(a) *Authority.* A national bank may engage in retail foreign exchange transactions. A national bank engaging in such transactions shall comply with the requirements of this part.

(b) *Purpose.* This part establishes rules applicable to retail foreign exchange transactions engaged in by national banks and applies on or after the effective date.

(c) *Scope.* This part applies to national banks.

§ 48.2 Definitions.

In addition to the definitions in this section, for purposes of this part, the following terms have the same meaning as in the Commodity Exchange Act: "affiliated person of a futures commission merchant"; "associated person"; "contract of sale"; "commodity"; "eligible contract participant"; "futures commission merchant"; "security"; and "security futures product".

Affiliate has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).

Commodity Exchange Act means the Commodity Exchange Act (7 U.S.C. 1 *et seq.*).

Forex means foreign exchange.

Institution-affiliated party or *IAP* has the same meaning as in 12 U.S.C. 1813(u)(1), (2), or (3).

Introducing broker means any person who solicits or accepts orders from a retail forex customer in connection with retail forex transactions.

National bank means:

(1) A national bank;

(2) A Federal branch or agency of a foreign bank, each as defined in 12 U.S.C. 3101; and

(3) An operating subsidiary of a national bank or a Federal branch or agency of a foreign bank.

Related person, when used in reference to a retail forex counterparty, means:

(1) Any general partner, officer, director, or owner of ten percent or more of the capital stock of the national bank;

(2) An associated person or employee of the retail forex counterparty, if the retail forex counterparty is not a national bank;

[37] 2 U.S.C. 1532.

[38] In particular, the OCC notes that forex transactions between national banks and governmental entities are not retail forex transactions subject to this rule, because governmental entities are eligible contract participants. *See* 7 U.S.C. 1a(18)(A)(vii).

(3) An IAP, if the retail forex counterparty is a national bank; and

(4) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who shares the same home as any of the foregoing persons.

Retail foreign exchange dealer means any person other than a retail forex customer that is, or that offers to be, the counterparty to a retail forex transaction, except for a person described in item (aa), (bb), (cc)(AA), (dd), or (ff) of section 2(c)(2)(B)(i)(II) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)).

Retail forex account means the account of a retail forex customer, established with a national bank, in which retail forex transactions with the national bank as counterparty are undertaken, or the account of a retail forex customer that is established in order to enter into such transactions.

Retail forex account agreement means the contractual agreement between a national bank and a retail forex customer that contains the terms governing the customer's retail forex account with the national bank.

Retail forex business means engaging in one or more retail forex transactions with the intent to derive income from those transactions, either directly or indirectly.

Retail forex customer means a customer that is not an eligible contract participant, acting on his, her, or its own behalf and engaging in retail forex transactions.

Retail forex proprietary account means: A retail forex account carried on the books of a national bank for one of the following persons; a retail forex account of which 10 percent or more is owned by one of the following persons; or a retail forex account of which an aggregate of 10 percent or more of which is owned by more than one of the following persons:

(1) The national bank;

(2) An officer, director or owner of ten percent or more of the capital stock of the national bank; or

(3) An employee of the national bank, whose duties include:

(i) The management of the national bank's business;

(ii) The handling of the national bank's retail forex transactions;

(iii) The keeping of records, including without limitation the software used to make or maintain those records, pertaining to the national bank's retail forex transactions; or

(iv) The signing or co-signing of checks or drafts on behalf of the national bank;

(4) A spouse or minor dependent living in the same household as of any of the foregoing persons; or

(5) An affiliate of the national bank;

Retail forex counterparty includes, as appropriate:

(1) A national bank;

(2) A retail foreign exchange dealer;

(3) A futures commission merchant; and

(4) An affiliated person of a futures commission merchant.

Retail forex transaction means an agreement, contract, or transaction in foreign currency that is offered or entered into by a national bank with a person that is not an eligible contract participant and that is:

(1) A contract of sale of a commodity for future delivery or an option on such a contract;

(2) An option, other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78(f)(a)); or

(3) Offered or entered into on a leveraged or margined basis, or financed by a national bank, its affiliate, or any person acting in concert with the national bank or its affiliate on a similar basis, other than:

(i) A security that is not a security futures product as defined in section 1a(47) of the Commodity Exchange Act (7 U.S.C. 1a(47)); or

(ii) A contract of sale that—

(A) Results in actual delivery within two days; or

(B) Creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business.

§ 48.3 Prohibited transactions.

(a) *Fraudulent conduct prohibited.* No national bank or its IAPs may, directly or indirectly, in or in connection with any retail forex transaction:

(1) Cheat or defraud or attempt to cheat or defraud any person;

(2) Willfully make or cause to be made to any person any false report or statement or cause to be entered for any person any false record; or

(3) Willfully deceive or attempt to deceive any person by any means whatsoever.

(b) *Acting as counterparty and exercising discretion prohibited.* If a national bank can cause retail forex transactions to be effected for a retail forex customer without the retail forex customer's specific authorization, then neither the national bank nor its affiliates may act as the counterparty for any retail forex transaction with that retail forex customer.

§ 48.4 Supervisory non-objection.

(a) *Supervisory non-objection required.* Before commencing a retail forex business, a national bank shall provide the OCC with prior notice and obtain from the OCC a written supervisory non-objection.

(b) *Requirements for obtaining supervisory non-objection.* (1) In order to obtain a written supervisory non-objection, a national bank shall:

(i) Establish to the satisfaction of the OCC that the national bank has established and implemented written policies, procedures, and risk measurement and management systems and controls for the purpose of ensuring that it conducts retail forex transactions in a safe and sound manner and in compliance with this part; and

(ii) Provide such other information as the OCC may require.

(2) The information provided under paragraph (b)(1) of this section shall include, without limitation, information regarding:

(i) Customer due diligence, including without limitation credit evaluations, customer appropriateness, and "know your customer" documentation;

(ii) New product approvals;

(iii) The haircuts that the national bank will apply to noncash margin as provided in § 48.9(b)(2); and

(iv) Conflicts of interest.

(c) *Treatment of existing retail forex businesses.* A national bank that is engaged in a retail forex business on [EFFECTIVE DATE OF FINAL RULE] may continue to do so for up to six months, subject to an extension of time by the OCC, if it requests the supervisory non-objection required by paragraph (a) of this section within 30 days of [EFFECTIVE DATE OF FINAL RULE] and submits the information required to be submitted under paragraph (b) of this section.

(d) *Compliance with the Commodity Exchange Act.* A national bank that is engaged in a retail forex business on [EFFECTIVE DATE OF FINAL RULE] and complies with paragraph (c) of this section shall be deemed, during the six-month or extended period described in paragraph (c) of this section, to be acting pursuant to a rule or regulation described in section 2(c)(2)(E)(ii)(I) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(E)(ii)(I)).

§ 48.5 Application and closing out of offsetting long and short positions.

(a) *Application of purchases and sales.* Any national bank that—

(1) Engages in a retail forex transaction involving the purchase of any currency for the account of any retail forex customer when the account

of such retail forex customer at the time of such purchase has an open retail forex transaction for the sale of the same currency;

(2) Engages in a retail forex transaction involving the sale of any currency for the account of any retail forex customer when the account of such retail forex customer at the time of such sale has an open retail forex transaction for the purchase of the same currency;

(3) Purchases a put or call option involving foreign currency for the account of any retail forex customer when the account of such retail forex customer at the time of such purchase has a short put or call option position with the same underlying currency, strike price, and expiration date as that purchased; or

(4) Sells a put or call option involving foreign currency for the account of any retail forex customer when the account of such retail forex customer at the time of such sale has a long put or call option position with the same underlying currency, strike price, and expiration date as that sold shall:

(i) Immediately apply such purchase or sale against such previously held opposite transaction; and

(ii) Promptly furnish such retail forex customer with a statement showing the financial result of the transactions involved and the name of any introducing broker to the account.

(b) *Close-out against oldest open position.* In all instances where the short or long position in a customer's retail forex account immediately prior to an offsetting purchase or sale is greater than the quantity purchased or sold, the national bank shall apply such offsetting purchase or sale to the oldest portion of the previously held short or long position.

(c) *Transactions to be applied as directed by customer.* Notwithstanding paragraph (b) of this section, the offsetting transaction shall be applied as directed by a retail forex customer's specific written instructions. These instructions may not be made by the national bank or an IAP.

§ 48.6 Disclosure.

(a) *Risk disclosure statement required.* No national bank may open or maintain open an account that will engage in retail forex transactions for a retail forex customer unless the national bank has furnished the retail forex customer with a separate written disclosure statement containing only the language set forth in paragraph (d) of this section and the disclosures required by paragraphs (e) and (f) of this section.

(b) *Acknowledgement of risk disclosure statement required.* The national bank must receive from the retail forex customer a written acknowledgement signed and dated by the customer that the customer received and understood the written disclosure statement required by paragraph (a) of this section.

(c) *Placement of risk disclosure statement.* The disclosure statement may be attached to other documents as the initial page(s) of such documents and as the only material on such page(s).

(d) *Content of risk disclosure statement.* The language set forth in the written disclosure statement required by paragraph (a) of this section shall be as follows:

Risk Disclosure Statement

Retail forex transactions involve the leveraged trading of contracts denominated in foreign currency with a national bank as your counterparty. Because of the leverage and the other risks disclosed here, you can rapidly lose all of the funds you give the national bank as margin for such trading and you may lose more than you pledge as margin.

Furthermore, you may lose funds in other accounts that you maintain at the national bank or its affiliates if you pledge those funds or other assets as collateral for your retail forex obligations. Your national bank is prohibited from applying losses that you experience on retail forex transactions on any funds or property of yours other than funds or property that you have given or pledged as margin for retail forex transactions.

You should be aware of and carefully consider the following points before determining whether such trading is appropriate for you.

(1) Trading is a not on a regulated market or exchange—your national bank is your trading counterparty and has conflicting interests. The retail forex transaction you are entering into is not conducted on an interbank market, nor is it conducted on a futures exchange subject to regulation as a designated contract market by the Commodity Futures Trading Commission. The foreign currency trades you transact are trades with your national bank as the counterparty. When you sell, the national bank is the buyer. When you buy, the national bank is the seller. As a result, when you lose money trading, your national bank is making money on such trades, in addition to any fees, commissions, or spreads the national bank may charge.

(2) An electronic trading platform for retail foreign currency transactions is not an exchange. It is an electronic connection for accessing your national bank. The terms of availability of such a platform are governed only by your contract with your national bank. Any trading platform that you may use to enter into off-exchange foreign currency transactions is only connected to your national bank. You are accessing that trading platform only to transact with your national bank. You are not trading with any other entities or customers of the national bank by accessing such platform. The availability and operation of any such platform, including the consequences of the unavailability of the trading platform for any reason, is governed only by the terms of your account agreement with the national bank.

(3) You may be able to offset or liquidate any trading positions only through your banking entity because the transactions are not made on an exchange or regulated contract market, and your national bank may set its own prices. Your ability to close your transactions or offset positions is limited to what your national bank will offer to you, as there is no other market for these transactions. Your national bank may offer any prices it wishes, including prices derived from outside sources or not in its discretion. Your national bank may establish its prices by offering spreads from third party prices, but it is under no obligation to do so or to continue to do so. Your national bank may offer different prices to different customers at any point in time on its own terms. The terms of your account agreement alone govern the obligations your national bank has to you to offer prices and offer offset or liquidating transactions in your account and make any payments to you. The prices offered by your national bank may or may not reflect prices available elsewhere at any exchange, interbank, or other market for foreign currency.

(4) Paid solicitors may have undisclosed conflicts. The national bank may compensate introducing brokers for introducing your account in ways that are not disclosed to you. Such paid solicitors are not required to have, and may not have, any special expertise in trading, and may have conflicts of interest based on the method by which they are compensated. You should thoroughly investigate the manner in which all such solicitors are compensated and be very cautious in granting any person or entity authority to trade on your behalf. You should always consider obtaining dated written confirmation of any information you are relying on from your national bank in making any trading or account decisions.

(5) This transaction is not insured by the Federal Deposit Insurance Corporation.

(6) This transaction is not a deposit in, or guaranteed by, a national bank.

(7) This transaction is subject to investment risks, including possible loss of all amounts invested.

Finally, you should thoroughly investigate any statements by any national bank that minimize the importance of, or contradict, any of the terms of this risk disclosure. Such statements may indicate sales fraud.

This brief statement cannot, of course, disclose all the risks and other aspects of trading off-exchange foreign currency with a national bank.

I hereby acknowledge that I have received and understood this risk disclosure statement.

_____

Date

_____

Signature of Customer

(e)(1) *Disclosure of profitable accounts ratio.* Immediately following the language set forth in paragraph (d) of this section, the statement required by paragraph (a) of this section shall include, for each of the most recent four calendar quarters during which the national bank maintained retail forex customer accounts:

(i) The total number of retail forex customer accounts maintained by the national bank over which the national bank does not exercise investment discretion;

(ii) The percentage of such accounts that were profitable for retail forex customer accounts during the quarter; and

(iii) The percentage of such accounts that were not profitable for retail forex customer accounts during the quarter.

(2) The national bank's statement of profitable trades shall include the following legend: "Past performance is not necessarily indicative of future results." Each national bank shall provide, upon request, to any retail forex customer or prospective retail forex customer the total number of retail forex accounts maintained by the national bank for which the national bank does not exercise investment discretion, the percentage of such accounts that were profitable, and the percentage of such accounts that were not profitable for each calendar quarter during the most recent five-year period during which the national bank maintained such accounts.

(f) *Disclosure of fees and other charges.* Immediately following the language required by paragraph (e) of this section, the statement required by paragraph (a) of this section shall include:

(i) The amount of any fee, charge, or commission that the national bank may impose on the retail forex customer in connection with a retail forex account or retail forex transaction;

(ii) An explanation of how the national bank will determine the amount of such fees, charges, or commissions; and

(iii) The circumstances under which the national bank may impose such fees, charges, or commissions.

(g) *Future disclosure requirements.* If, with regard to a retail forex customer, the national bank changes any fee, charge, or commission required to be disclosed under paragraph (f) of this section, then the national bank shall mail or deliver to the retail forex customer a notice of the changes at least 15 days prior to the effective date of the change.

(h) *Form of disclosure requirements.* The disclosures required by this section shall be clear and conspicuous and designed to call attention to the nature and significance of the information provided.

(i) *Other disclosure requirements unaffected.* This section does not relieve a national bank from any other disclosure obligation it may have under applicable law.

§ 48.7 Recordkeeping.

(a) *General rule.* A national bank engaging in retail forex transactions shall keep full, complete and systematic records, together with all pertinent data and memoranda, of all transactions relating to its retail forex business, including:

(1) *Retail forex account records* for each customer reflecting:

(i) The name and address of the person for who such retail forex account is carried or introduced and the principal occupation or business of such person;

(ii) The name of any other person guaranteeing such retail forex account or exercising trading control with respect to such account;

(iii) The establishment or termination of each retail forex account; and

(iv) For each retail forex account the records must also show the name of the person who has solicited and is responsible for the account or assign account numbers in such a manner as to identify that person.

(2) *Financial ledger records* that show separately for each retail forex customer all charges against and credits to such retail forex customer's account, including but not limited to retail forex customer funds deposited, withdrawn, or transferred, and charges or credits resulting from losses or gains on closed transactions.

(3) *Transaction records* that show separately for each retail forex account and each retail forex proprietary account:

(i) All retail forex transactions that are futures transactions executed for such account, including the date, price, quantity, market, currency pair, and delivery date;

(ii) All retail forex transactions that are option transactions executed for such account, including the date, whether the transaction involved a put or call, expiration date, quantity, underlying contract for future delivery or underlying physical, strike price, and details of the purchase price of the option, including premium, mark-up, commission, and fees; and

(iii) All other retail forex transactions that are executed for such account, including the date, price, quantity, and currency pair.

(4) *Daily records* which show for each business day complete details of:

(i) All retail forex transactions that are futures transactions executed on that day, including the date, price, quantity, market, currency pair, delivery date, and the person for whom such transaction was made;

(ii) All retail forex transactions that are option transactions executed on that day, including the date, whether the transaction involved a put or call, the expiration date, quantity, currency pair, delivery date, strike price, details of the purchase price of the option, including premium, mark-up, commission and fees, and the person for whom the transaction was made; and

(iii) All other retail forex transactions executed on that day for such account, including the date, price, quantity, currency and the person for whom such transaction was made.

(5) *Memorandum order (order ticket).* Except as provided in paragraph (a)(6) of this section, immediately upon the written or verbal receipt of a retail forex transaction order, a national bank shall prepare a separate written memorandum order (order ticket) for the order (whether unfulfilled, executed or canceled), including:

(i) Account identification (account or customer name with which the retail forex transaction was effected);

(ii) Order number;

(iii) Type of order (market order, limit order, or subject to special instructions);

(iv) Date and time, to the nearest minute, the retail forex transaction order was received (as evidenced by timestamp or other timing device);

(v) Time, to the nearest minute, the retail forex transaction order was executed; and

(vi) Price at which the retail forex transaction was executed.

(6) *Post-execution allocation of bunched orders.* Specific customer account identifiers for accounts included in bunched orders need not be recorded at time of order placement or upon report of execution as required under paragraph (a)(5) of this section if the following requirements are met:

(i) The national bank placing and directing the allocation of an order eligible for post-execution allocation has been granted written investment discretion with regard to participating customer accounts and makes the following information available to customers upon request:

(A) The general nature of the allocation methodology the national bank will use;

(B) Whether the national bank has any interest in accounts which may be included with customer accounts in

bunched orders eligible for post-execution allocation; and

(C) Summary or composite data sufficient for that customer to compare its results with those of other comparable customers and, if applicable, any account in which the national bank has an interest.

(ii) A national bank must allocate orders eligible for post-execution allocation in accordance with the following:

(A) Allocations must be made as soon as practicable after the entire transaction is executed;

(B) Allocations must be fair and equitable; no account or group of accounts may receive consistently favorable or unfavorable treatment; and

(C) The allocation methodology must be sufficiently objective and specific to permit independent verification of the fairness of the allocations using that methodology by the OCC.

(7) *Other records.* Other records covered by this section include written acknowledgements of receipt of the risk disclosure statement required by § 48.6(b), trading cards, signature cards, street books, journals, ledgers, payment records, copies of statements of purchase, and all other records, data and memoranda that have been prepared in the course of the national bank's retail forex business.

(b) *Ratio of profitable accounts.* (1) With respect to its active retail forex customer accounts over which it did not exercise investment discretion and that are not retail forex proprietary accounts open for any period of time during the quarter, a national bank shall prepare and maintain on a quarterly basis (calendar quarter):

(i) A calculation of the percentage of such accounts that were profitable;

(ii) A calculation of the percentage of such accounts that were not profitable; and

(iii) Data supporting the calculations described in paragraphs (b)(1)(i) and (ii) of this section.

(2) In calculating whether a retail forex account was profitable or not profitable during the quarter, the national bank shall compute the realized and unrealized gains or losses on all retail forex transactions carried in the retail forex account at any time during the quarter, and subtract all fees, commissions, and any other charges posted to the retail forex account during the quarter, and add any interest income and other income or rebates credited to the retail forex account during the quarter. All deposits and withdrawals of funds made by the retail forex customer during the quarter must be excluded from the computation of whether the retail forex account was profitable or not profitable during the quarter. Computations that result in a zero or negative number shall be considered a retail forex account that was not profitable. Computations that result in a positive number shall be considered a retail forex account that was profitable.

(3) A retail forex account shall be considered "active" for purposes of paragraph (b)(1) of this section if and only if, for the relevant calendar quarter, a retail forex transaction was executed in that account or the retail forex account contained an open position resulting from a retail forex transaction.

(c) *Records related to possible violations of law.* A national bank engaging in retail forex transactions shall make a record of all communications received by the national bank or its IAPs concerning facts giving rise to possible violations of law related to the national bank's retail forex business. The record shall contain: The name of the complainant, if provided; the date of the communication; the relevant agreement, contract, or transaction; the substance of the communication; and the name of the person who received the communication.

(d) *Records for noncash margin.* A national bank shall maintain a record of all noncash margin collected pursuant to § 48.9. The record shall show separately for each retail forex customer:

(1) A description of the securities or property received;

(2) The name and address of such retail forex customer;

(3) The dates when the securities or property were received;

(4) The identity of the depositories or other places where such securities or property are segregated or held, if applicable;

(5) The dates in which the national bank placed or removed such securities or property into or from such depositories; and

(6) The dates of return of such securities or property to such retail forex customer, or other disposition thereof, together with the facts and circumstances of such other disposition.

(e) *Record of monthly statements and confirmations.* A national bank shall retain a copy of each monthly statement and confirmation required by § 48.10.

(f) *Manner of maintenance.* The records required by this section must clearly and accurately reflect the information required and provide an adequate basis for the audit of the information. Record maintenance may include the use of automated or electronic records provided that the records are easily retrievable, readily available for inspection, and capable of being reproduced in hard copy.

(g) *Length of maintenance.* A national bank shall keep each record required by this section for at least five years from the date the record is created.

§ 48.8 Capital requirements.

A national bank offering or entering into retail forex transactions must be well capitalized as defined by 12 CFR part 6, unless specifically exempted by the OCC in writing.

§ 48.9 Margin requirements.

(a) *Margin required.* A national bank engaging, or offering to engage, in retail forex transactions must collect from each retail forex customer an amount of margin not less than:

(1) Two percent of the notional value of the retail forex transaction for major currency pairs and 5 percent of the notional value of the retail forex transaction for all other currency pairs;

(2) For short options, 2 percent for major currency pairs and 5 percent for all other currency pairs of the notional value of the retail forex transaction, plus the premium received by the retail forex customer; or

(3) For long options, the full premium charged and received by the national bank.

(b)(1) *Form of margin.* Margin collected under paragraph (a) of this section or pledged by a retail forex customer in excess of the requirements of paragraph (a) of this section must be in the form of cash or the following financial instruments:

(i) Obligations of the United States and obligations fully guaranteed as to principal and interest by the United States;

(ii) General obligations of any State or of any political subdivision thereof;

(iii) General obligations issued or guaranteed by any enterprise, as defined in 12 U.S.C. 4502(10);

(iv) Certificates of deposit issued by an insured depository institution, as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

(v) Commercial paper;

(vi) Corporate notes or bonds;

(vii) General obligations of a sovereign nation;

(viii) Interests in money market mutual funds; and

(ix) Such other financial instruments as the OCC deems appropriate.

(2) *Haircuts.* A national bank shall establish written policies and procedures that include:

(i) Haircuts for noncash margin collected under this section; and

(ii) Annual evaluation, and, if appropriate, modification of the haircuts.

(c) *Separate margin account.* Margin collected by the national bank from a retail forex customer for retail forex transactions or pledged by a retail forex customer for retail forex transactions shall be placed into a separate account containing only such margin.

(d) *Margin calls; liquidation of position.* For each retail forex customer, at least once per day, a national bank shall:

(1) Mark the value of the retail forex customer's open retail forex positions to market;

(2) Mark the value of the margin collected under this section from the retail forex customer to market;

(3) Determine if, based on the marks in paragraphs (c)(1) and (2) of this section, the national bank has collected margin from the retail forex customer sufficient to satisfy the requirements of this section; and

(4) Collect such margin from the retail forex customer as the national bank may require to satisfy the requirements of this section, or liquidate the retail forex customer's retail forex transactions.

(e) *Set-off prohibited.* A national bank may not:

(1) Apply a retail forex customer's losses on retail forex transactions against any funds or other asset of the retail forex customer other than margin in the retail forex customer's separate margin account described in paragraph (c) of this section;

(2) Apply a retail forex customer's losses on retail forex transactions to increase the amount owed by the retail forex customer to the national bank under any loan; or

(3) Collect the margin required under this section by use of any right of set-off.

§ 48.10 Required reporting to customers.

(a) *Monthly statements.* Each national bank must promptly furnish to each retail forex customer, as of the close of the last business day of each month or as of any regular monthly date selected, except for accounts in which there are neither open positions at the end of the statement period nor any changes to the account balance since the prior statement period, but in any event not less frequently than once every three months, a statement that clearly shows:

(1) For each retail forex customer:

(i) The open retail forex transactions with prices at which acquired;

(ii) The net unrealized profits or losses in all open retail forex transactions marked to the market;

(iii) Any money, securities or other property in the separate margin account required by § 48.9(c); and

(iv) A detailed accounting of all financial charges and credits to the retail forex customer's retail forex accounts during the monthly reporting period, including: money, securities, or property received from or disbursed to such customer; realized profits and losses; and fees, charges, and commissions.

(2) For each retail forex customer engaging in retail forex transactions that are options:

(i) All such options purchased, sold, exercised, or expired during the monthly reporting period, identified by underlying retail forex transaction or underlying currency, strike price, transaction date, and expiration date;

(ii) The open option positions carried for such customer and arising as of the end of the monthly reporting period, identified by underlying retail forex transaction or underlying currency, strike price, transaction date, and expiration date;

(iii) All such option positions marked to the market and the amount each position is in the money, if any;

(iv) Any money, securities or other property in the separate margin account required by § 48.9(c); and

(v) A detailed accounting of all financial charges and credits to the retail forex customer's retail forex accounts during the monthly reporting period, including: money, securities, or property received from or disbursed to such customer; realized profits and losses; and fees, charges, and commissions.

(b) *Confirmation statement.* Each national bank must, not later than the next business day after any retail forex transaction, send:

(1) To each retail forex customer, a written confirmation of each retail forex transaction caused to be executed by it for the customer, including offsetting transactions executed during the same business day and the rollover of an open retail forex transaction to the next business day;

(2) To each retail forex customer engaging in forex option transactions, a written confirmation of each forex option transaction, containing at least the following information:

(i) The retail forex customer's account identification number;

(ii) A separate listing of the actual amount of the premium, as well as each mark-up thereon, if applicable, and all other commissions, costs, fees and other charges incurred in connection with the forex option transaction;

(iii) The strike price;

(iv) The underlying retail forex transaction or underlying currency;

(v) The final exercise date of the forex option purchased or sold; and

(vi) The date the forex option transaction was executed.

(3) To each retail forex customer engaging in forex option transactions, upon the expiration or exercise of any option, a written confirmation statement thereof, which statement shall include the date of such occurrence, a description of the option involved, and, in the case of exercise, the details of the retail forex or physical currency position which resulted therefrom including, if applicable, the final trading date of the retail forex transaction underlying the option.

(c) Notwithstanding the provisions of paragraphs (b)(1) through (3) of this section, a retail forex transaction that is caused to be executed for a pooled investment vehicle that engages in retail forex transactions need be confirmed only to the operator of such pooled investment vehicle.

(d) *Controlled accounts.* With respect to any account controlled by any person other than the retail forex customer for whom such account is carried, each national bank shall promptly furnish in writing to such other person the information required by paragraphs (a) and (b) of this section.

(e) *Introduced accounts.* Each statement provided pursuant to the provisions of this section must, if applicable, show that the account for which the national bank was introduced by an introducing broker and the name of the introducing broker.

§ 48.11 Unlawful representations.

(a) *No implication or representation of limiting losses.* No national bank engaged in retail foreign exchange transactions or its IAPs may imply or represent that it will, with respect to any retail customer forex account, for or on behalf of any person:

(1) Guarantee such person or account against loss;

(2) Limit the loss of such person or account; or

(3) Not call for or attempt to collect margin as established for retail forex customers.

(b) *No implication of representation of engaging in prohibited acts.* No national bank or its IAPs may in any way imply or represent that it will engage in any of the acts or practices described in paragraph (a) of this section.

(c) *No Federal government endorsement.* No national bank or its IAPs may represent or imply in any manner whatsoever that any retail forex transaction or retail forex product has

been sponsored, recommended, or approved by the OCC, the Federal government, or any agency thereof.

(d) *Assuming or sharing of liability from bank error.* This section shall not be construed to prevent a national bank from assuming or sharing in the losses resulting from the national bank's error or mishandling of a retail forex transaction.

(e) *Certain guaranties unaffected.* This section shall not affect any guarantee entered into prior to the effective date of this part, but this section shall apply to any extension, modification or renewal thereof entered into after such date.

§ 48.12 Authorization to trade.

(a) *Specific authorization required.* No national bank may directly or indirectly effect a retail forex transaction for the account of any retail forex customer unless, before the transaction occurs, the retail forex customer specifically authorized the national bank, in writing, to effect the retail forex transaction.

(b) *Requirements for specific authorization* A retail forex transaction is "specifically authorized" for purposes of this section if the retail forex customer specifies:

(1) The precise retail forex transaction to be effected;

(2) The exact amount of the foreign currency to be purchased or sold; and

(3) In the case of an option, the identity of the foreign currency or contract that underlies the option.

§ 48.13 Trading and operational standards.

(a) *Internal rules, procedures, and controls required.* A national bank engaging in retail forex transactions shall establish and implement internal rules, procedures, and controls designed, at a minimum, to:

(1) Ensure, to the extent reasonable, that each order received from a retail forex customer that is executable at or near the price that the national bank has quoted to the customer is entered for execution before any order in any retail forex transaction for any proprietary account, any other account in which a related person has an interest, or any account for which such a related person may originate orders without the prior specific consent of the account owner (if such related person has gained knowledge of the retail forex customer's order prior to the transmission of an order for a proprietary account), an account in which such a related person has an interest, or an account in which such a related person may originate orders without the prior specific consent of the account owner;

(2) Prevent national bank related persons from placing orders, directly or indirectly, with another person in a manner designed to circumvent the provisions of paragraph (a)(1) of this section;

(3) Fairly and objectively establish settlement prices for retail forex transactions; and

(4) Record and maintain essential information regarding customer orders and account activity, and to provide such information to customers upon request. Such information shall include:

(i) Transaction records for the customer's account, including:

(A) The date and time each order is received by the national bank;

(B) The price at which each order is placed, or, in the case of an option, the premium paid;

(C) If the transaction was entered into by means of a trading platform, the price quoted on the trading platform when the order was placed, or, in the case of an option, the premium quoted;

(D) The customer account identification information;

(E) The currency pair;

(F) The size of the transaction;

(G) Whether the order was a buy or sell order;

(H) The type of order, if the order was not a market order;

(I) If a trading platform is used, the date and time the order is transmitted to the trading platform;

(J) If a trading platform is used, the date and time the order is executed;

(K) The size and price at which the order is executed, or in the case of an option, the amount of the premium paid for each option purchased, or the amount credited for each option sold; and

(L) For options, whether the option is a put or call, the strike price, and expiration date.

(ii) Account records that contain the following information:

(A) The funds in the account, net of any commissions and fees;

(B) The net profits and losses on open trades; and

(C) The funds in the account plus or minus the net profits and losses on open trades. (In the case of open option positions, the account balance should be adjusted for the net option value);

(iii) If a trading platform is used, daily logs showing each price change on the platform, the time of the change to the nearest second, and the trading volume at that time and price; and

(iv) Any method or algorithm used to determine the bid or asked price for any retail forex transaction or the prices at which customer orders are executed, including, but not limited to, any markups, fees, commissions or other items which affect the profitability or risk of loss of a retail forex customer's transaction.

(b) *Disclosure of retail forex transactions.* No national bank engaging in retail forex transactions may disclose that an order of another person is being held by the national bank, unless the disclosure is necessary to the effective execution of such order or the disclosure is made at the request of the OCC.

(c) *Handling of retail forex accounts of related persons of retail forex counterparties.* No national bank engaging in retail forex transactions shall knowingly handle the retail forex account of any related person of another retail forex counterparty unless it:

(1) Receives written authorization from a person designated by such other retail forex counterparty with responsibility for the surveillance over such account pursuant to paragraph (a)(2) of this section;

(2) Prepares immediately upon receipt of an order for such account a written record of such order, including the account identification and order number, and records thereon to the nearest minute, by time-stamp or other timing device, the date and time the order is received; and

(3) Transmits on a regular basis to such other retail forex counterparty copies of all statements for such account and of all written records prepared upon the receipt of orders for such account pursuant to paragraph (a)(2) of this section.

(d) *Related person of national bank establishing account at another retail forex counterparty.* No related person of a national bank engaging in retail forex transactions may have an account, directly or indirectly, with another retail forex counterparty unless:

(1) It receives written authorization to maintain such an account from a person designated by the national bank of which it is a related person with responsibility for the surveillance over such account pursuant to paragraph (a)(2) of this section; and

(2) Copies of all statements for such account and of all written records prepared by such other retail forex counterparty upon receipt of orders for such account pursuant to paragraph (c)(2) of this section are transmitted on a regular basis to the retail forex counterparty of which it is a related person.

(e) *Prohibited trading practices.* No national bank engaging in retail forex transactions may:

(1) Enter into a retail forex transaction, to be executed pursuant to

a market or limit order at a price that is not at or near the price at which other retail forex customers, during that same time period, have executed retail forex transactions with the national bank;

(2) Adjust or alter prices for a retail forex transaction after the transaction has been confirmed to the retail forex customer;

(3) Provide a retail forex customer a new bid price for a retail forex transaction that is higher than its previous bid without providing a new asked price that is also higher than its previous asked price by a similar amount;

(4) Provide a retail forex customer a new bid price for a retail forex transaction that is lower than its previous bid without providing a new asked price that is also lower than its previous asked price by a similar amount; or

(5) Establish a new position for a retail forex customer (except one that offsets an existing position for that retail forex customer) where the national bank holds outstanding orders of other retail forex customers for the same currency pair at a comparable price.

§ 48.14 Supervision.

(a) *Supervision by the national bank.* A national bank engaging in retail forex transactions shall diligently supervise the handling by its officers, employees, and agents (or persons occupying a similar status or performing a similar function) of all retail forex accounts carried, operated, or advised by at the national bank and all activities of its officers, employees, and agents (or persons occupying a similar status or performing a similar function) relating to its retail forex business.

(b) *Supervision by officers, employees, or agents.* An officer, employee, or agent of a national bank must diligently supervise his or her subordinates' handling of all retail forex accounts at the national bank and all the subordinates' activities relating to the national bank's retail forex business.

§ 48.15 Notice of transfers.

(a) *Prior notice generally required.* Except as provided in paragraph (b) of this section, a national bank must provide a retail forex customer with 30 days' prior notice of any assignment of any position or transfer of any account of the retail forex customer. The notice must include a statement that the retail forex customer is not required to accept the proposed assignment or transfer and may direct the national bank to liquidate the positions of the retail forex customer or transfer the account to a retail forex counterparty of the retail forex customer's selection.

(b) *Exceptions.* The requirements of paragraph (a) of this section shall not apply to transfers:

(1) Requested by the retail forex customer;

(2) Made by the Federal Deposit Insurance Corporation as receiver or conservator under the Federal Deposit Insurance Act; or

(3) Otherwise authorized by applicable law.

(c) *Obligations of transferee national bank.* A national bank to which retail forex accounts or positions are assigned or transferred under paragraph (a) of this section must provide to the affected retail forex customers the risk disclosure statements and forms of acknowledgment required by this part and receive the required signed acknowledgments within sixty days of such assignments or transfers. This requirement shall not apply if the national bank has clear written evidence that the retail forex customer has received and acknowledged receipt of the required disclosure statements.

§ 48.16 Customer dispute resolution.

(a) *Voluntary submission of claims to dispute or settlement procedures.* No national bank shall enter into any agreement or understanding with a retail forex customer in which the customer agrees, prior to the time a claim or grievance arises, to submit such claim or grievance to any settlement procedure unless the following conditions are satisfied:

(1) Signing the agreement must not be made a condition for the customer to use the services offered by the national bank.

(2) If the agreement is contained as a clause or clauses of a broader agreement, the customer must separately endorse the clause or clauses.

(3) The agreement must advise the retail forex customer that, at such time as the customer notifies the national bank that the customer intends to submit a claim to arbitration, or at such time the national bank notifies the customer of its intent to submit a claim to arbitration, the customer will have the opportunity to choose a person qualified in dispute resolution to conduct the proceeding.

(4) The agreement must acknowledge that the national bank will pay any incremental fees that may be assessed in connection with the dispute resolution, unless it is determined in the proceeding that the retail forex customer has acted in bad faith in initiating the proceeding.

(5) The agreement must include the following language printed in large boldface type:

> The opportunity to settle disputes by arbitration may in some cases provide benefits to customers, including the ability to obtain an expeditious and final resolution of disputes without incurring substantial cost. Each customer must individually examine the relative merits of arbitration and consent to this arbitration agreement must be voluntary.
>
> By signing this agreement, you: (1) May be waving your right to sue in a court of law; and (2) are agreeing to be bound by arbitration of any claims or counterclaims which you or [insert name of national bank] may submit to arbitration under this agreement. In the event a dispute arises, you will be notified if [insert name of national bank] intends to submit the dispute to arbitration.
>
> You need not sign this agreement to open or maintain a retail forex account with [insert name of national bank].

(b) *Election of forum.* (1) Within ten business days after receipt of notice from the retail forex customer that the customer intends to submit a claim to arbitration, the national bank must provide the customer with a list of persons qualified in dispute resolution.

(2) The customer shall, within 45 days after receipt of such list, notify the national bank of the person selected. The customer's failure to provide such notice shall give the national bank the right to select a person from the list.

(c) *Enforceability.* A dispute settlement procedure may require parties using such procedure to agree, under applicable state law, submission agreement or otherwise, to be bound by an award rendered in the procedure, provided that the agreement to submit the claim or grievance to the voluntary procedure under paragraph (a) of this section or that agreement to submit the claim or grievance was made after the claim or grievance arose. Any award so rendered shall be enforceable in accordance with applicable law.

(d) *Time limits for submission of claims.* The dispute settlement procedure used by the parties shall not include any unreasonably short limitation period foreclosing submission of a customer's claims or grievances or counterclaims.

(e) *Counterclaims.* A procedure for the settlement of a retail forex customer's claims or grievances against a national bank or employee thereof may permit the submission of a counterclaim in the procedure by a person against whom a claim or grievance is brought. Such a counterclaim may be permitted where it arises out of the transaction or occurrence that is the subject of the customer's claim or grievance and does

not require for adjudication the presence of essential witnesses, parties, or third persons over which the settlement process lacks jurisdiction.

Dated: April 18, 2011.

John Walsh,

Acting Comptroller of the Currency.

[FR Doc. 2011–9821 Filed 4–21–11; 8:45 am]

BILLING CODE 4810–33–P

FEDERAL RESERVE SYSTEM

12 CFR Part 252

[Regulation YY; Docket No. R–1414]

RIN 7100–AD73

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 381

RIN 3064–AD77

Resolution Plans and Credit Exposure Reports Required

AGENCIES: Board of Governors of the Federal Reserve System (Board) and Federal Deposit Insurance Corporation (Corporation).

ACTION: Proposed rule; request for public comment.

SUMMARY: The Board and the Corporation request comment on this proposed rule that implements the requirements in section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") regarding resolution plans and credit exposure reports. Section 165(d) requires each nonbank financial company supervised by the Board and each bank holding company with assets of $50 billion or more to report periodically to the Board, the Corporation, and the Financial Stability Oversight Council (the "Council") the plan of such company for rapid and orderly resolution in the event of material financial distress or failure, and the nature and extent of credit exposures of such company to significant bank holding companies and significant nonbank financial companies and the nature and extent of the credit exposures of significant bank holding companies and significant nonbank financial companies to such company. Section 165(d)(8) of the Dodd-Frank Act requires the Board and the Corporation to jointly issue final rules implementing section 165(d) by not later than January 21, 2012.

DATES: Comments should be received on or before June 10, 2011.

ADDRESSES: Comments should be directed to:

Board: You may submit comments, identified by Docket No. 1414 and RIN no. 7100–AD73, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Street, NW.) between 9 a.m. and 5 p.m. on weekdays.

Corporation: You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency* Web site: *http://www.FDIC.gov/regulations/laws/federal/propose.html*
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivered/Courier:* The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.
- *E-mail: comments@FDIC.gov.*

Instructions: Comments submitted must include "FDIC" and "RIN 3064–AD77." Comments received will be posted without change to *http://www.FDIC.gov/regulations/laws/federal/propose.html,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: *Board:* Barbara J. Bouchard, Senior Associate Director, (202) 452–3072, or Avery I. Belka, Counsel, (202) 736–5691, Division of Banking Regulation and Supervision; or Ann E. Misback, Associate General Counsel, (202) 452–3788, or Dominic A. Labitzky, Senior Attorney, (202) 452–3428, Legal Division; Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263–4869.

Corporation: Joseph Fellerman, Senior Program Analyst, (202) 898–6591, Office of Complex Financial Institutions, Richard T. Aboussie, Associate General Counsel, (703) 562–2452, David N. Wall, Assistant General Counsel, (703) 562–2440, Mark A. Thompson, Counsel, (703) 562–2529, or Mark G. Flanigan, Counsel, (202) 898–7426, Legal Division.

SUPPLEMENTARY INFORMATION:

I. Background

To promote financial stability, section 165(d) of the Dodd-Frank Act requires each nonbank financial company supervised by the Board and each bank holding company with total consolidated assets of $50 billion or more to periodically submit to the Board, the Corporation and the Council a plan for such company's rapid and orderly resolution in the event of material financial distress or failure, and a report on the nature and extent of credit exposures of such company to significant bank holding companies and significant nonbank financial companies and the nature and extent of credit exposures of significant bank holding companies and significant nonbank financial companies to such company.[1] This proposed rule would implement the resolution plan and credit exposure reporting requirements set forth in section 165(d) of the Dodd-Frank Act.

Section 165(d) provides regulators with the ability to conduct advance resolution planning for a covered company. As demonstrated by the Corporation's experience in failed bank resolutions, as well as the Board's and the Corporation's experience in the recent crisis, advance planning is critical for an efficient resolution of a company subject to the proposed rule.[2] Advance planning has long been a component of resiliency and recovery planning by financial companies. The Dodd-Frank Act requires that certain financial companies incorporate resolution planning into their overall

[1] *See generally* 12 U.S.C. 5365(d).

[2] The ability to undertake advance planning for the resolution of any financial institution, from small banks to globally active financial companies, is a precondition for effective crisis management and resolution.

business planning processes. In preparing for an orderly liquidation of a financial company under Title II of the Dodd-Frank Act, the Corporation will have access to the information included in such company's resolution plan. Advance knowledge of and access to this information will be a vital element in the Corporation's resolution planning for such a company. The resolution plan will help regulators to better understand a firm's business and how that entity may be resolved, and will also enhance the regulators' understanding of foreign operations in an effort to develop a comprehensive and coordinated resolution strategy for a cross-border firm.

The Dodd-Frank Act requires each company covered by the proposed rule to produce a resolution plan, or "living will," that includes information regarding the manner and extent to which any insured depository institution affiliated with the company is adequately protected from risks arising from the activities of any nonbank subsidiaries of the company; full descriptions of the ownership structure, assets, liabilities, and contractual obligations of the company; identification of the cross-guarantees tied to different securities; identification of major counterparties; a process for determining to whom the collateral of the company is pledged; and any other information that the Board and the Corporation jointly require by rule or order.[3] The proposed rule would require a strategic analysis by the covered company of how it can be resolved under Title 11 of the U.S. Code (the "Bankruptcy Code") in a way that would not pose systemic risk to the financial system. In doing so, the company must map its business lines to material legal entities and provide integrated analyses of its corporate structure; credit and other exposures; funding, capital and cash flows; the domestic and foreign jurisdictions in which it operates; and its supporting information systems for core business lines and critical operations. The credit exposure reports required by the statute will also provide important information critical to ongoing risk management and advance planning processes by identifying the company's significant credit exposures and other key information across the entity and its related entities.

II. Overview of Proposed Rule

Section 165(d)(8) of the Dodd-Frank Act requires the Board and the Corporation to jointly issue rules implementing the provisions of section 165(d) of the Dodd-Frank Act.[4] The proposed rule applies to each "Covered Company", which term includes any bank holding company with $50 billion or more in total consolidated assets, as determined based on the average of the company's four most recent Consolidated Financial Statements for Bank Holding Companies as reported on the Federal Reserve's FR Y–9C. It also includes any foreign bank or company that is or is treated as a bank holding company under section 8(a) of the International Banking Act of 1978[5] and that had $50 billion or more in total consolidated assets, as determined based on the foreign bank's or company's most recent annual or, as applicable, the average of the four most recent quarterly Capital and Asset Reports for Foreign Banking Organizations as reported on the Federal Reserve's Form FR Y–7Q. In addition, a "Covered Company" includes any nonbank financial company that the Council has determined under section 113 of the Dodd-Frank Act must be supervised by the Board and for which such determination is in effect.

The Dodd-Frank Act requires that, in applying the requirements of section 165(d) to any foreign nonbank financial company supervised by the Board or any foreign-based bank holding company, the Board give due regard to the principle of national treatment and equality of competitive opportunity, and to take into account the extent to which the foreign financial company is subject on a consolidated basis to home country standards that are comparable to those applied to financial companies in the United States.[6]

The proposed rule requires that each Covered Company periodically submit to the Board and Corporation (i) a plan for the rapid and orderly resolution of the Covered Company under the Bankruptcy Code in the event of material financial distress at or failure of the Covered Company ("Resolution Plan"); and (ii) a report on the nature and extent to which the Covered Company has credit exposure to other significant nonbank financial companies and significant bank holding companies and on the nature and extent to which other significant nonbank financial companies and significant bank holding companies have credit exposure to the Covered Company ("Credit Exposure Report"). The proposal would establish rules and requirements regarding the submission and content of a Resolution Plan and a Credit Exposure Report, as well as procedures and standards for review by the Board and Corporation of a Resolution Plan. The Board would make such reports available to the Council upon request.

Section-by-Section Analysis

Definitions. Section _____.2 of the proposed rule defines certain terms, including "rapid and orderly resolution," "material financial distress," "core business lines," "critical operations" and "material entities," which are key definitions in the proposed rule.

"Rapid and orderly resolution" means a reorganization or liquidation of the Covered Company (or, in the case of a Covered Company that is incorporated or organized in a jurisdiction other than the United States, the subsidiaries and operations of such foreign company that are domiciled in the United States) under the Bankruptcy Code that can be accomplished within a reasonable period of time and in a manner that substantially mitigates the risk that the failure of the Covered Company would have serious adverse effects on financial stability in the United States.[7] Under the proposed rule each Resolution Plan submitted should provide for the rapid and orderly resolution of the Covered Company.

"Material financial distress" with regard to a Covered Company means that: (i) The Covered Company has incurred, or is likely to incur, losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the company to avoid such depletion; (ii) the assets of the Covered Company are, or are likely to be, less than its obligations to creditors and others; or (iii) the Covered Company is, or is likely to be, unable to pay its obligations (other than those subject to a bona fide dispute) in the normal course of business.

Under the proposed rule, each Resolution Plan submitted should provide for the rapid and orderly resolution of the Covered Company in the event of material financial distress or failure of the Covered Company. The Resolution Plan also should take into consideration that the event of material financial distress may be idiosyncratic or may occur at a time when financial markets, or other significant companies, are also under stress.

"Core business lines" means those business lines, including associated operations, services, functions and support that, in the firm's view, upon

[3] *See* 12 U.S.C. 5365(d)(1).

[4] 12 U.S.C. 5365(d)(8).

[5] 12 U.S.C. 3106(a).

[6] 12 U.S.C. 5365(b)(2).

[7] If an entity is subject to an insolvency regime other than the Bankruptcy Code, the analysis should be in reference to that applicable regime.

failure would result in a material loss of revenue, profit, or franchise value. The Resolution Plan should address how the resolution of the Covered Company will affect the core business lines.

"Critical operations" are those operations, including associated services, functions and support that, in the view of the Covered Company or as jointly directed by the Board and the Corporation, upon a failure of, or discontinuance of such operations, would likely result in a disruption to the U.S. economy or financial markets. The Resolution Plan should address and provide for the continuation and funding of critical operations.

"Material entity" means a subsidiary or foreign office of the Covered Company that is significant to the activities of a critical operation or core business line.

Resolution Plan required. Section _____.3 of the proposed rule requires each Covered Company to submit a Resolution Plan within 180 days of the effective date of the final rule, or within 180 days of such later date as the company becomes a Covered Company.

The proposed rule specifies the minimum content of a Resolution Plan. The Board and the Corporation recognize that plans will vary by company and, in their evaluation of plans, will take into account variances among companies in their core business lines, critical operations, foreign operations, capital structure, risk, complexity, financial activities (including the financial activities of their subsidiaries), size and other relevant factors.

After the initial Resolution Plan is submitted, each Covered Company would be required to submit a new Resolution Plan no later than 90 days after the end of each calendar year.

A Covered Company would be required to file an updated Resolution Plan within a time period specified by the Board and the Corporation, but no later than 45 days after any event, occurrence, change in conditions or circumstances or change which results in, or could reasonably be foreseen to have, a material effect on the Resolution Plan of the Covered Company. An update should describe the event, any material effects that the event may have on the Resolution Plan and any actions the Covered Company has taken or will take to address such material effects.

Material changes may include, but are not limited to, any of the following—

(i) A significant acquisition, or series of such acquisitions, by the Covered Company;

(ii) A significant sale, other divestiture, or series of such transactions, by the Covered Company;

(iii) A discontinuation of the business of, or dissipation of the assets of the Covered Company, a material entity, core business line or critical operation;

(iv) The bankruptcy, insolvency of a material entity;

(v) A material reorganization of the Covered Company;

(vi) The loss of a material servicing subsidiary or material servicing contract;

(vii) The unavailability or loss of a significant correspondent or counterparty relationship, source of funding or liquidity utilized by the Covered Company, a material entity, a core business line or critical operation;

(viii) The transfer or relocation of 5 percent or more of the total consolidated United States (domestic) assets of the Covered Company to a location(s) outside of the United States;

(ix) A reduction in the market capitalization or book value of the consolidated capital of 5 percent or more of the Covered Company as of the end of the previous calendar yearend; or

(x) The transfer, termination, suspension or revocation of any material license or other regulatory authorization required to conduct a core business line or critical operation.

The Board and the Corporation jointly may waive a requirement that a Covered Company file an update of a Resolution Plan. The Board and the Corporation jointly may also require an update for any other reason, more frequent submissions or updates, and may extend the time period that a Covered Company has to submit its Resolution Plan or update.

The board of directors of the Covered Company would be required to approve the initial and each annual Resolution Plan filed. In the case of a foreign-based Covered Company, a delegee of the board of the directors of such organization may approve the initial Resolution Plan and any updates to a Resolution Plan.

Informational Content of a Resolution Plan. Section _____.4 of the proposed rule sets forth the minimum informational content requirements of a Resolution Plan. A Covered Company that is domiciled in the United States would be required to provide information with regard to both its U.S. operations and its foreign operations. A foreign-based Covered Company would be required to provide information regarding its U.S. operations, an explanation of how resolution planning for its U.S. operations is integrated into the foreign-based Covered Company's overall contingency planning process, and information regarding the interconnections and interdependencies among its U.S. operations and its foreign-based operations.

Each Resolution Plan would be required to contain an executive summary, a strategic analysis of the plan's components, a description of the Covered Company's corporate governance structure for resolution planning, information regarding the Covered Company's overall organizational structure and related information, information regarding the Covered Company's management information systems, a description of interconnections and interdependencies among the Covered Company and its material entities, and supervisory and regulatory information.

The executive summary should summarize the key elements of the Covered Company's strategic plan, material changes from the most recently filed plan, and any actions taken by the Covered Company to improve the effectiveness of the Resolution Plan or remediate or otherwise mitigate any material weaknesses or impediments to the effective and timely execution of the plan.

The strategic analysis of how the resolution plan can be implemented to facilitate a rapid and orderly resolution is the foundation for any credible plan. The strategic analysis should describe the Covered Company's critical thinking detailing how, in practice, it could be resolved under the Bankruptcy Code. As a result, the strategic analysis should include the analytical support for the plan, its key assumptions, including any assumptions made concerning the economic or financial conditions that would be present at the time the Covered Company sought to implement such plan. The strategic analysis should include detailed information as to how, in the event of material financial distress or failure of the Covered Company, a reorganization or liquidation of the Covered Company (or, in the case of a Covered Company that is incorporated or organized in a jurisdiction other than the United States, the subsidiaries and operations of such foreign company that are domiciled in the United States) under the Bankruptcy Code could be accomplished within a reasonable period of time and in a manner that substantially mitigates the risk that the failure of the Covered Company would have serious adverse effects on financial stability in the United States. The strategic analysis of the Covered Company's resolution plan must also identify the range of specific actions to

be taken by the Covered Company to facilitate a rapid and orderly resolution of the Covered Company, its material entities, critical operations and core business lines in the event of material financial distress or failure of the Covered Company.

Funding, liquidity, support functions, and other resources, including capital resources, should be identified and mapped to the Covered Company's material entities, core business lines and critical operations. The Covered Company's strategy for maintaining and funding the critical operations and core business lines in an environment of material financial distress and in the implementation and execution of its resolution plan should be provided and mapped to its material entities. The Covered Company's strategic analysis should demonstrate how such resources would be utilized to facilitate an orderly resolution in an environment of material financial distress. The Covered Company should also provide its strategy in the event of a failure or discontinuation of a material entity, core business line or critical operation, and the actions that will be taken by the Covered Company to prevent or mitigate any adverse effects of such failure or discontinuation on the financial stability of the company and the United States. In addition, a Covered Company would be required to provide its strategy for ensuring that any insured depository institution subsidiary will be adequately protected from risks arising from the activities of any nonbank subsidiaries of the Covered Company (other than those that are subsidiaries of an insured depository institution).

The analytical mapping of the core business lines and critical operations of the Covered Company and the mapping of funding, liquidity, critical service support, and other resources to legal entities should demonstrate how those core business lines and critical operations could be resolved and transferred to potential acquirers. This analysis should demonstrate how these critical elements of the business operations could survive in an environment of material financial distress as well as the failure or insolvency of one or more entities within the Covered Company. This is particularly important for internal as well as external service level agreements that provide the business services essential for continued operation of the Covered Company's core business lines and critical operations.

The description of the Covered Company's corporate governance structure for resolution planning should include information regarding how resolution planning is integrated into the corporate governance structure and processes of the Covered Company, and identify the senior management official that is primarily responsible for overseeing the development, maintenance, implementation, and filing of the Resolution Plan and for the Covered Company's compliance with the proposed rule. The requirements in the proposed rule are minimums and the size of the corporate governance structure is expected to vary based upon the size and complexity of the Covered Company. For the largest and most complex companies, it may be necessary to establish a central planning function that is headed by a senior management official. Such official would report to the Chief Risk Officer or Chief Executive Officer and periodic reports on resolution planning would be made to the Covered Company's board of directors.

The information regarding the Covered Company's overall organization structure and related information should include a hierarchical list of all material entities, jurisdictional and ownership information. This information should be mapped to core business lines and critical operations. An unconsolidated balance sheet for the Covered Company and a consolidating schedule for all entities that are subject to consolidation should be provided. The Resolution Plan should include information regarding material assets, liabilities, derivatives, hedges, capital and funding sources and major counterparties. Material assets and liabilities should be mapped to material entities along with location information. An analysis of whether the bankruptcy of a major counterparty would likely have an adverse effect on and result in the material financial distress or failure of the Covered Company should also be included. Trading, payment, clearing and settlement systems utilized by the Covered Company should be identified. The Covered Company would not need to identify trading, payment, clearing and settlement systems that are immaterial in resolution planning, such as a local check clearing house.

For a Covered Company with foreign operations, the plan should identify the extent of the risks related to its foreign operations and the Covered Company's strategy for addressing such risks. These elements of the Resolution Plan should take into consideration, and address through practical responses, the complications created by differing national laws, regulations, and policies. This analysis should include a mapping of core business lines and critical operations to legal entities operating or with assets, liabilities, operations, or service providers in foreign jurisdictions. The continued ability to maintain core business lines and critical operations in these foreign jurisdictions during material financial distress and insolvency proceedings should be evaluated and practical steps identified to address weaknesses or vulnerabilities.

The proposed rule requires the Covered Company to provide information regarding the management information systems supporting its core business lines and critical operations, including information regarding the legal ownership of such systems as well as associated software, licenses, or other associated intellectual property. The analysis and practical steps that are identified by the Covered Company should address the continued availability of the key management information systems that support core business lines and critical operations both within the United States and in foreign jurisdictions.

The proposed rule also requires the Covered Company to provide a description of interconnections and interdependencies among the Covered Company and its material entities and affiliates, and among the critical operations and core business lines of the Covered Company that, if disrupted, would materially affect the funding or operations of the Covered Company, its material entities, or its critical operations or core business lines. As noted above, the continued availability of key services and supporting business operations to core business lines and critical operations in an environment of material financial distress and after insolvency should be a focus of resolution planning. Steps to ensure that service level agreements for such services, whether provided by internal or external service providers, survive insolvency should be demonstrated in the Resolution Plan.

The plan should identify the Covered Company's supervisory authorities and regulators, including information identifying any foreign agency or authority with significant supervisory authority over material foreign-based subsidiaries or operations.

The proposed rule requires the Resolution Plan to include a description of the Covered Company's processes and systems to collect, maintain, and report the information and other data underlying the Resolution Plan. The Resolution Plan should identify any deficiencies in such processes and systems and discuss plans to remedy such deficiencies. The Covered Company should, within a reasonable

period of time after the effective date of the rule, as determined by the Board and the Corporation, be able to demonstrate its capability to promptly produce, in a format acceptable to the Board and the Corporation, the data underlying the key aspects of the Resolution Plan. A Covered Company should also identify any deficiencies in its systems and processes to collect, maintain, and report such information and discuss its plans to remedy such deficiencies.

Informational content of a Credit Exposure Report. Section _____.5 of the proposed rule requires each Covered Company to submit to the Board and the Corporation a Credit Exposure Report on a quarterly basis. Each Credit Exposure Report is required to set forth the nature and extent of credit exposures of such company to significant bank holding companies and significant nonbank financial companies, as well as the credit exposures of significant bank holding companies and significant nonbank financial companies to such company. The proposed rule specifies the credit exposures to be reported.

A Credit Exposure Report submitted by a Covered Company that is a company incorporated or organized in a jurisdiction other than the United States (other than a bank holding company) or that is a foreign banking organization would be required to include only information with respect to its subsidiaries and operations that are domiciled in the United States.

With regard to the proposed content of the Credit Exposure Reports, the Board and the Corporation note that there are several other initiatives underway or contemplated, such as the data to support the Board's single counterparty credit exposure limits and stress testing responsibilities under the Dodd-Frank Act. The Board and the Corporation will ensure that data collected through these other initiatives and the Credit Exposure Report will be coordinated and harmonized to the extent possible so as to minimize redundant data collections and allow maximum data quality. It is anticipated that proposed reporting requirements associated with this and other regulations under the Dodd-Frank Act, will be issued for public comment later this year and will provide additional clarity around the definition of credit exposure for each asset class listed in § _____.5.

Review of Resolution Plans; resubmission of deficient Resolutions Plans. Section _____.6 of the proposed rule sets forth procedures regarding the review of Resolution Plans. As proposed, when a Covered Company submits a Resolution Plan, the Resolution Plan will be reviewed initially to determine whether it appears to contain the elements set forth in the proposed rule and is informationally complete. Within 60 calendar days of receiving a Resolution Plan, the Board and the Corporation would determine and acknowledge whether the Resolution Plan satisfies the minimum informational requirements and should be accepted for further review. If the Board and the Corporation determine that a Resolution Plan is informationally incomplete or that substantial additional information is necessary to facilitate further review, the Board and the Corporation will inform the Covered Company in writing of the area(s) in which the Resolution Plan is informationally incomplete or with respect to which additional information is required. The Covered Company would be required to resubmit an informationally complete Resolution Plan, or such additional information as jointly requested to facilitate review of the Resolution Plan, no later than 30 days after receiving such notice or such other time period as the Board and Corporation may jointly determine.

After a Resolution Plan is accepted for review, the Board and Corporation would review the plan for its compliance with the requirements of the proposed rule. If, following such review, the Board and the Corporation jointly determine that the Resolution Plan of a Covered Company submitted under this part is not credible or would not facilitate an orderly resolution of the Covered Company under the Bankruptcy Code, the Board and Corporation would jointly notify the Covered Company in writing of such determination. Such notice would identify the aspects of the Resolution Plan that the Board and Corporation jointly determined to be deficient and request the resubmission of a Resolution Plan that remedies the deficiencies of the Resolution Plan.

Within 90 days of receiving such notice of deficiencies, or such shorter or longer period as the Board and Corporation may jointly determine, a Covered Company would be required to submit a revised Resolution Plan to the Board and Corporation that addresses the deficiencies jointly identified by the Board and Corporation. The revised Resolution Plan would be required to discuss in detail: (i) The revisions made by the Covered Company to address the deficiencies jointly identified by the Board and the Corporation; (ii) any changes to the Covered Company's business operations and corporate structure that the Covered Company proposes to undertake to facilitate implementation of the revised Resolution Plan (including a timeline for the execution of such planned changes); and (iii) why the Covered Company believes that the revised Resolution Plan is credible and would result in an orderly resolution of the Covered Company under the Bankruptcy Code.

Upon a written request by a Covered Company, the Board and Corporation may jointly extend the time to resubmit a revised Resolution Plan. Any extension request would have to be supported by a written statement of the company describing the basis and justification for the request.

Failure to cure deficiencies on resubmission of a Resolution Plan. Section _____.7 provides that, if the Covered Company fails to submit a revised Resolution Plan or the Board and the Corporation jointly determine that a revised Resolution Plan submitted does not adequately remedy the deficiencies identified by the Board and the Corporation, then the Board and Corporation may jointly subject a Covered Company or any subsidiary of a Covered Company to more stringent capital, leverage, or liquidity requirements, or restrictions on the growth, activities, or operations. Any such requirements or restrictions would apply to the Covered Company or subsidiary, respectively, until the Board and the Corporation jointly determine the Covered Company has submitted a revised Resolution Plan that adequately remedies the deficiencies identified. In addition, if the Covered Company fails, within the two-year period beginning on the date on which the determination to impose such requirements or restrictions was made, to submit a revised Resolution Plan that adequately remedies the deficiencies jointly identified by the Board and the Corporation, then the Board and Corporation, in consultation with the Council, may jointly, by order, direct the Covered Company to divest such assets or operations as the Board and Corporation jointly determine necessary to facilitate an orderly resolution of the Covered Company under the Bankruptcy Code in the event the company were to fail.

Consultation. Section _____.8 of the proposed rule provides that, prior to issuing any notice of deficiencies, determining to impose requirements or restrictions on a Covered Company, or issuing a divestiture order with respect to a Covered Company that is likely to have a significant effect on a functionally regulated subsidiary or a

depository institution subsidiary of the Covered Company, the Board shall consult with each Council member that primarily supervises any such subsidiary and may consult with any other Federal, state, or foreign supervisor as the Board considers appropriate.

No limiting effect or private right of action; confidentiality of Resolution Plans and Credit Exposure Reports. Section _____.9 of the proposed rule provides that a Resolution Plan submitted shall not have any binding effect on: (i) A court or trustee in a proceeding commenced under the Bankruptcy Code; (ii) a receiver appointed under Title II of the Dodd-Frank Act (12 U.S.C. 5381 *et seq.*); (iii) a bridge financial company chartered pursuant to 12 U.S.C. 5390(h); or (iv) any other authority that is authorized or required to resolve a Covered Company (including any subsidiary or affiliate thereof) under any other provision of Federal, state, or foreign law.

The proposed rule further provides that nothing in the rule would create or is intended to create a private right of action based on a Resolution Plan prepared or submitted under this part or based on any action taken by the Board or the Corporation with respect to any Resolution Plan submitted under this part.

Any Covered Company submitting a Resolution Plan or Credit Exposure Report that desires confidential treatment of the information submitted would be required to file a request for confidential treatment in the manner set forth in the proposed rule.

Enforcement. Section _____.10 of the proposed rule provides that the Board and Corporation may jointly enforce an order jointly issued under section _____.7(a) or _____.7(c) of the proposed rule. Furthermore, the Board, in consultation with the Corporation, may address any violation of the rule by a Covered Company under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

III. Request for Comments

The Board and the Corporation seek comment on all aspects of the proposed rule, including the following:

Scope

Should a Covered Company for purposes of the rule be defined as any bank holding company that had $50 billion or more in total consolidated assets, based on the average of the Covered Company's four most recent Consolidated Financial Statements? Should the average be calculated over a shorter period of time (*e.g.,* two quarters)? Why might an alternative method for defining the $50 billion asset threshold be more appropriate? What alternative approaches to prescribing asset thresholds for the purpose of defining a "Covered Company" should be considered?

Definitions

1. What terms defined by the proposal require further clarification and how should they be defined?

2. What other terms used in the proposal should the Board and Corporation define?

Strategic Analysis

1. What additional elements of strategic analysis should be included in the Covered Company's Resolution Plan? Are there any elements listed in the rule that create an unnecessary burden or that should not be included in the Covered Company's Resolution Plan?

2. How can the requirements regarding the strategic analysis be improved to provide additional clarity?

3. What are the types of strategies that should be described regarding the manner and extent to which a depository institution could be protected from the risks arising from the activities of its nonbank affiliates?

Governance

1. What additional resolution planning governance and oversight requirements should the proposed rule include?

2. What alternative governance requirements might exist that would ensure that a Covered Company places adequate importance and attention on resolution planning?

Informational Elements

1. What additional informational elements should the proposal require as part of a Resolution Plan? What impediments attend collection and production of the informational elements identified by the proposal? What impediments apply to collection and production of additional informational elements you have identified?

2. Do the informational elements described in the proposal capture the correct types of information for resolution planning? Are any of the informational elements identified in the proposal not necessary?

3. Which of the information elements described in the proposal could be clarified?

4. To the extent any of the informational elements identified in the proposed rule are not readily available, identify the burden of or impediment to (*e.g.,* technology limits, confidentiality concerns, *etc.*) obtaining and reporting such information? What changes could the Board and Corporation make to the proposal to reduce burdens and impediments?

5. Should any informational elements be required to be available on an "on demand" basis? What impediments apply to making such information available on demand?

6. What is the burden related to producing an unconsolidated balance sheet and providing consolidating schedules? What alternatives could the Board and Corporation include in the proposal to reduce that burden?

Foreign-Based Organizations

1. The proposal would require foreign companies that are bank holding companies or are treated as bank holding companies under the International Banking Act and that have at least $50 billion in worldwide assets to prepare resolution plans and credit exposure reports only with respect to their U.S.-domiciled subsidiaries and operations. What are the issues that arise with respect to foreign banking organizations that would be subject to the proposed rule? What alternative means could the Board and Corporation employ to implement the resolution plan and credit exposure report requirements of the Dodd-Frank Act with respect to foreign banking organizations?

2. To the extent that foreign jurisdictions do not impose a recovery or resolution plan requirement on a foreign-based Covered Company, how should the proposed Resolution Plan related to U.S. operations be linked to the contingency planning process of the foreign-based Covered Company?

Process

1. Are the proposed timelines for Resolution Plan and Credit Exposure Report submission (*i.e.,* initial, annual and interim updates) adequate for the Covered Company to develop and submit the information required by the proposed rule? If not, what timelines would be appropriate?

2. With regard to the provision of the proposed rule that would require a Covered Company to update its Resolution Plan upon a material event, occurrence, or change, should the rule provide greater specificity (*e.g.,* in terms of a dollar amount or percentage of assets acquired or disposed of in a significant transaction)?

3. Are there explicit factors the Board and the Corporation should consider in determining whether a Resolution Plan

is not credible or would not facilitate an orderly resolution under Bankruptcy Code?

Credit Exposure Reports

1. Are the elements proposed for inclusion in the Credit Exposure Reports sufficiently clear? What further clarification would be appropriate? Is there other information that would provide a clearer picture of the credit exposures associated with a Covered Company?
2. Does the proposal adequately capture cross-border exposures?
3. What other types of credit exposures should be covered by the proposed rule?

IV. Solicitation of Comments and Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board and the Corporation invite comment on how to make the proposed rule easier to understand. For example:

- Is the material organized to suit your needs? If not, how could they present the rule more clearly?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the agencies incorporate to make the regulation easier to understand?

V. Administrative Law Matters

A. Paperwork Reduction Act Analysis

1. Request for Comment on Proposed Information Collection

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments on the collection of information should be sent to Cynthia Ayouch, Acting Federal Reserve Clearance Officer, Division of Research and Statistics, Mail Stop 95–A, Board of Governors of the Federal Reserve System, Washington, DC 20551, with copies of such comments sent to the Office of Management and Budget, Paperwork Reduction Project (7100–0202), Washington, DC 20503. You may also submit comments electronically, identified by Docket number, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.

2. Proposed Information Collection

Title of Information Collection: Resolution Plans and Credit Exposure Reports.

Frequency of Response: Varied—some requirements are done at least quarterly, some at least annually, and some are event-generated.

Affected Public: Bank holding companies and foreign banking organizations with total consolidated assets of $50 billion or more, and nonbank financial companies.

Abstract: The information collection requirements are found in sections 252.3, 252.4, 252.5, and 252.6 of the proposed rule. These requirements would implement the resolution plan and credit exposure reporting requirements set forth in section 165(d) of the Dodd-Frank Act. Since the Board supervises all of the respondents, the Board will take all of the paperwork burden associated with this information collection.

Section 252.3 sets forth the requirements for resolution plans to be filed initially, annually, and on an interim basis following material events. Section 252.4 details the information to be included in the resolution plans. Organizational structure information required in Section 252.4 may be incorporated by reference to information previously reported to the Board (FR Y–6, Annual Report of Bank Holding Companies; FR Y–7, Annual Report of Foreign Banking Organizations; and FR Y–10, Report of Changes in Organizational Structure; OMB No. 7100–0297). Section 252.5 details the information to be provided in the Credit Exposure Reports. Section 252.6 includes a written request for institutions to request an extension of time to resubmit the resolution plan where deficiencies have been identified by the agencies.

Estimated Burden

The burden associated with this collection of information may be summarized as follows:

Number of Respondents: 124.

Estimated Burden per Respondent: 12,400 hours for initial implementation and 2,881 hours annually on an ongoing basis.

Total Estimated Annual Burden: 1,337,600 hours for initial implementation and 267,544 hours on an ongoing basis.

B. Regulatory Flexibility Act Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* ("RFA"), the Board and the Corporation are publishing an initial regulatory flexibility analysis of the proposed rule. The RFA requires an agency either to provide an initial regulatory flexibility analysis with a proposed rule for which a general notice of proposed rulemaking is required or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. Based on its analysis and for the reasons stated below, the Board and the Corporation believe that this proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board and the Corporation are publishing an initial regulatory flexibility analysis. A final regulatory flexibility analysis will be conducted after comments received during the

public comment period have been considered.

In accordance with section 165(d) of the Dodd-Frank Act, the Board is proposing to add Regulation YY (12 CFR part 252) and the Corporation is proposing to add new part 381 (12 CFR part 381) to establish the requirements that a Covered Company periodically submit a Resolution Plan and a Credit Exposure Report to the Board and Corporation.[8] The proposed rule would also establish the procedures and standards for joint review of a Resolution Plan by the Board and Corporation. The reasons and justification for the proposed rule are described in the Supplementary Information. As further discussed in the Supplementary Information, the procedure, standards, and definitions that would be established by the proposed rule are relevant to the joint authority of the Board and Corporation to implement the Resolution Plan and Credit Exposure requirements.

Under regulations issued by the Small Business Administration ("SBA"), a "small entity" includes those firms within the "Finance and Insurance" sector with asset sizes that vary from $7 million or less in assets to $175 million or less in assets.[9] The Board and the Corporation believe that the Finance and Insurance sector constitutes a reasonable universe of firms for these purposes because such firms generally engage in activities that are financial in nature. Consequently, bank holding companies or nonbank financial companies with assets sizes of $175 million or less are small entities for purposes of the RFA.

As discussed in the Supplementary Information, the proposed rule applies to a "Covered Company," which includes only bank holding companies and foreign banks that are or are treated as a bank holding company ("foreign banking organization") with $50 billion or more in total consolidated assets, and nonbank financial companies that the Council has determined under section 113 of the Dodd-Frank Act must be supervised by the Board and for which such determination is in effect. Bank holding companies and foreign banking organizations that are subject to the proposed rule therefore substantially exceed the $175 million asset threshold at which a banking entity is considered a "small entity" under SBA regulations.[10] The proposed rule would apply to a nonbank financial company designated by the Council under section 113 of the Dodd-Frank Act regardless of such a company's asset size. Although the asset size of nonbank financial companies may not be the determinative factor of whether such companies may pose systemic risks and would be designated by the Council for supervision by the Board, it is an important consideration.[11] It is therefore unlikely that a financial firm that is at or below the $175 million asset threshold would be designated by the Council under section 113 of the Dodd-Frank Act because material financial distress at such firms, or the nature, scope, size, scale, concentration, interconnectedness, or mix of it activities, are not likely to pose a threat to the financial stability of the United States.

As noted above, because the proposed rule is not likely to apply to any company with assets of $175 million or less, if adopted in final form, it is not expected to apply to any small entity for purposes of the RFA. Moreover, as discussed in the **SUPPLEMENTARY INFORMATION**, the Dodd-Frank Act requires the Board and the Corporation jointly to adopt rules implementing the provisions of section 165(d) of the Dodd-Frank Act. The Board and the Corporation do not believe that the proposed rule duplicates, overlaps, or conflicts with any other Federal rules. In light of the foregoing, the Board and the Corporation do not believe that the proposed rule, if adopted in final form, would have a significant economic impact on a substantial number of small entities supervised. Nonetheless, the Board and the Corporation seek comment on whether the proposed rule would impose undue burdens on, or have unintended consequences for, small organizations, and whether there are ways such potential burdens or consequences could be minimized in a manner consistent with section 165(d) of the Dodd-Frank Act.

C. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The Corporation has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

Text of the Common Rules (All Agencies)

PART [ ]—RESOLUTION PLANS AND CREDIT EXPOSURE REPORTS.

Sec.

____.1 Authority and scope.
____.2 [Reserved]
____.3 Resolution Plan required.
____.4 Informational content of a Credit Exposure Report.
____.5 Credit Exposure Report required and informational content.
____.6 Review of Resolution Plans; resubmission of deficient Resolution Plans.
____.7 Failure to cure deficiencies on resubmission of a Resolution Plan.
____.8 Consultation.
____.9 No limiting effect or private right of action; confidentiality of Resolution Plans and Credit Exposure Reports.
____.10 Enforcement.

§ ____.1 Authority and scope.

(a) *Authority.* This part is issued pursuant to section 165(d)(8) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the *Dodd-Frank Act*) (Pub. L. 111–203, 124 Stat. 1376, 1426–1427), 12 U.S.C. 5365(d)(8), which requires the Board of Governors of the Federal Reserve System (*Board*) and the Federal Deposit Insurance Corporation (*Corporation*) to jointly issue rules implementing the provisions of section 165(d) of the Dodd-Frank Act.

(b) *Scope.* This part applies to each Covered Company and:

(1) Requires that each Covered Company periodically submit to the Board and Corporation:

(i) A report regarding the plan of the Covered Company for rapid and orderly resolution under the Bankruptcy Code in the event of material financial distress at or failure of the Covered Company (*Resolution Plan*); and

(ii) A report on the nature and extent to which:

(A) The Covered Company has credit exposure to other significant nonbank financial companies and significant bank holding companies; and

(B) Other significant nonbank financial companies and significant bank holding companies have credit exposure to the Covered Company (*Credit Exposure Report*); and

(2) Establishes rules and requirements regarding the submission and content of a Resolution Plan and a Credit Exposure Report, as well as procedures and standards for review by the Board and Corporation of a Resolution Plan.

[8] *See* 12 U.S.C. 5365(d).

[9] 13 CFR 121.201.

[10] The Dodd-Frank Act provides that the Board may, on the recommendation of the Council, increase the $50 billion asset threshold for the application of the resolution plan and credit exposure report requirements. *See* 12 U.S.C. 5365(a)(2)(B). However, neither the Board nor the Council has the authority to lower such threshold.

[11] *See* 76 FR 4555 (January 26, 2011).

§ ____.2 [Reserved]

§ ____.3 Resolution Plan required.

(a) *Initial and annual Resolution Plans required.* Within 180 days of the effective date of this part, or such later date as a company becomes a Covered Company, each Covered Company shall submit a Resolution Plan to the Board and the Corporation. Thereafter, each Covered Company shall submit a Resolution Plan to the Board and the Corporation no later than 90 days after the end of each calendar year.

(b) *Interim updates following material events*—(1) *In general.* Each Covered Company shall file with the Board and the Corporation an updated Resolution Plan within a time period specified by the Board and the Corporation, but no later than 45 days after any event, occurrence, change in conditions or circumstances or other change which results in, or could reasonably be foreseen to have, a material effect on the Resolution Plan of the Covered Company.

(2) *Exception.* A Covered Company shall not be required to file an updated Resolution Plan under paragraph (b)(1) of this section if the date on which the Covered Company would be required to submit the updated Resolution Plan under paragraph (b)(1) would be within 90 days prior to the date on which the Covered Company is required to file an annual Resolution Plan under paragraph (a) of this section.

(c) *Authority to require more frequent submissions or extend time period.* Notwithstanding paragraph (b)(1) of this section, the Board and Corporation may jointly:

(1) Require that a Covered Company submit a Resolution Plan more frequently than required pursuant to paragraph (a) of this section, or provide an interim update to any Resolution Plan submitted pursuant to paragraph (a) under circumstances other than those listed in paragraph (b) of this section;

(2) Extend the time period that a Covered Company has to submit a Resolution Plan under paragraphs (a) and (b) of this section; and

(3) Waive the requirement that a Covered Company submit an update to a Resolution Plan.

(d) *Access to information.* In order to allow evaluation of the Resolution Plan, each Covered Company must provide the Board and the Corporation such information and access to personnel of the Covered Company as the Board and the Corporation jointly determine during the period for reviewing the Resolution Plan is necessary to assess the credibility of the Resolution Plan and the ability of the Covered Company to implement the Plan. The Agencies will rely to the fullest extent possible on examinations conducted by or on behalf of the appropriate Federal banking agency for the relevant company.

(e) *Board of directors approval of Resolution Plan.* Prior to submission of a Resolution Plan under paragraph (a) of this section, the Resolution Plan of a Covered Company shall be approved by:

(1) The board of directors of the Covered Company and noted in the minutes; or

(2) In the case of a foreign-based Covered Company only, a delegee acting under the express authority of the board of directors of the Covered Company to approve the Resolution Plan.

(f) *Resolution Plans provided to the Council.* The Board shall make the Resolution Plans and updates submitted by the Covered Company pursuant to this section available to the Council upon request.

§ ____.4 Informational Content of a Resolution Plan

(a) *In general.*—(1) *Domestic Covered Companies.* The Resolution Plan of a Covered Company that is organized or incorporated in the United States shall include the information specified in paragraphs (b) through (i) of this section with respect to the subsidiaries and operations that are domiciled in the United States as well as the foreign subsidiaries, offices, and operations of the Covered Company.

(2) *Foreign-based Covered Companies.* The Resolution Plan of a Covered Company that is organized or incorporated in a jurisdiction other than the United States (other than a bank holding company) or that is a foreign banking organization shall include:

(i) The information specified in paragraphs (b) through (i) of this section with respect to the subsidiaries, branches and agencies, and critical operations and core business lines, as applicable, that are domiciled in the United States or conducted in whole or material part in the United States. With respect to the information specified in paragraph (g) of this section, the Resolution Plan of a foreign-based Covered Company shall also identify, describe in detail, and map to legal entity the interconnections and interdependencies among the U.S. subsidiaries, branches and agencies, and critical operations and core business lines of the foreign-based Covered Company and any foreign-based affiliate; and

(ii) A detailed explanation of how resolution planning for the subsidiaries, branches and agencies, and critical operations and core business lines of the foreign-based Covered Company that are domiciled in the United States or conducted in whole or material part in the United States is integrated into the foreign-based Covered Company's overall resolution or other contingency planning process.

(3) *Required and prohibited assumptions.* In preparing its plan for rapid and orderly resolution in the event of material financial distress or failure required by this part, a Covered Company shall:

(i) Take into account that such material financial distress or failure of the Covered Company may occur at a time when financial markets, or other significant companies, are also under stress and that the material financial distress of the Covered Company may be the result of a range of stresses experienced by the Covered Company; and

(ii) Not rely on the provision of extraordinary support by the United States or any other government to the Covered Company or its subsidiaries to prevent the failure of the Covered Company.

(b) *Executive summary.* Each Resolution Plan of a Covered Company shall include an executive summary describing:

(1) The key elements of the Covered Company's strategic plan for rapid and orderly resolution in the event of material financial distress at or failure of the Covered Company.

(2) Material changes to the Covered Company's Resolution Plan from the company's most recently filed Resolution Plan (including an updated Resolution Plan submitted under § ____.3(b).

(3) Any actions taken by the Covered Company since filing of the previous Resolution Plan to improve the effectiveness of the Covered Company's Resolution Plan or remediate or otherwise mitigate any material weaknesses or impediments to effective and timely execution of the Resolution Plan.

(c) *Strategic analysis.* Each Resolution Plan shall include a strategic analysis describing the Covered Company's plan for rapid and orderly resolution in the event of material financial distress or failure of the Covered Company. Such analysis shall—

(1) Include detailed descriptions of the—

(i) Key assumptions and supporting analysis underlying the Covered Company's Resolution Plan, including any assumptions made concerning the economic or financial conditions that would be present at the time the

Covered Company sought to implement such plan;

(ii) Range of specific actions to be taken by the Covered Company to facilitate a rapid and orderly resolution of the Covered Company, its material entities, and its critical operations and core business lines in the event of material financial distress or failure of the Covered Company;

(iii) Funding, liquidity and capital needs of, and resources available to, the Covered Company and its material entities, which shall be mapped to its critical operations and core business lines, in the ordinary course of business and in the event of material financial distress at or failure of the Covered Company;

(iv) Covered Company's strategy for maintaining operations of, and funding for, the Covered Company and its material entities, which shall be mapped to its critical operations and core business lines;

(v) Covered Company's strategy in the event of a failure or discontinuation of a material entity, core business line or critical operation, and the actions that will be taken by the Covered Company to prevent or mitigate any adverse effects of such failure or discontinuation on the financial stability of the United States; and

(vi) Covered Company's strategy for ensuring that any insured depository institution subsidiary of the Covered Company will be adequately protected from risks arising from the activities of any nonbank subsidiaries of the Covered Company (other than those that are subsidiaries of an insured depository institution);

(2) Identify the time period(s) the Covered Company expects would be needed for the Covered Company to successfully execute each material aspect and step of the Covered Company's plan;

(3) Identify and describe any potential material weaknesses or impediments to effective and timely execution of the Covered Company's plan;

(4) Discuss the actions and steps the Covered Company has taken or proposes to take to remediate or otherwise mitigate the weaknesses or impediments identified by the Covered Company, including a timeline for the proposed remedial or other mitigatory action; and

(5) Provide a detailed description of the processes the Covered Company employs for:

(i) Determining the current market values and marketability of the core business lines, critical operations, and material asset holdings of the Covered Company;

(ii) Assessing the feasibility of the Covered Company's plans (including timeframes) for executing any sales, divestitures, restructurings, recapitalizations, or other similar actions contemplated in the Covered Company's Resolution Plan; and

(iii) Assessing the impact of any sales, divestitures, restructurings, recapitalizations, or other similar actions on the value, funding, and operations of the Covered Company, its material entities, critical operations and core business lines.

(d) *Corporate governance relating to resolution planning.* Each Resolution Plan shall:

(1) Include a detailed description of:

(i) How resolution planning is integrated into the corporate governance structure and processes of the Covered Company;

(ii) The Covered Company's policies, procedures, and internal controls governing preparation and approval of the Covered Company's Resolution Plan;

(iii) The identity and position of the senior management official(s) of the Covered Company that is primarily responsible for overseeing the development, maintenance, implementation, and filing of the Covered Company's Resolution Plan and for the Covered Company's compliance with this part; and

(iv) The nature, extent, and frequency of reporting to senior executive officers and the board of directors of the Covered Company on the development, maintenance, and implementation of the Covered Company's Resolution Plan;

(2) Describe the capabilities of the Covered Company's processes and systems to collect, maintain, and report the information and other data underlying the Resolution Plan to senior executive officers and the board of directors of the Covered Company;

(3) Describe the nature, extent, and results of any contingency planning or similar exercise conducted by the Covered Company since the date of the Covered Company's most recently filed Resolution Plan to assess the viability of or improve the Resolution Plan of the Covered Company; and

(4) Identify and describe the relevant risk measures used by the Covered Company to report credit risk exposures both internally to its senior management and board of directors, as well as any relevant risk measures reported externally to investors or to the Covered Company's appropriate Federal regulator.

(e) *Organizational structure and related information.* Each Resolution Plan shall—

(1) Provide a detailed description of the Covered Company's organizational structure, including:

(i) A hierarchical list of all material legal entities, including but not limited to material entities within the Covered Company's organization that:

(A) Identifies the direct holder and the percentage of voting and nonvoting equity of each legal entity and foreign office listed; and

(B) The location, jurisdiction of incorporation, licensing, and key management associated with each material legal entity and foreign office identified;

(ii) A mapping of the Covered Company's critical operations and core business lines, including material asset holdings and liabilities related to such critical operations and core business lines, to material entities;

(2) Provide an unconsolidated balance sheet for the Covered Company and a consolidating schedule for all entities that are subject to consolidation by the Covered Company;

(3) Include a description of the material components of the liabilities of the Covered Company, its material entities, critical operations and core business lines that, at a minimum, separately identifies types and amounts of the short-term and long-term liabilities, the secured and unsecured liabilities, and subordinated liabilities;

(4) Identify and describe the processes used by the Covered Company to:

(i) Determine to whom the Covered Company has pledged collateral;

(ii) Identify the person or entity that holds such collateral; and

(iii) The jurisdiction in which the collateral is located; and, if different, the jurisdiction in which the security interest in the collateral is enforceable against the Covered Company;

(5) Describe any material off-balance sheet exposures (including guarantees and contractual obligations) of the Covered Company and its material entities, including a mapping to its critical operations and core business lines;

(6) Describe the practices of the Covered Company, its material entities and its core business lines related to the booking of trading and derivatives activities;

(7) Identify material hedges of the Covered Company, its material entities, and its core business lines related to trading and derivative activities, including a mapping to legal entity;

(8) Describe the hedging strategies of the Covered Company;

(9) Describe the process undertaken by the Covered Company to establish exposure limits;

(10) Identify the major counterparties of the Covered Company and describe the interconnections, interdependencies and relationships with such major counterparties;

(11) Analyze whether the failure of each major counterparty would likely have an adverse impact on or result in the material financial distress or failure of the Covered Company;

(12) Identify each system on which the Covered Company conducts a material number or value amount of trades. Map membership in each such system to the Covered Company's material entities, critical operations and core business lines; and

(13) Identify each payment, clearing, or settlement system of which the Covered Company, directly or indirectly, is a member and on which the Covered Company conducts a material number or value amount of transactions. Map membership in each such system to the Covered Company's material entities, critical operations and core business lines.

(f) *Management information systems.* Each Resolution Plan shall include—

(1) A detailed inventory and description of the key management information systems and applications, including systems and applications for risk management, accounting, and financial and regulatory reporting, used by the Covered Company and its material entities, including a mapping to its critical operations and core business lines;

(2) An identification of the legal owner of the systems identified in paragraph (f)(1) of this section, service level agreements related thereto, and any software and systems licenses or associated intellectual property, including a mapping thereof to the material entities, critical operations and core business lines of the Covered Company that use or rely on such intellectual property;

(3) An identification of the scope, content, and frequency of the key internal reports that senior management of the Covered Company, its material entities, critical operations and core business lines use to monitor the financial health, risks, and operation of the Covered Company, its material entities, critical operations and core business lines; and

(4) A description of the process for the appropriate supervisory or regulatory agencies to access the management information systems and applications identified in paragraph (f)(1) of this section.

(g) *Interconnections and interdependencies.* To the extent not elsewhere provided, identify and map to the material entities the interconnections and interdependencies among the Covered Company and its material entities, and among the critical operations and core business lines of the Covered Company that, if disrupted, would materially affect the funding or operations of the Covered Company, its material entities, or its critical operations or core business lines. Such interconnections and interdependencies may include:

(1) Common or shared personnel, facilities, or systems (including information technology platforms, management information systems, risk management systems, and accounting and recordkeeping systems);

(2) Capital, funding, or liquidity arrangements;

(3) Existing or contingent credit exposures;

(4) Cross-guarantee arrangements, cross-collateral arrangements, cross-default provisions, and cross-affiliate netting agreements;

(5) Risk transfers; and

(6) Service level agreements.

(h) *Supervisory and regulatory information.* Each Resolution Plan shall—

(1) Identify any:

(i) Federal, state, or foreign agency or authority with supervisory authority or responsibility for ensuring the safety and soundness of the Covered Company, its material entities, critical operations and core business lines; and

(ii) Other Federal, state, or foreign agency or authority (other than a Federal banking agency) with significant supervisory or regulatory authority over the Covered Company, and its material entities and critical operations and core business lines.

(2) Identify any foreign agency or authority responsible for resolving a foreign-based material entity and critical operations or core business lines of the Covered Company; and

(3) Include contact information for each agency identified in paragraphs (h)(1) and (2) of this section.

(i) *Contact information.* Each Resolution Plan shall—

(1) Identify a senior management official at the Covered Company responsible for serving as a point of contact regarding the Resolution Plan of the Covered Company; and

(2) Include contact information for the material entities and critical operations and core business lines of the Covered Company.

(j) *Incorporation of previously submitted Resolution Plan informational elements by reference.* An update to a Resolution Plan submitted by a Covered Company under § ____.3(b) may incorporate by reference informational elements (but not strategic analysis or executive summary elements) from a Resolution Plan previously submitted by the Covered Company to the Board and the Corporation, provided that:

(1) The Resolution Plan seeking to incorporate informational elements by reference clearly indicates:

(i) The informational element the Covered Company is incorporating by reference; and

(ii) Which of the Covered Company's previously submitted Resolution Plan(s) originally contained the information the Covered Company is incorporating by reference; and

(2) The Covered Company certifies that the information the Covered Company is incorporating by reference remains accurate.

(k) *Data production capabilities.* Within a reasonable period of time following the effective date of this part, as jointly determined by the Board and the Corporation, the Covered Company shall demonstrate its capability to promptly produce, in a format acceptable to the Board and the Corporation, the data underlying the key aspects of the Resolution Plan of the Covered Company.

(l) *Exemptions.* The Board and the Corporation may jointly exempt a Covered Company from one or more of the requirements of this section.

§ ____.5 Credit Exposure Report Required and Informational Content

(a) *Quarterly Credit Exposure Report required*—(1) *In general.* No later than 30 days after the end of each calendar quarter, each Covered Company shall submit to the Board and the Corporation a Credit Exposure Report, in the manner and form prescribed by the Board, that contains the following information as of the end of the calendar quarter:

(i) The aggregate credit exposure associated with all extensions of credit, including loans, leases, and funded lines of credit, by:

(A) The Covered Company and its subsidiaries to each significant company and its subsidiaries; and

(B) Each significant company and its subsidiaries to the Covered Company and its subsidiaries.

(ii) The aggregate credit exposure associated with all committed but undrawn lines of credit by:

(A) The Covered Company and its subsidiaries to each significant company and its subsidiaries; and

(B) Each significant company and its subsidiaries to the Covered Company and its subsidiaries.

(iii) The aggregate credit exposure associated with all deposits and money placements by:

(A) The Covered Company and its subsidiaries with each significant company and its subsidiaries; and

(B) Each significant company and its subsidiaries with the Covered Company and its subsidiaries.

(iv) The aggregate credit exposure associated with (on both a gross and net basis) of all repurchase agreements between the Covered Company and its subsidiaries and each significant company and its subsidiaries;

(v) The aggregate credit exposure associated with all reverse repurchase agreements (on both a gross and net basis) between the Covered Company and its subsidiaries and each significant company and its subsidiaries;

(vi) The aggregate credit exposure associated with all securities borrowing transactions (on both a gross and net basis) between the Covered Company and its subsidiaries and each significant company and its subsidiaries;

(vii) The aggregate credit exposure associated with all securities lending transactions (on both a gross and net basis) between the Covered Company and its subsidiaries and each significant company and its subsidiaries;

(viii) The aggregate credit exposure associated with all guarantees, acceptances, or letters of credit (including endorsement or standby letters of credit) issued by:

(A) The Covered Company and its subsidiaries on behalf of each significant company and its subsidiaries;

(B) Each significant company and its subsidiaries on behalf of the Covered Company and its subsidiaries;

(ix) The aggregate credit exposure associated with all purchases of or investments, as of the last day of the reporting quarter, in securities issued by each significant company or its subsidiaries by the Covered Company and its subsidiaries;

(x) The aggregate credit exposure associated with all counterparty credit exposure (on both a gross and net basis) in connection with a derivative transaction between the Covered Company and its subsidiaries and each significant company and its subsidiaries;

(xi) A description of the systems and processes that the Covered Company uses to:

(A) Collect and aggregate the data underlying the Credit Exposure Report; and

(B) Produce and file the Credit Exposure Report;

(xii) The credit exposure associated with intra-day credit extended, as specified by paragraph (a)(1)(i) of this section, by the Covered Company to each significant company and its subsidiaries during the prior quarter; and

(xiii) Any other transactions that result in credit exposure between a Covered Company and its subsidiaries and each significant company and its subsidiaries that the Board, by order or regulation, determines to be appropriate.

(2) *Application to foreign-based organizations.* A Credit Exposure Report submitted by a Covered Company that is a company incorporated or organized in a jurisdiction other than the United States (other than a bank holding company) or that is a foreign banking organization shall include the information described in paragraph (a)(1) of this section only with respect to the subsidiaries, offices, and operations that are domiciled in the United States.

(b) *Credit Exposure Reports provided to the Council.* The Board shall make the Credit Exposure Reports submitted by the Covered Company pursuant to this section available to the Council upon request.

(c) *No limiting effect.* Nothing in this section limits the authority of the Board to obtain reports from a Covered Company under other provisions of law, including pursuant to section 5(c) of the Bank Holding Company Act, as amended (12 U.S.C. 1844(c)), or section 161 of the Dodd-Frank Act (12 U.S.C. 5361).

(d) *Adjustment to timing.* The Board may:

(1) Require that a Covered Company submit a Credit Exposure Report more frequently than required pursuant to paragraph (a) of this section; and

(2) Extend the time period that a Covered Company has to submit a Credit Exposure Report.

§ ____.6 Review of Resolution Plans; Resubmission of Deficient Resolution Plans

(a) *Acceptance of submission and review*—

(1) Within 60 calendar days of receiving a Resolution Plan under § ____.3(a), the Board and the Corporation shall jointly:

(i) Determine whether a Resolution Plan submitted pursuant to § ____.3(a) satisfies the minimum informational requirements of § ____.4; and

(ii) Either acknowledge acceptance of the plan for review or return the Resolution Plan if the Board and Corporation jointly determine that it is incomplete or that substantial additional information is required to facilitate review of the Resolution Plan.

(2) If the Board and Corporation jointly determine that a Resolution Plan is informationally incomplete or that substantial additional information is necessary to facilitate review of the Resolution Plan:

(i) The Board and Corporation shall jointly inform the Covered Company in writing of the area(s) in which the Resolution Plan is informationally incomplete or with respect to which additional information is required; and

(ii) The Covered Company shall resubmit an informationally complete Resolution Plan or such additional information as jointly requested to facilitate review of the Resolution Plan no later than 30 days after receiving the notice described in paragraph (a)(2)(i) of this section, or such other time period as the Board and Corporation may jointly determine.

(b) *Joint determination regarding deficient Resolution Plans.* If the Board and Corporation jointly determine that the Resolution Plan of a Covered Company submitted under § ____.3(a) is not credible or would not facilitate an orderly resolution of the Covered Company under the Bankruptcy Code, the Board and Corporation shall jointly notify the Covered Company in writing of such determination. Any joint notice provided under this paragraph shall identify the aspects of the Resolution Plan that the Board and Corporation jointly determined to be deficient.

(c) *Resubmission of a Resolution Plan.* Within 90 days of receiving a notice of deficiencies issued pursuant to paragraph (b) of this section, or such shorter or longer period as the Board and Corporation may jointly determine, a Covered Company shall submit a revised Resolution Plan to the Board and Corporation that addresses the deficiencies jointly identified by the Board and Corporation, and that discusses in detail:

(1) The revisions made by the Covered Company to address the deficiencies jointly identified by the Board and the Corporation;

(2) Any changes to the Covered Company's business operations and corporate structure that the Covered Company proposes to undertake to facilitate implementation of the revised Resolution Plan (including a timeline for the execution of such planned changes); and

(3) Why the Covered Company believes that the revised Resolution Plan is credible and would result in an orderly resolution of the Covered Company under the Bankruptcy Code.

(d) *Extension of time to resubmit Resolution Plan.* Upon a written request by a Covered Company, the Board and Corporation may jointly extend the time to resubmit a Resolution Plan under paragraph (c) of this section. Each extension request shall be supported by a written statement of the company describing the basis and justification for the request.

§_____.7 Failure to Cure Deficiencies on Resubmission of a Resolution Plan

(a) *In general.* The Board and Corporation may jointly determine that a Covered Company or any subsidiary of a Covered Company shall be subject to more stringent capital, leverage, or liquidity requirements, or restrictions on the growth, activities, or operations of the Covered Company or the subsidiary if:

(1) The Covered Company fails to submit a revised Resolution Plan under § ___.6(c) within the required time period; or

(2) The Board and the Corporation jointly determine that a revised Resolution Plan submitted under § ___.6(c) does not adequately remedy the deficiencies jointly identified by the Board and the Corporation under § ___.6(b).

(b) *Duration of requirements of restrictions.* Any requirements or restrictions imposed on a Covered Company or a subsidiary thereof pursuant to paragraph (a) of this section shall cease to apply to the Covered Company or subsidiary, respectively, on the date that the Board and the Corporation jointly determine the Covered Company has submitted a revised Resolution Plan that adequately remedies the deficiencies jointly identified by the Board and the Corporation under § ___.6(b).

(c) *Divestiture.* The Board and Corporation, in consultation with the Council, may jointly, by order, direct the Covered Company to divest such assets or operations as are jointly identified by the Board and Corporation if:

(1) The Board and Corporation have jointly determined that the Covered Company or a subsidiary thereof shall be subject to requirements or restrictions pursuant to paragraph (a) of this section; and

(2) The Covered Company has failed, within the 2-year period beginning on the date on which the determination to impose such requirements or restrictions under paragraph (a) of this section was made, to submit a revised Resolution Plan that adequately remedies the deficiencies jointly identified by the Board and the Corporation under § ___.6(b); and

(3) The Board and Corporation jointly determine that the divestiture of such assets or operations is necessary to facilitate an orderly resolution of the Covered Company under the Bankruptcy Code in the event the company was to fail.

§_____.8 Consultation

Prior to issuing any notice of deficiencies under § _____.6(b), determining to impose requirements or restrictions under § _____.7(a), or issuing a divestiture order pursuant to § _____.7(c) with respect to a Covered Company that is likely to have a significant impact on a functionally regulated subsidiary or a depository institution subsidiary of the Covered Company, the Board—

(a) Shall consult with each Council member that primarily supervises any such subsidiary; and

(b) May consult with any other Federal, state, or foreign supervisor as the Board considers appropriate.

§ _____.9 No Limiting effect or private right of action; confidentiality of Resolution Plans and Credit Exposure Reports

(a) *No limiting effect on bankruptcy or other resolution proceedings.* A Resolution Plan submitted pursuant to this part shall not have any binding effect on:

(1) A court or trustee in a proceeding commenced under the Bankruptcy Code;

(2) A receiver appointed under Title II of the Dodd-Frank Act (12 U.S.C. 5381 *et seq.*);

(3) A bridge financial company chartered pursuant to 12 U.S.C. 5390(h); or

(4) Any other authority that is authorized or required to resolve a Covered Company (including any subsidiary or affiliate thereof) under any other provision of Federal, state, or foreign law.

(b) *No private right of action.* Nothing in this part creates or is intended to create a private right of action based on a Resolution Plan prepared or submitted under this part or based on any action taken by the Board or the Corporation with respect to any Resolution Plan submitted under this part.

(c) *Request for confidential treatment of Resolution Plans and Credit Exposure Reports.* Any Covered Company submitting a Resolution Plan or Credit Exposure Report pursuant to this part that desires confidential treatment of the information submitted pursuant to 5 U.S.C. 552(b)(4) and the Corporation's Disclosure of Information Rules (12 CFR part 309), the Board's Rules Regarding Availability of Information (12 CFR part 261), and the Council's Rules of Organization and related policies shall file a request for confidential treatment in accordance with those rules.

§ _____.10 Enforcement

The Board and Corporation may jointly enforce an order jointly issued by the Board and Corporation under § _____.7(a) or § _____.7(c) of this part. The Board, in consultation with the Corporation, may take action to address any violation of this part by a Covered Company under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

[END OF COMMON TEXT]

List of Subjects

12 CFR Part 252

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements.

12 CFR Part 381

Administrative practice and procedure, Banks, banking, Holding companies, Reporting and recordkeeping requirements.

Adoption of Common Rule

The adoption of the proposed common rules by the agencies, as modified by agency-specific text, is set forth below:

Board of Governors of the Federal Reserve System

12 CFR Chapter II

Authority and Issuance

For the reasons stated in the Supplementary Information, the Board of Governors of the Federal Reserve System proposes to add the text of the common rule as set forth at the end of the Supplementary Information as Part 252 to Chapter II of Title 12, modified as follows:

PART 252—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION YY)

1. The authority citation for part 252 is added to read as follows:

Authority: 12 U.S.C. 5365.

2. Add § 252.2 to read as follows:

§ 252.2 Definitions.

For purposes of this part:

(a) *Bankruptcy Code* means Title 11 of the United States Code.

(b) *Core business lines* means those business lines of the Covered Company, including associated operations, services, functions and support, that, in the view of the Covered Company, upon failure would result in a material loss of revenue, profit, or franchise value.

(c) *Council* means the Financial Stability Oversight Council established by section 111 of the Dodd-Frank Act (12 U.S.C. 5321).

(d) *Covered Company.* (1) *In general.* A "Covered Company" means:

(i) Any nonbank financial company supervised by the Board;

(ii) Any bank holding company, as that term is defined in section 2 of the Bank Holding Company Act, as amended (12 U.S.C. 1841), and the Board's Regulation Y (12 CFR part 225), that had $50 billion or more in total consolidated assets, as determined based on the average of the company's four most recent Consolidated Financial Statements for Bank Holding Companies as reported on the Federal Reserve's Form FR Y–9C; and

(iii) Any foreign bank or company that is a bank holding company or is treated as a bank holding company under section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) and that had $50 billion or more in total consolidated assets, as determined based on the foreign bank's or company's most recent annual or, as applicable, the average of the four most recent quarterly Capital and Asset Reports for Foreign Banking Organizations as reported on the Federal Reserve's Form FR Y–7Q.

(2) *Asset threshold for bank holding companies and foreign banking organizations.* The Board may, pursuant to a recommendation of the Council, raise any asset threshold specified in paragraph (d)(1)(ii) or (iii) of this section.

(3) *Exclusion.* A bridge financial company chartered pursuant to 12 U.S.C. 5390(h) shall not be deemed to be a Covered Company hereunder.

(e) *Critical operations* means those operations of the Covered Company, including associated services, functions and support, that, in the view of the Covered Company or as jointly directed by the Board and the Corporation, upon a failure of, or discontinuance of such operations, would likely result in a disruption to the U.S. economy or financial markets.

(f) *Functionally regulated subsidiary* has the same meaning as in section 5(c)(5) of the Bank Holding Company Act, as amended (12 U.S.C. 1844(c)(5)).

(g) *Material entity* means a subsidiary or foreign office of the Covered Company that is significant to the activities of a critical operation or core business line (as defined in this part).

(h) *Material financial distress* with regard to a Covered Company means that:

(1) The Covered Company has incurred, or is likely to incur, losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the company to avoid such depletion;

(2) The assets of the Covered Company are, or are likely to be, less than its obligations to creditors and others; or

(3) The Covered Company is, or is likely to be, unable to pay its obligations (other than those subject to a bona fide dispute) in the normal course of business.

(i) *Nonbank financial company supervised by the Board* means a nonbank financial company or other company that the Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

(j) *Rapid and orderly resolution* means a reorganization or liquidation of the Covered Company (or, in the case of a Covered Company that is incorporated or organized in a jurisdiction other than the United States, the subsidiaries and operations of such foreign company that are domiciled in the United States) under the Bankruptcy Code that can be accomplished within a reasonable period of time and in a manner that substantially mitigates the risk that the failure of the Covered Company would have serious adverse effects on financial stability in the United States.

(k) *Significant bank holding company* has the meaning given to such term by § 225.302(c) of the Board's Regulation Y (12 CFR 225.302(c)).

(l) *Significant company* means a significant bank holding company or a significant nonbank financial company.

(m) *Significant nonbank financial company* has the meaning given to such term by § 225.302(b) of the Board's Regulation Y (12 CFR 225.302(b)).

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the Supplementary Information, the Federal Deposit Insurance Corporation proposes to add the text of the common rule as set forth at the end of the Supplementary Information as Part 381 to Chapter III of Title 12, Code of Federal Regulations, modified as follows:

PART 381—RESOLUTION PLANS AND CREDIT EXPOSURE REPORTS

3. The authority citation for part 381 is added to read as follows:

Authority: 12 U.S.C. 5365(d).

4. Add § 381.2 to read as follows:

§ 381.2 Definitions.

For purposes of this part:

(a) *Bankruptcy Code* means Title 11 of the United States Code.

(b) *Company* includes any bank, corporation, general or limited partnership, limited liability company, association or similar organization or business trust. The term company does not include any organization, the majority of the voting securities of which are owned by the United States or any state.

(c) *Core business lines* means those business lines of the Covered Company, including associated operations, services, functions and support, that, in the view of the Covered Company, upon failure would result in a material loss of revenue, profit, or franchise value.

(d) *Council* means the Financial Stability Oversight Council established by section 111 of the Dodd-Frank Act (12 U.S.C. 5321).

(e) *Covered Company*—(1) *In general.* A "Covered Company" means:

(i) Any nonbank financial company supervised by the Board;

(ii) Any bank holding company, as that term is defined in section 2 of the Bank Holding Company Act, as amended (12 U.S.C. 1841), and the Board's Regulation Y (12 CFR part 225), that had $50 billion or more in total consolidated assets, as determined based on the average of the company's four most recent Consolidated Financial Statements for Bank Holding Companies as reported on the Federal Reserve's FR Y–9C; and

(iii) Any foreign bank or company that is a bank holding company or is treated as a bank holding company under section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) and that had $50 billion or more in total consolidated assets, as determined based on the foreign bank's or company's most recent annual or, as applicable, the average of the four most recent quarterly Capital and Asset Reports for Foreign Banking Organizations as reported on the Federal Reserve's Form FR Y–7Q.

(2) *Asset threshold for bank holding companies and foreign banking organizations.* The Board may, pursuant to a recommendation of the Council, raise any asset threshold specified in paragraph (e)(1)(ii) or (iii) of this section.

(3) *Exclusion.* A bridge financial company chartered pursuant to 12 U.S.C. 5390(h) shall not be deemed to be a Covered Company hereunder.

(f) *Critical operations* means those operations of the Covered Company, including associated services, functions and support, that, in the view of the Covered Company or as jointly directed by the Board and the Corporation, upon a failure of, or discontinuance of such operations, would likely result in a disruption to the U.S. economy or financial markets.

(g) *Depository institution* has the same meaning as in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)) and includes a state-licensed uninsured branch, agency, or commercial lending subsidiary of a foreign bank.

(h) *Foreign banking organization* means:

(1) A foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)), that:

(i) Operates a branch, agency, or commercial lending company subsidiary in the United States;

(ii) Controls a bank in the United States; or (iii) Controls an Edge corporation acquired after March 5, 1987; and

(2) Any company of which the foreign bank is a subsidiary.

(i) *Functionally regulated subsidiary* has the same meaning as in section 5(c)(5) of the Bank Holding Company Act, as amended (12 U.S.C. 1844(c)(5)).

(j) *Material entity* means a subsidiary or foreign office of the Covered Company that is significant to the activities of a critical operation or core business line (as defined in this part).

(k) *Material financial distress* with regard to a Covered Company means that:

(1) The Covered Company has incurred, or is likely to incur, losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the company to avoid such depletion;

(2) The assets of the Covered Company are, or are likely to be, less than its obligations to creditors and others; or

(3) The Covered Company is, or is likely to be, unable to pay its obligations (other than those subject to a bona fide dispute) in the normal course of business.

(l) *Nonbank financial company supervised by the Board* means a nonbank financial company or other company that the Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

(m) *Rapid and orderly resolution* means a reorganization or liquidation of the Covered Company (or, in the case of a Covered Company that is incorporated or organized in a jurisdiction outside the United States, the subsidiaries and operations of such foreign company that are domiciled in the United States) under the Bankruptcy Code that can be accomplished within a reasonable period of time and in a manner that substantially mitigates the risk that the failure of the Covered Company would have serious adverse effects on financial stability in the United States.

(n) *Significant bank holding company* has the meaning given such term by rule of the Board pursuant to section 102(a)(7) of the Dodd-Frank Act, 12 U.S.C. 5311(a)(7).

(o) *Significant company* means a significant bank holding company or a significant nonbank financial company.

(p) *Significant nonbank financial company* has the meaning given such term by rule of the Board pursuant to section 102(a)(7) of the Dodd-Frank Act, 12 U.S.C. 5311(a)(7).

(q) *Subsidiary* means a bank or other company that is controlled by another company and an indirect subsidiary is a bank or other company that is controlled by a subsidiary of a company.

By order of the Board of Governors of the Federal Reserve System, April 8, 2011.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 29th day of March 2011.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–9357 Filed 4–21–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE BOARD

12 CFR Chapter II

[Docket No. OP–1416]

Notice of Intent To Apply Certain Supervisory Guidance to Savings and Loan Holding Companies

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of intent and request for comments.

SUMMARY: The Board of Governors of the Federal Reserve System ("Board") invites comment on its intention to apply certain elements of its consolidated supervisory program currently applicable to bank holding companies to savings and loan holding companies ("SLHCs") after assuming supervisory responsibility for SLHCs in July 2011. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 transfers supervisory functions related to SLHCs and their non-depository subsidiaries to the Board on July 21, 2011.

DATES: Comments must be submitted on or before May 23, 2011.

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

- *Agency Web Site*: *http://www.federalreserve.gov*. Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.
- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *FAX:* 202/452–3819 or 202/452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Kathleen O'Day, Deputy General Counsel, (202–452–3786), or Amanda K. Allexon, Counsel, (202) 452–3818, Legal Division; Anna Lee Hewko, Assistant Director, (202) 530–6260, T. Kirk Odegard, Manager, (202) 530–6225, or Kristin B. Bryant, Supervisory Financial Analyst, (202) 452–3670, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869).

SUPPLEMENTARY INFORMATION:

Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

(the "Dodd-Frank Act") was enacted into law on July 21, 2010. Title III of the Dodd-Frank Act abolishes the Office of Thrift Supervision ("OTS") effective July 21, 2011, and transfers supervisory functions (including rulemaking) related to SLHCs and their non-depository subsidiaries to the Board. The Board will become responsible for the supervision of SLHCs beginning July 21, 2011("transfer date").

The Board believes that it is important that any company that owns and operates a depository institution be held to appropriate standards of capitalization, liquidity, and risk management consistent with the principles of safety and soundness. As a result, it is the Board's intention, to the greatest extent possible taking into account any unique characteristics of SLHCs and the requirements of the Home Owners Loan Act ("HOLA"), to assess the condition, performance, and activities of SLHCs on a consolidated risk-based basis in a manner that is consistent with the Board's established approach regarding bank holding company ("BHC") supervision. As with BHCs, our objective will be to ensure that the SLHC and its nondepository subsidiaries are effectively supervised and can serve as a source of strength for, and do not threaten the soundness of, its subsidiary depository institutions.

The Board has identified three elements of its current supervisory program that are particularly critical to the effective evaluation of the consolidated condition of holding companies: (i) The Board's consolidated supervision program for large and regional holding companies; (ii) the Board's supervisory program for small, noncomplex holding companies; and (iii) the Board's holding company rating system. The Board believes that these programs aid in the effective supervision of BHCs and that they would be equally effective for the supervision of SLHCs.

It is the Board's intention that, after the transfer date, the Board will issue formal guidance or notices of proposed rulemaking, as appropriate, taking into consideration any comments received on this notice, to apply the supervisory program in place for BHCs to SLHCs to the fullest extent possible taking into account the unique characteristics of SLHCs and the requirements of HOLA in order to ensure continuous and effective supervision of SLHCs. By this notice, the Board seeks to inform interested persons, including SLHCs, about the Board's approach to supervision and invites comment on its intended approach in order to help identify issues and matters that may require special attention.

Consolidated Supervision

Consistent with its responsibilities under the Bank Holding Company Act, the Gramm-Leach-Bliley Act, and the Dodd-Frank Act, the Board supervises BHCs on a consolidated and enterprise-wide basis.[1] The consolidated supervision program, which applies primarily to large and regional BHCs, is aimed at understanding and assessing the BHC on a consolidated basis. The program is applied in a risk-focused manner, and supervisory activities (continuous monitoring,[2] discovery reviews,[3] and testing) vary across portfolios of institutions based on size, complexity, and risk. The framework provides for coordination by the Federal Reserve System with, and reliance on the assessments by, bank and functional regulators of BHC subsidiaries. The consolidated supervision program is not only central to the Board's assessment of risk to individual banking organizations and their depository institution subsidiaries, but also to the Board's assessment of the stability of the broader financial system.

The Board believes that applying the BHC consolidated supervision program to SLHCs is essential to executing its supervisory responsibilities under the Dodd-Frank Act and is consistent with the authorities provided by HOLA. While the Board's BHC consolidated supervision program has some similarities to the current supervisory program employed by the OTS, the Board nevertheless believes that the Board's consolidated supervision program may entail more intensive supervisory activities than under current OTS practice, at least for some SLHCs. For example, the Board's consolidated supervision of SLHCs may entail more rigorous review of internal control functions and consolidated liquidity, as well as the conduct of discovery reviews of specific activities. In addition, the Board's supervisory program may entail heightened review of the activities of nonbank subsidiaries (consistent with applicable law and regulation) and may entail greater continuous supervisory monitoring of larger SLHCs. Nevertheless, the Board does not believe that application of its BHC consolidated supervision program to SLHCs would require any specific action on the part of SLHCs prior to the transfer date or cause undue burden on an ongoing basis.

The Board intends to integrate each SLHC into existing programs that align institutions with various supervisory portfolios (*e.g.,* community banking organizations, regional banking organizations, and large banking organizations) based on their size and complexity. Each portfolio has a supervisory program tailored to the type of institution supervised. The applicable consolidated supervision program is explained in SR 08–9.

Small, Noncomplex Holding Companies

Consistent with a risk-focused approach to supervision, both the Board and OTS have tailored specific supervisory programs for holding companies that are viewed as posing a relatively low level of risk to depository institution subsidiaries and to the financial system. The OTS currently classifies low-risk or noncomplex SLHCs (irrespective of size and as determined by supervisory staff on a case-by-case basis) as "Category I" and subjects these SLHCs to abbreviated, limited-scope onsite examinations.

Similarly, the Board has a program for BHCs with total consolidated assets of $1 billion or less ("small shell BHCs").[4] For noncomplex[5] small shell BHCs

[1] The Board's consolidated supervision program is set forth in SR letter 08–9/CA letter 08–12, "Consolidated Supervision of Bank Holding Companies and the Combined U.S. Operations of Foreign Banking Organizations" (SR 08–9). This guidance is currently being reviewed pursuant to changes in the Board's supervisory responsibilities as set forth in the Dodd-Frank Act, including those that apply to the supervision of SLHCs.

[2] "Continuous monitoring activities" are supervisory activities primarily designed to develop and maintain an understanding of the organization, its risk profile, and associated policies and practices. These activities also provide information that is used to assess inherent risks and internal control processes. Such activities include meetings with banking organization management; analysis of management information systems and other internal and external information; review of internal and external audit findings; and other efforts to coordinate with, and utilize the work of, other relevant supervisors and functional regulators (including analysis of reports filed with or prepared by these supervisors or regulators, or appropriate self-regulatory organizations, as well as related surveillance results).

[3] A discovery review is an examination/inspection activity designed to improve the understanding of a particular business activity or control process, for purposes such as addressing a knowledge gap that was identified during the risk assessment process.

[4] *See* SR letter 02–1, "Revisions to Bank Holding Company Supervision Procedures for Organizations with Total Consolidated Assets of $5 Billion or Less" (SR 02–1). *See also* Federal Reserve Regulatory Service (FRRS) 3–1531 (S–2483, October 7, 1985, as revised by S–2563, May 20, 1994) and FRRS 3–1532.5 (S–2587, November 3, 1997). SR 02–1 also sets forth procedures for BHCs with total consolidated assets of between $1–$5 billion, but these institutions are not considered to be small shell BHCs.

[5] The determination of whether a holding company is "complex" versus "noncomplex" is made at least annually on a case-by-case basis taking into account and weighing a number of

Continued

where all subsidiary depository institutions have satisfactory composite and management ratings, and where no material outstanding holding company or consolidated issues are otherwise indicated, a Reserve Bank generally assigns only a composite rating and a management rating to the BHC and bases those ratings on the ratings of the lead depository institution (*i.e.,* no onsite work is typically undertaken). For complex small shell BHCs, and for noncomplex small shell BHCs that do not meet the additional conditions noted in the previous sentence, a Reserve Bank generally conducts an offsite review, with targeted onsite review as necessary.[6]

For a noncomplex BHC with total consolidated assets between $1–$10 billion and a satisfactory composite rating, a limited-scope [7] onsite inspection is required every two years (in the case of BHCs with assets between $1–$5 billion, a targeted inspection is acceptable as well). For a complex BHC with total consolidated assets between $5–$10 billion and a satisfactory composite rating, a full-scope onsite inspection is required annually (in the case of BHCs with assets between $1–$5 billion, this requirement may be satisfied with a limited-scope or targeted review for the onsite portion of the inspection, supplemented by other information sources).

For a noncomplex BHC with total consolidated assets between $1–$10 billion and a less-than-satisfactory composite rating, irrespective of complexity, at least one full-scope onsite inspection and one limited-scope or targeted inspection are required annually. In the case of BHCs with assets between $1–$5 billion, the requirement for an annual full-scope inspection may be satisfied with a limited-scope or targeted inspection for the onsite portion, supplemented by other inspection sources.

For all BHCs with total consolidated assets greater than $1 billion (*i.e.,* those that are not considered small shell BHCs), complete ratings are assigned in conjunction with inspection activities. Moreover, additional limited-scope or targeted inspection activities may be conducted as needed.[8]

Once Board supervisory staff has become familiar with the structure and financial condition of SLHCs, the Board intends to apply the program for small shell BHCs as set forth in SR 02–1 and supporting documents to SLHCs that meet the same criteria. A Reserve Bank will determine whether an SLHC with assets of $1 billion or less is complex or noncomplex, and will tailor its supervision as appropriate. For a number of small, noncomplex SLHCs, this may have the effect of reducing burden as onsite examinations/inspections will no longer be required.

Holding Company Rating System

The Board and OTS (together, the "agencies") have developed rating systems for supervised institutions to provide an assessment of financial and nonfinancial factors based on the findings from examination and inspection activities, as well as to ensure uniform treatment across institutions. Both agencies use a 1-to-5 rating scale, with 1 indicating the highest rating and least degree of supervisory concern, and 5 indicating the lowest rating and highest degree of supervisory concern. These ratings are nonpublic supervisory information and, as such, are shared with the institution being rated but are otherwise generally confidential.

The OTS rating system for SLHCs is known as "CORE." [9] The Board's rating system for BHCs is known as "RFI/C(D)" [10] (commonly referred to as "RFI"). Given the similarities between the CORE and RFI rating systems, and the general goal of rationalizing supervisory processes for all institutions, the Board is considering transitioning SLHCs to the RFI rating system as the Board conducts its own independent supervisory assessment of the condition of the SLHC after the transfer date. The Board does not anticipate that any existing CORE ratings will be converted to RFI ratings until such a review is conducted.

Based on analyses of the CORE and RFI rating systems by the agencies, the Board believes there is substantial overlap between the two rating systems. However, there are some areas where the CORE and RFI rating systems differ. Under the CORE rating system, SLHCs generally are assigned individual component ratings [11] for capital (C), organizational structure (O), risk management (R), and earnings (E), as well as a composite rating that reflects an overall assessment of the holding company enterprise as reflected by consolidated risk management and consolidated financial strength.

Under the RFI rating system, BHCs generally are assigned individual component ratings [12] for risk management (R), financial condition (F), and impact (I) of nondepository entities on subsidiary depository institutions. The risk management rating is supported by individual subcomponent ratings for board and senior management oversight; policies, procedures, and limits; risk monitoring and management and information systems; and internal controls. The financial condition rating is supported by individual subcomponent ratings for capital adequacy, asset quality, earnings, and liquidity. An additional component rating is assigned to generally reflect the condition of any depository institution subsidiaries (D), as determined by the primary supervisor(s) of those subsidiaries. An overall composite rating (C) is assigned based on an overall evaluation of a BHC's managerial and financial condition and an assessment of potential future risk to its subsidiary depository institution(s).

A primary difference between the two rating systems is that, unlike the RFI rating system, the CORE rating system does not explicitly take account of asset quality.[13] Asset quality is one of a number of elements that is taken into account in assigning a composite BHC rating. However, the Board does not believe that assigning a rating for asset quality is likely to result in material changes to composite ratings because, under CORE, a review of asset quality is

considerations, such as: The size and structure of the holding company; the extent of intercompany transactions between insured depository institution subsidiaries and the holding company or uninsured subsidiaries of the holding company; the nature and scale of any nonbank activities, including whether the activities are subject to review by another regulator and the extent to which the holding company is conducting Gramm-Leach-Bliley authorized activities (*e.g.,* insurance, securities, merchant banking); whether risk management processes for the holding company are consolidated; and whether the holding company has material debt outstanding to the public.

[6] Targeted inspection activities typically focus intensively on one or two activities.

[7] A limited-scope inspection typically reviews all areas of activity covered by a full-scope inspection, but less intensively.

[8] Requirements for BHCs with special characteristics (*e.g.,* those that are formed to acquire an existing bank, have undergone a change in control, or are de novo and have been organized to acquire a de novo bank) may differ from the guidelines described here. *See* section 5000 of the Federal Reserve Board's *Bank Holding Company Supervision Manual.*

[9] *See Holding Companies Handbook,* Office of Thrift Supervision, March 2009. *See also* OTS CEO Letter 266 (December 20, 2007) and 72 FR 72442 (2007).

[10] *See* Board Supervision and Regulation (SR) letter 04–18, "Bank Holding Company Rating System," and 69 FR 70444 (2004).

[11] The OTS does not require individual component ratings to be assigned to noncomplex and low-risk holding companies.

[12] A simplified version of the rating system that includes only the risk management component and a composite rating is applied to noncomplex BHCs with assets of $1 billion or less.

[13] Although liquidity is not rated separately under the CORE system, it is nevertheless taken into account in both the organizational structure and earnings components.

subsumed into other rating elements (it is taken into account indirectly in assessing the capital and earnings components).

Additionally, as discussed in more detail below, in contrast to BHCs, SLHCs currently are not subject to regulatory capital requirements. As one element of its overall assessment of capital adequacy, the (F) component of the RFI rating system does take into account regulatory capital requirements for BHCs. The (C) component of the CORE rating system takes into consideration both a qualitative and quantitative supervisory capital assessment that can be found in OTS guidance. With the exception of the regulatory capital requirement for BHCs, the methods used by the agencies to determine capital adequacy for purposes of establishing a supervisory rating are similar. Until such time as consolidated capital standards for SLHCs are finalized by the Board, the Board anticipates that it will assess SLHC capital using supervisory quantitative and qualitative methods similar to those currently employed by the OTS.

The Board notes that changes to the RFI rating system guidance and policies may be necessary to accommodate SLHCs and differences in their statutory and regulatory framework. The Board is reviewing this guidance to determine where adjustments may be necessary.

The Board is seeking comment on all aspects of this approach. Specifically, the Board requests comment with regard to:

1. The burden of these potential modifications to supervisory activities on SLHCs; and

2. Whether there are any unique characteristics, risks, or specific activities of SLHCs that should be taken into account when evaluating which supervisory program should be applied to SLHCs and what changes would be required to accommodate these unique characteristics.

Capital Adequacy

One material difference between the OTS and Board supervisory programs for holding companies is the assessment of capital adequacy. Currently, SLHCs are not subject to minimum regulatory capital ratio requirements. The OTS instead applies both a qualitative and quantitative supervisory capital assessment to SLHCs that is based in guidance.

Section 171 of the Dodd-Frank Act requires that BHCs and SLHCs be subject to minimum leverage and risk-based capital requirements that are not less than the generally applicable leverage and risk-based capital requirements applied to depository institutions.[14] Small BHCs that are subject to the Small Bank Holding Company Policy Statement (Appendix C of 12 CFR part 225) are exempt from these requirements. Section 171 of the Act did not expressly provide a similar exemption for small SLHCs.

Pursuant to the Dodd-Frank Act and the Basel Committee on Banking Supervision's "Basel III: A global regulatory framework for more resilient banks and banking systems" report ("Basel III"),[15] the Board, together with the other Federal banking agencies, is reviewing consolidated capital requirements for all depository institutions and their holding companies. The Board is considering applying to SLHCs the same consolidated risk-based and leverage capital requirements as BHCs to the extent reasonable and feasible taking into consideration the unique characteristics of SLHCs and the requirements of HOLA. The Board, together with the other Federal banking agencies, expects to issue a notice of proposed rulemaking in 2011 that will outline how Basel III-based requirements will be implemented for all institutions, including any relevant provisions needed to comply with the Dodd-Frank Act. It is expected that the Basel III notice of proposed rulemaking also would address any proposed application of Basel III-based requirements to SLHCs. The Board expects that final rules establishing Basel III-based capital requirements would be finalized in 2012 and implementation would start in 2013, in accordance with the international agreement. The Board invites SLHCs to monitor and participate in the Basel III capital rulemaking process.

Although the Board believes it is important for SLHCs generally to be subject to the same consolidated leverage and risk-based capital requirements as BHCs, it recognizes that SLHCs have traditionally been permitted to engage in a broad range of nonbanking activities that were not contemplated when the general leverage and risk-based capital requirements for BHCs were developed. The Board is seeking specific comment with respect to any unique characteristics, risks, or specific activities of SLHCs the Board should take into consideration when developing consolidated capital requirements for SLHCs based on Basel III. What specific provisions, consistent with the Dodd-Frank Act, should be incorporated in the proposed rule in order to address such unique characteristics, risks, and/or specific activities? Additionally, the Board is seeking comment on the following:

3. What instruments that are currently includable in SLHCs' regulatory capital would be either excluded from regulatory capital or more strictly limited under Basel III? 3(a) How prevalent is the issuance of such instruments? Please comment on the appropriateness of the Basel III transitional arrangements for non-qualifying regulatory capital instruments. Provide specific examples and data to support any proposed alternative treatment.

4. Are the proposed Basel III-based transition periods appropriate for SLHCs and, if not, what alternative transition periods would be appropriate and why?

Finally, the Board is seeking specific comment with respect to what methods the Board should consider implementing for assessing capital adequacy for SLHCs during the period between the transfer date and implementation of consolidated capital standards for SLHCs. The Board also anticipates providing additional notice or issuing specific formal guidance or rules with regard to supervisory capital assessment after the transfer date and providing further opportunity for comment.

By order of the Board of Governors of the Federal Reserve System, April 15, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–9588 Filed 4–21–11; 8:45 am]

BILLING CODE 6210–01–P

[14] Under section 171 of the Dodd-Frank Act, the "generally applicable" leverage and risk-based capital requirements are those established by the appropriate Federal banking agencies to apply to insured depository institutions under prompt corrective action regulations implementing section 38 of the Federal Deposit Insurance Act.

[15] The Basel III text can be found at: *http://www.bis.org/publ/bcbs189.htm.*

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[EPA–HQ–OAR–2007–0492; FRL–9298–4]

Release of Final Document Related to the Review of the National Ambient Air Quality Standards for Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Office of Air Quality Planning and Standards (OAQPS) of EPA is announcing the availability of a

final document titled, *Policy Assessment for the Review of the Particulate Matter National Ambient Air Quality Standards (PA).* The PA contains staff analyses of the scientific bases for alternative policy options for consideration by the Agency prior to rulemaking.

DATES: The PA will be available on or about April 19, 2011.

ADDRESSES: The document will be available via the Internet at the following Web site: *http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_2007_pa.html.*

FOR FURTHER INFORMATION CONTACT: For questions related to this final document, please contact Ms. Beth Hassett-Sipple, Office of Air Quality Planning and Standards (Mail code C504–06), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; e-mail: *hassett-sipple.beth@epa.gov;* telephone: 919–541–4605; fax: 919–541–0237.

SUPPLEMENTARY INFORMATION: Under section 108(a) of the Clean Air Act (CAA), the Administrator identifies and lists certain pollutants which "cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare." The EPA then issues air quality criteria for these listed pollutants, which are commonly referred to as "criteria pollutants." The air quality criteria are to "accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air, in varying quantities." Under section 109 of the CAA, EPA establishes primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) for pollutants for which air quality criteria are issued. Section 109(d) of the CAA requires periodic review and, if appropriate, revision of existing air quality criteria. The revised air quality criteria reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. The EPA is also required to periodically review and revise the NAAQS, if appropriate, based on the revised criteria.

Presently, EPA is reviewing the NAAQS for particulate matter (PM).[1] The document announced today, *Policy Assessment for the Review of the Particulate Matter National Ambient Air Quality Standards,* contains staff analyses of the scientific bases for alternative policy options for consideration by the Agency prior to rulemaking. This document, which builds upon the historical "Staff Paper," will serve to "bridge the gap" between the available scientific information and the judgments required of the Administrator in determining whether it is appropriate to retain or revise the standards.[2] The current and potential alternative PM standards are considered in terms of the basic elements of the NAAQS: indicator, averaging time, form, and level. The PA builds upon information presented in the *Integrated Science Assessment for Particulate Matter* (ISA, EPA 600/R–08/139F and EPA 600/R–08/139FA, December 2009) and two quantitative risk and exposure assessment documents (REAs)—*Quantitative Health Risk Assessment for Particulate Matter* (EPA 452/R–10–005; June 2010) and *Particulate Matter Urban-Focused Visibility Assessment* (EPA 452/R–10–004, July 2010).

A preliminary draft PA (EPA–452/P–09–007) was released in September 2009 for informational purposes and to facilitate discussion with the Clean Air Scientific Advisory Committee (CASAC) at an October 5–6, 2009, meeting on the overall structure, areas of focus, and level of detail to be included in the PA (74 FR 46586, September 10, 2009). CASAC's comments on the preliminary draft PA encouraged the development of a document focused on the key policy-relevant issues that draws from and is not repetitive of information in the Integrated Science Assessment (ISA) and REAs. These comments were considered in developing a first draft PA (EPA–452/P–10–003, March 2010; 75 FR 4067, January 26, 2010) that built upon the information presented and assessed in the ISA and second draft REAs (EPA–452/P–10–001, February 2010; EPA–452/P–10–002, January 2010). The EPA presented an overview of the first draft PA at a CASAC meeting on March 10, 2010 (75 FR 8062, February 23, 2010). CASAC and public review of the first draft PA was discussed during public teleconferences on April 8–9, 2010, (75 FR 8062, February 23, 2010) and May 7, 2010 (75 FR19971, April 16, 2010).

CASAC (Samet, 2010a)[3] and public comments on the first draft PA were considered by EPA staff in developing a second draft PA (EPA 452/P–10–007, June 2010) based on the ISA and final REAs. The EPA solicited advice and recommendations from CASAC regarding the second draft PA at a public meeting that was held on July 26–27, 2010 (75 FR 32763, June 9, 2010). Following the CASAC meeting, EPA considered comments received from CASAC (Samet, 2010b)[4] and the public in preparing the final PA. The final PA is available through the Agency's Technology Transfer Network (TTN) Web site at *http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_2007_pa.html.*

Dated: April 15, 2011.

Mary Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2011–9688 Filed 4–21–11; 8:45 am]

BILLING CODE 6560–50–P

[1] The EPA's initial overall plan and schedule for this review was presented in the *Integrated Review Plan for the National Ambient Air Quality Standards for Particulate Matter* (EPA 452/R–08–004, March 2008). Documents related to the current PM NAAQS review are available at: *http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_index.html.*

[2] See *http://www.epa.gov/ttn/naaqs/review.html* for a copy of Administrator Jackson's May 21, 2009, memorandum and for additional information on the NAAQS review process.

[3] Samet J (2010a). Letter from Dr. Jonathan M. Samet, Chair, Clean Air Scientific Advisory Committee to the Honorable Lisa P. Jackson, Administrator, U.S. EPA. CASAC Review of Policy Assessment for the Review of the PM NAAQS—First External Review Draft (March 2010). May 17, 2010. Available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/E504EE3276D87A9E8525772700647AFB/$File/EPA-CASAC-10-011-unsigned.pdf.*

[4] Samet J (2010b). Letter from Dr. Jonathan M. Samet, Chair, Clean Air Scientific Advisory Committee to the Honorable Lisa P. Jackson, Administrator, U.S. EPA. CASAC Review of Policy Assessment for the Review of the PM NAAQS—Second External Review Draft (June 2010). September 10, 2010. Available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/CCF9F4C0500C500F8525779D0073C593/$File/EPA-CASAC-10-015-unsigned.pdf.*

Notices

Federal Register
Vol. 76, No. 78
Friday, April 22, 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

Office of the Secretary

Solicitation of Members to the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Solicitation for membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces solicitation for nominations to fill 8 vacancies on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: Deadline for Advisory Board member nominations is July 12, 2011.

ADDRESSES: The nominee's name, resume, and completed Form AD–755 must be sent to the U.S. Department of Agriculture, National Research, Extension, Education, and Economics Advisory Board Office, 1400 Independence Avenue, SW., Room 3901, South Building, Washington, DC 20250–2255.

FOR FURTHER INFORMATION CONTACT: J. Robert Burk, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, 1400 Independence Avenue, SW., Room 3870, South Building, Washington, DC 20250–2255, telephone: 202–720–3684; fax: 202–720–6199; e-mail: *Robert.Burk@ars.usda.gov.*

SUPPLEMENTARY INFORMATION: Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) was amended by the Farm Security and Rural Investment Act of 2008 by deleting six members to the National Agricultural Research, Extension, Education, and Economics Advisory Board, which totals 25 members. Since the Advisory Boards inception by congressional legislation in 1996, each member has represented a specific category related to farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, non-land grant college or university with a historic commitment to research in the food and agricultural sciences, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others. The Board was first appointed by the Secretary of Agriculture in September 1996 and one-third of its members were appointed for a one, two, and three-year term, respectively. The terms for 8 members who represent specific categories will expire September 30, 2011. Nominations for a 3-year appointment for these 8 vacant categories are sought. All nominees will be carefully reviewed for their expertise, leadership, and relevance to a category.

The 8 slots to be filled are:

Category B. Farm Cooperatives
Category D. Plant Commodity Producer
Category E. National Aquaculture Association
Category H. National Food Science Organization
Category J. National Nutritional Science Society
Category K. 1862 Land-Grant Colleges and Universities
Category M. 1994 Equity in Education Land-Grant Institutions
Category Y. National Social Science Association

Nominations are being solicited from organizations, associations, societies, councils, federations, groups, and companies that represent a wide variety of food and agricultural interests throughout the country. Nominations for one individual who fits several of the categories listed above, *or* for more than one person who fits one category, will be accepted. In your nomination letter, please indicate the specific membership category for each nominee. Each nominee must fill out a form AD–755, "Advisory Committee Membership Background Information" (which can be obtained from the contact person below or may be printed out from the following Web site: *http://www.nareeeab.ree.usda.gov* then search AD–755). All nominees will be vetted before selection.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations of the Advisory Board take into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Appointments to the National Agricultural Research, Extension, Education, and Economics Advisory Board will be made by the Secretary of Agriculture.

Done at Washington, DC, this 14th day of April 2011.

Catherine Woteki,

Under Secretary, Research, Education, and Economics.

[FR Doc. 2011–9638 Filed 4–21–11; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2010–0026]

Availability of Salmonella Compliance Guide for Small and Very Small Meat and Poultry Establishments That Produce Ready-to-Eat Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability and opportunity for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of a compliance guide for small and very small meat establishments on the safe production of ready-to-eat (RTE) meat and poultry products with respect to *Salmonella* and other pathogens. FSIS has posted this compliance guide on its Significant Guidance Documents Web page (*http://www.fsis.usda.gov/Significant_Guidance/index.asp*). FSIS encourages small and very small meat establishments that manufacture these products to avail themselves of this guidance document. FSIS is also soliciting comments on this compliance guide. The Agency will consider carefully all comments submitted and will revise the guide as warranted.

DATES: Submit written comments by June 21, 2011.

ADDRESSES: FSIS invites interested persons to submit comments on this notice and the compliance guidelines. Comments may be submitted by either of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the online instructions at that site for submitting comments.

Mail, including floppy disks or CD–ROMs, and hand- or courier-delivered items: Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, Room 2–2127, George Washington Carver Center, 5601 Sunnyside Avenue, Mailstop 5272, Beltsville MD 20705–5272.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2010–0026. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or to comments received, go to the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kristina Barlow, USDA, FSIS, *telephone:* (202) 690–7739, *e-mail: kristina.barlow@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

This document provides small and very small meat and poultry establishments [1] that manufacture RTE meat and poultry products information on regulatory requirements associated with safe production of these products with respect to *Salmonella* and other pathogens. This document also provides information about processing and safe handling of RTE products after the lethality step, so they are not contaminated with pathogens such as *Salmonella* or *Listeria monocytogenes* (*Lm*). Though Agency guidance documents are recommendations rather than regulatory requirements and are revised as new information becomes available, FSIS encourages meat and poultry establishments to follow this guidance.

USDA Nondiscrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, or audiotape.) should contact USDA's Target Center at 202–720–2600 (voice and TTY).

To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410 or call 202–720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Alfred V. Almanza,

Administrator.

[FR Doc. 2011–9856 Filed 4–21–11; 8:45 am]

BILLING CODE 3410–DM–P

[1] According to the Pathogen Reduction; Hazard Analysis and Critical Control Point Systems final rule, a very small establishment is one that has fewer than 10 employees or less than $2.5 million in annual sales; a small establishment is one that has 10 or more but fewer than 500 employees (61 FR 38819).

DEPARTMENT OF AGRICULTURE

Forest Service

Shasta-Trinity National Forest; California; I–5 Corridor Fuels Reduction Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Shasta Unit of the Shasta-Trinity National Forest is proposing a hazardous fuels treatment project to reduce the risk of life, property and resource values from a high severity wildland fire event and improve fire suppression abilities and firefighter safety by modifying predicted fire behavior along Interstate Highway 5 (I–5) corridor north of the Pit River Bridge; south of the community of Pollock; east of Backbone Ridge peninsula; and west of the McCloud River Arm of Shasta Lake (approximately 15 miles north of Redding, Califronia). The project is located in Shasta County, California. The project area covers approximately 33,700 acres, 15,600 acres are within the wildland urban interface (WUI), 11,900 acres of the WUI are on National Forest System lands. Approximately 20,025 acres of the project area is proposed for treatment. Treatment methods include prescribe fire (*i.e.,* broadcast, underburn, pile burn), mastication, thin and brush cut, prune, chip and pile.

DATES: Comments concerning the scope of the analysis must be received by May 25, 2011. The draft environmental impact statement is expected December 2011 and the final environmental impact statement is expected October 2012.

ADDRESSES: Send written comments to Marian Kadota, Project Manager, 1072 Casitas Pass Road, #288, Carpinteria, CA 93013. Comments may also be sent via e-mail to *comments-pacificsouthwest-shasta-trinity@fs.fed.us* with "I–5 Corridor" as the subject, or via facsimile to (530) 275–1512.

FOR FURTHER INFORMATION CONTACT: Marian Kadota, Project Manager, 1072 Casitas Pass Road, #288, Carpinteria, CA 93013. Phone: (805) 220–6388; e-mail address: *mkadota@fs.fed.us.* Individuals

who use telecommunication devices for the deaf (TDD) may call (530) 242–5526.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The needs for the I–5 Corridor Fuels Reduction (I–5 Corridor) Project are to reduce the risk to life, property and resource values from a high severity wildland fire event uncharacteristic of the historical fire regime, and improve fire suppression abilities and firefighter safety by modifying fire predicted behavior through fuels treatment within the project area. This would be achieved by reducing the uncharacteristic buildup of fuels on the landscape on National Forest System lands. This proposal will compliment other existing and planned firewise treatments on non-national forest lands. Vegetation treatment on non-national forest lands for reducing the risk to individual homes is the responsibility of private landowners. The project is designed to respond to goals and objectives identified in the Forest Land and Resource Management Plan, the Northwest Forest Plan, and the Lakehead Area Strategic Fuel Reduction Plan.

The purposes (objectives) for the I–5 Corridor Project are to: restore fire to its natural role in the ecosystem (Forest Plan, p. 4–4); manage the chaparral ecosystem to enhance wildlife habitat and watershed condition (Forest Plan, p. 4–4); manage vegetation to a level that results in healthy forest stands, maintenance of wildlife habitat, good scenic quality and public health and safety (Forest Plan, Management Area 8 [Shasta Unit], p. 4–112); and within bald eagle nest territories, manage vegetation to enhance or retain critical habitat elements over the long-term (Forest Plan, Management Area 8 [Shasta Unit], p. 4–112).

Proposed Action

The Shasta-Trinity National Forest is proposing approximately 20,025 acres of vegetation treatment on National Forest System lands in portions of T33N, R5W; T34N, R4W; T34N, R5W; T35N, R3W; T25N, R4W; T35N, R5W; T36N, R3W, MDM. The project does not involve any commercial timber harvest. The treatment methods include: Broadcast and underburn prescribe fire (approximately 12,815 acres); mastication followed by broadcast or underburn prescribe fire (approximately 1,675 acres); thin, pile, pile burn followed by broadcast or underburn prescribe fire (approximately 1,590 acres); thin, pile, pile and burn or chip (approximately 2,820 acres); and masticate (approximately 1,125 acres).

Within all treatment areas, trees that pose a hazard to firefighter or public safety would be cut. If the tree is greater than 19 inches diameter at breast height (dbh), the downed tree would be left on site unless this conflicts with fuels management objectives or poses a safety hazard for that specific site.

No new forest system or temporary roads are proposed for construction. The majority of roads within the project area are hard surfaced (e.g. paved) and would need no additional maintenance work through the implementation of this project. The native forest system surfaced roads (*i.e.,* unpaved) may receive reconstruction and maintenance activities.

The project is proposed for implementation over a ten year period. The proposed average annual treatment is approximately 2,000 acres. Treatments can occur any time of the year so long as Best Management Practices are implemented and the treatments comply with the design features included in the project design.

Design features (protection measures) were developed and incorporated into the proposed action to reduce potential resource impacts from this project. In addition, monitoring measures are proposed to determine the effectiveness of the project's design and associated design features.

The proposed action requires non-significant project level Forest Plan amendments. Two Forest Plan Management Prescription standards require higher levels of unburned dead and down material per acre be retained than what is proposed after treatment. The Limited Roaded Motorized Recreation management prescription requires an average of 20 tons of unburned dead and down material per acre (Forest Plan, p. 4–47); Roaded Recreation requires an average of ten tons of unburned dead and down material per acre on slopes less than 40 percent and where feasible, maintain the same amount on slopes over 40 percent (Forest Plan, pp. 4–65–66). The Forest Plan amendment would reduce the dead and down material from ten to 20 tons per acre to generally five to ten tons per acre in Limited Roaded Motorized Recreation and Roaded Recreation Management Prescription areas. This would entail approximately 1,255 acres of Limited Roaded Motorized Recreation and 8,475 acres of Roaded Recreation. Another non-significant Forest Plan amendment would include designating a Forest Service acquired parcel located in Sec 9, T34N, R4W, MDM, totaling 117 acres, as Roaded Recreation for the management prescription. The National Forest System lands surrounding this parcel are designated Roaded Recreation. This 117-acre parcel is located in one of the proposed treatment areas.

A more detailed project description can be found on the Forest Web site at *http://www.fs.fed.us/nepa/project_content.php?project=30238.*

Possible Alternatives

Based on the initial scoping of the project, another action alternative will be considered in the environmental analysis that only involves treatments within the wildland urban interface. The preliminary alternatives currently under consideration (besides the proposed action) are: the No Action Alternative and the Wildland Urban Interface Alternative. The final alternatives analyzed in detail will depend on the issues raised during public scoping.

Responsible Official

The Forest Service responsible official for the preparation of the EIS is the Shasta-Trinity Forest Supervisor J. Sharon Heywood, 3644 Avtech Parkway, Redding, CA 96002.

Nature of Decision To Be Made

The Forest Supervisor will decide whether to implement the proposed action, approve an alternative to the proposed action, or take no action on treating the vegetation related to this project at this time.

Preliminary Issues

Issues identified during initial scoping include potential cumulative, visual quality, water quality, special status species, and invasive plants impacts.

Scoping Process

This notice of intent reinitiates the scoping process, which guides the development of the environmental impact statement.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the Agency

with the ability to provide the respondent with subsequent environmental documents.

Dated: April 18, 2011.

Alan D. Olson,

Acting Forest Supervisor.

[FR Doc. 2011–9871 Filed 4–21–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest, Hell Canyon Ranger District, South Dakota, Vestal Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal to use multiple vegetation treatments focused on reducing the threat to ecosystem components including forest resources from an existing insect epidemic (mountain pine beetle), creating a landscape condition that reduces the potential for high severity wildfire adjacent to the at-risk community of Custer, SD. The proposal is being planned for the 43,516 acre Vestal Project that includes about 25,726 acres of National Forest System land and about 17,790 acres of interspersed private land. The project area is located surrounding the city of Custer, SD. This project will be conducted as an authorized project under Section 102 of the Healthy Forests Restoration Act of 2003 (HFRA). Actions proposed for the Vestal Project would occur on National Forest System lands only.

DATES: Comments concerning the scope of the analysis would be most useful if received by 30 days following the date of this notice. The draft environmental impact statement is expected to be available for public review by November 2011 and the final environmental impact statement is expected to be completed by March 2012.

ADDRESSES: Send written comments to Lynn D. Kolund, District Ranger, Black Hills National Forest, Hell Canyon Ranger District, 330 Mount Rushmore Road, Custer, South Dakota 57730. Telephone Number: (605) 673–4853. E-mail: *comments-rocky-mountain-black-hills-hell-canyon@fs.fed.us.* Electronic comments must be readable in Word, Rich Text or PDF formats.

FOR FURTHER INFORMATION CONTACT: If you have any questions or need additional information, please contact Kelly Honors, Team Leader or Lynn D. Kolund, District Ranger, at the Hell Canyon Ranger District office in Custer, SD at (605) 673–4853.

SUPPLEMENTARY INFORMATION: The actions proposed are in direct response to management direction provided by the Black Hills National Forest Land and Resource Management Plan (Forest Plan). The site specific actions are designed, based on Forest Plan Standards and Guidelines, to move existing resource conditions in the Vestal Project toward meeting Forest Plan Goals and Objectives. The project area is located surrounding the at-risk community of Custer, SD.

Purpose and Need for Action

The primary purpose for action in the Vestal project is to reduce the threat to forest resources from the existing mountain pine beetle (MPB) epidemic. This action is needed because there is a rapidly increasing MPB outbreak occurring within the project area which is resulting in substantial levels of pine mortality. Existing stand conditions across the project area are largely at medium to high risk for MPB caused mortality.

A secondary purpose of this project is to protect local communities and watersheds from large-scale wildfire. This action is needed because the project area is located within and surrounding the town of Custer, SD and overall fire hazard in the area is high due to dense stand conditions and dead, dry fuels resulting from MPB caused mortality. Approximately 40 percent of lands in the project area are privately owned, with an estimated 3,194 private structures.

Proposed Action

- Thin and harvest approximately 19,779 acres of pine stands using a variety of methods to treat mountain pine beetle (MPB) infested stands, reduce the overall density of pine trees and create a mosaic of structural stages across the landscape. Both commercial harvest and non-commercial thinning will be used to reduce the stand density, and associated fuel hazard conditions and susceptibility to mountain pine beetle infestations.
- Reduce the amount of fuels that currently exist and that are modified by mountain pine beetle caused mortality by creation of fuelbreaks on 180 acres and deadfall treatment on 24,110 acres. Deadfall treatments could include lopping, chipping, crushing, piling and burning, and mastication of fuels. Prescribed broadcast burning on approximately 1,761 acres is also planned to disrupt the continuity of surface and canopy fuels. The deadfall treatment and prescribed burning would occur on sites also proposed for other mechanical treatments.
- Remove conifers from hardwood stands and meadows on approximately 1,889 acres and convert pine stands to aspen on 126 acres to provide additional wildfire protection by enhancing natural fuel breaks.
- Removal of live pine trees which have mountain pine beetle larva in them across the entire project area and as a stand alone treatment on approximately 3,655 acres. This is a suppression method for mountain pine beetle infestations.
- Conversion of 0.6 miles of unauthorized road to system road to facilitate treatments, and closure of approximately 0.9 miles of system road to protect resources.

Responsible Official

Lynn D. Kolund, District Ranger, Hell Canyon Ranger District, Black Hills National Forest, 330 Mount Rushmore Road, Custer, South Dakota 57730.

Nature of Decision To Be Made

The decision to be made is whether or not to implement the proposed action or possible alternative at this time.

Scoping Process

The Hell Canyon Ranger District has mailed letters with comprehensive scoping documents to local and tribal government representatives, permittees, organizations and others. A public notice will also be published in local newspapers. The scoping document with attached maps will also be posted on the Black Hills National Forest Web site. A public meeting is scheduled for Wednesday, May 11, 2011 from 5–7 p.m. at the Custer High School, Custer, South Dakota. Scoping comments submitted based on this NOI will be most useful if received within 30 days from the date of this notice.

Comment Requested

This notice of intent is part of the scoping process which will guide the development of the EIS. Comments received will assist the planning team to identify key issues and opportunities used to refine the proposal or develop possible alternatives. Comments on the DEIS will be requested during the 45 day comment period following publication of the Notice of Availability in the **Federal Register**, expected in November, 2011.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.

Dated: April 18, 2011.

Dennis Jaeger,

Deputy Forest Supervisor, Black Hills National Forest.

[FR Doc. 2011–9743 Filed 4–21–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Custer County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Custer County Resource Advisory Committee will meet in Custer, South Dakota. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is review of project proposals to be implemented in 2012.

DATES: The meeting will be held May 10, 2011 at 5:30 p.m.

ADDRESSES: The meeting will be held at 1019 N 5th Street at the Office of the Forest Supervisor. Written comments should be sent to 330 MT Rushmore Rd., Custer, South Dakota 57730. Comments may also be sent via email to *lkolund@fs.fed.us,* or via facsimile to 605–673–5461.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 330 MT Rushmore Rd., Custer, SD. Visitors are encouraged to call ahead to 605–673–4853 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lynn Kolund, District Ranger, Hell Canyon Ranger District, 605–673–4853, *lkolund@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: Review of Project Proposals for implementation in 2012. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by May 5, 2011, will have the opportunity to address the Committee at those sessions.

Dated: April 15, 2011.

Lynn Kolund,

District Ranger.

[FR Doc. 2011–9757 Filed 4–21–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lincoln County Resource Advisory Committee will meet in Libby, MT. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to review 2011 project proposals.

DATES: May 4, 2011, 6 p.m.

ADDRESSES: Forest Supervisor's Office, 31374 Hwy 2, Libby, Montana. Written comments may be submitted as described under Supplementary Information.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Forest Supervisor's Office. Please call ahead to 406–283–7764 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Janette Turk, Committee Coordinator, Kootenai National Forest at (406) 283–7764, or e-mail jturk@*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. Requests for reasonable accommodation for access to the facility or proceedings may be made by contacting the person listed For Further Information.

SUPPLEMENTARY INFORMATION: The following business will be conducted: A review of 2011 project proposals. If the meeting date or location is changed, notice will be posted in the local newspapers, including the Daily Interlake, based in Kalispell, Montana. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement

should request in writing by May 1, 2011 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Forest Supervisor's Office, 31374 Hwy 2, Libby, Montana, or by e-mail to *jturk@fs.fed.us,* or via facsimile to 406–283–7709.

Dated: April 18, 2011.

Maggie Pittman,

Acting Forest Supervisor, Kootenai National Forest.

[FR Doc. 2011–9868 Filed 4–21–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Nicolet Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Nicolet Resource Advisory Committee will meet in Crandon, WI. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to review and approve submitted project proposals.

DATES: The meeting will be held June 22, 2011 and will begin at 9:30 a.m.

ADDRESSES: The meeting will be held at Forest County Courthouse, County Boardroom, 200 East Madison Street, Crandon, WI. Written comments may be submitted as described under Supplementary Information.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Chequamegon-Nicolet National Forest, Laona Ranger District, 4978 Hwy 8 West, Laona, WI 54541. Please call ahead to 715–674–4481 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Penny McLaughlin, RAC Coordinator, USDA, Chequamegon-Nicolet National Forest, Laona Ranger District, 4978 Hwy 8 W, Laona, WI 54541; 715–674–4481; e-mail: *pmclaughlin@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. Requests for reasonable accommodation for access to the facility or proceedings may be made by contacting the person listed **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION: The following business will be conducted: 3rd Round Project Review and Approval. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 1, 2011 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Chequamegon-Nicolet National Forest, Laona Ranger District, 4978 Hwy 8 W, Laona, WI 54541 or by e-mail to *pmclaughlin@fs.fed.us* or via facsimile to 715–674–2545.

Dated: April 13, 2011.

Paul I. V. Strong,

Forest Supervisor.

[FR Doc. 2011–9866 Filed 4–21–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Shoshone Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Shoshone Resource Advisory Committee (Committee) will meet in Thermopolis, Wyoming. The Committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to continue to review Title II project proposals and start selecting some to recommend to the Designated Federal Official.

DATES: The meeting will be held May 4, 2011, 9 a.m.

ADDRESSES: The meeting will be held at Big Horn Federal Savings, 643 Broadway, Thermopolis, Wyoming.

FOR FURTHER INFORMATION CONTACT: Olga Troxel, Resource Advisory Committee Coordinator, Shoshone National Forest Supervisor's Office, (307) 578–5164.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Continue to review Title II project proposals (2) Start selecting projects to recommend to the Designated Federal Official (3) Make a decision on travel reimbursements for RAC members. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided.

Dated: April 8, 2011.

Joseph G. Alexander,

Forest Supervisor.

[FR Doc. 2011–9763 Filed 4–21–11; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1754]

Grant of Authority for Subzone Status, Allegro Mfg. Inc. (Distribution of Cosmetic, Organizer and Electronic Bags and Accessories), Commerce, CA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Port of Long Beach, grantee of Foreign-Trade Zone 50, has made application to the Board for authority to establish a special-purpose

subzone at the warehouse and distribution facility of Allegro Mfg. Inc., located in Commerce, California (FTZ Docket 6–2010, filed 1/15/2010);

Whereas, notice inviting public comment has been given in the **Federal Register** (75 FR 4344–4345, 1/27/2010) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status for activity related to cosmetic, organizer and electronic bags and accessories warehousing and distribution at the facility of Allegro Mfg. Inc., located in Commerce, California (Subzone 50M), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 18th day of April 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–9853 Filed 4–21–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1755]

Reorganization of Foreign-Trade Zone 176 (Expansion of Service Area) Under Alternative Site Framework, Rockford, IL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (74 FR 1170, 01/12/09; correction 74 FR 3987, 01/22/09; 75 FR 71069–71070, 11/22/10) as an option for the establishment or reorganization of general-purpose zones;

Whereas, the Greater Rockford Airport Authority, grantee of Foreign-Trade Zone 176, submitted an application to the Board (FTZ Docket 62–2010, filed 10/26/2010) for authority to expand the service area of the zone to include portions of LaSalle and Putnam Counties, as described in the application, adjacent to the Rockford Customs and Border Protection port of entry;

Whereas, notice inviting public comment was given in the **Federal Register** (75 FR 67081–67082, 11/1/2010) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 176 to expand the service area under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, and to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project.

Signed at Washington, DC this 18th day of April 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–9854 Filed 4–21–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Technology Innovation Program Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of public meeting—amendment.

SUMMARY: On April 1, 2011, the National Institute of Standards and Technology (NIST) published a notice in the **Federal Register** announcing an open meeting for the Technology Innovation Program Advisory Board. NIST is issuing this notice to correct the day of the meeting as stated in the **SUMMARY** section. NIST erroneously stated the day as Tuesday, May 18, 2011. The correct day is Wednesday, May 18, 2011. The rest of the notice remains the same and is published here for the public's convenience.

DATES: The meeting will convene Wednesday, May 18, 2011, at 8:30 a.m. and will adjourn at 3:30 p.m.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Portrait Room, Building 101, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Rene Cesaro, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2162. Ms. Cesaro's e-mail address is *rene.cesaro@nist.gov.*

SUPPLEMENTARY INFORMATION: The Technology Innovation Program (TIP) Advisory Board is composed of ten members appointed by the Director of NIST who are eminent in such fields as business, research, science and technology, engineering, education, and management consulting. The purpose of this meeting is to review and make recommendations regarding general policy for the Technology Innovation Program, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include a TIP update, a presentation on the status of TIP's current project portfolio, and a discussion of potential critical national need areas for future funding. The agenda may change to accommodate Board business. The final agenda will be posted on the TIP Web site at: *http://www.nist.gov/tip/.* Individuals and representatives of organizations who would like to offer comments and suggestions related to the Board's affairs are invited to request a place on the agenda. On May 18, 2011, approximately one-half hour will be reserved for public comments, and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about three minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the TIP Advisory Board, National Institute of Standards and Technology, 100 Bureau Drive, MS 4700, Gaithersburg, Maryland 20899, via fax at (301) 975–4032, or electronically by e-mail to (*lorel.wisniewski@nist.gov*). All visitors to the National Institute of Standards

and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, e-mail address and phone number to Rene Cesaro no later than Friday, May 13, 2011, and she will provide you with instructions for admittance. Ms. Cesaro's e-mail address is *rene.cesaro@nist.gov* and her phone number is (301) 975–2162.

Dated: April 12, 2011.

Charles H. Romine,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2011–9878 Filed 4–21–11; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Open Meeting.

SUMMARY: NIST announces that the Manufacturing Extension Partnership (MEP) Advisory Board, National Institute of Standards and Technology (NIST) will hold an open meeting on Sunday, May 15, 2011, from 8:30 a.m. to 5 p.m.

DATES: The meeting will convene May 15, 2011, at 8:30 a.m. and will adjourn at 5 p.m. on May 15, 2011.

ADDRESSES: The meeting will be held at the Orlando World Center Marriott Resort and Convention Center, 8701 World Center Drive, Orlando, Florida 32821. Anyone wishing to attend this meeting should submit their name, e-mail address and phone number to Susan Hayduk (*susan.hayduk@nist.gov* or 301–975–5614) no later than May 2, 2011.

FOR FURTHER INFORMATION CONTACT: Karen Lellock, Manufacturing Extension Partnership, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, Maryland 20899–4800, telephone number (301) 975–4269.

SUPPLEMENTARY INFORMATION: This meeting is being held in conjunction with MEP's Manufacturing Innovations 2011 Conference in Orlando, Florida. The MEP Advisory Board is composed of 10 members, appointed by the Director of NIST. MEP is a unique program consisting of centers across the United States and Puerto Rico with partnerships at the State, Federal, and local levels. The Board works closely with MEP to provide input and advice on MEP's programs, plans, and policies. This meeting will focus on (1) discussions with local MEP Board members, (2) research focused on advancing U.S. competitiveness, and (3) an update on MEP's State partnerships. The agenda may change to accommodate other Board business.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the MEP Advisory Board's business are invited to request a place on the agenda. Approximately 15 minutes will be reserved for public comments at the beginning of the meeting. Speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received but is likely to be no more than three to five minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the MEP Advisory Board, National Institute of Standards and Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, Maryland 20899–4800, or via fax at (301) 963–6556, or electronically by e-mail to *karen.lellock@nist.gov.*

Dated: April 12, 2011.

Charles H. Romine,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2011–9880 Filed 4–21–11; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award Board of Overseers and Panel of Judges

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of Public Meeting.

SUMMARY: The Malcolm Baldrige National Quality Award Panel of Judges and Board of Overseers will hold a meeting on Wednesday, June 15, 2011 from 8:30 a.m. to 3 p.m. The purpose of this meeting is to discuss and review information received from the National Institute of Standards and Technology and from the Chair of the Judges Panel of the Malcolm Baldrige National Quality Award. The agenda will include: Baldrige Program Update, Baldrige Fellows Program Discussion, and Strategic Planning.

DATES: The meeting will convene June 15, 2011, at 8:30 a.m. and adjourn at 3 p.m. on June 15, 2011. The meeting will be open to the public.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Lecture Room D, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app., notice is hereby given that there will be a meeting of the Board of Overseers of the Malcolm Baldrige National Quality Award on June 15, 2011. The Board of Overseers is composed of 12 members prominent in the fields of quality, innovation, and performance management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The Panel of Judges is composed of twelve members prominent in the fields of quality, innovation, and performance management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award.

All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, e-mail address and phone number to Diane Harrison no later than Monday, June 13, 2011, and she will provide you with instructions for admittance. Non-U.S. citizens must also submit their passport number, country of citizenship, title, employer/sponsor, address and telephone. Ms. Harrison's e-mail address is *diane.harrison@nist.gov* and her phone number is (301) 975–2361.

Dated: April 18, 2011.

Charles H. Romine,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2011–9873 Filed 4–21–11; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award Panel of Judges

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app., notice is hereby given that there will be a meeting of the Panel of Judges of the Malcolm Baldrige National Quality Award on June 14, 2011. The Panel of Judges is composed of twelve members prominent in the fields of quality, innovation, and performance management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of this meeting is to discuss and review information received from the National Institute of Standards and Technology and from the Chair of the Judges Panel of the Malcolm Baldrige National Quality Award. The agenda will include: Overview of the Role of the Judges and Scoring Data Reviewed at the September 2010 Meeting, 2011 Baldrige Award Cycle, Conflict of Interest, Judges' Survey of Applicants, Judging Process Improvement Discussion and Judges' Mentoring Program.

DATES: The meeting will convene June 14, 2011, at 9 a.m. and adjourn at 4 p.m. on June 14, 2011. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Lecture Room D, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on March 7, 2011, that the meeting of the Judges Panel may be closed in accordance with 5 U.S.C. 552b(c)(4) because the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person which is privileged or confidential and 5 U.S.C. 552b(c)(9)(B) because for a government agency the meetings are likely to disclose information that could significantly frustrate implementation of a proposed agency action. The meeting, which involves examination of Award applicant data from U.S. companies and other organizations and a discussion of these data as compared to the Award criteria in order to recommend Award recipients, will be closed to the public.

Dated: April 18, 2011.

Charles H. Romine,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2011–9855 Filed 4–21–11; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Pacific Islands Region Permit Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 21, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Walter Ikehara, (808) 944–2275 or *walter.ikehara@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

National Marine Fisheries Service (NMFS) Pacific Islands Region (PIR) manages the U.S. Fisheries of the Exclusive Economic Zone (EEZ) in the western Pacific under five fishery management plans (FMP), prepared by the Western Pacific Fishery Management Council (Council) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The regulations implementing the FMP are found at 50 CFR part 665.

The permitting requirements at 50 CFR part 665 form the basis for this collection of information. PIR requests information from participants in the fisheries and interested persons. This information is needed for permit issuance, to identify participants in the fisheries, and to help measure impacts of management controls on the participants in the fisheries of the EEZ in the western Pacific.

II. Method of Collection

Paper submissions and telephone calls are required from participants. Methods of submittal include mailing and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0490.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 239.

Estimated Time per Response: American Samoa longline limited entry permit, 45 min.; Main Hawaiian Islands longline prohibited area exemptions, 2 hours; all other permit applications, 30 minutes; permit appeals, 2 hours.

Estimated Total Annual Burden Hours: 136.

Estimated Total Annual Cost to Public: $9,050 ($8,650 in application fees).

IV. Request for Comments

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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 19, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–9781 Filed 4–21–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Foreign Fishing Vessel Permit Applications

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 21, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Mi Ae Kim, (301) 713–2276 or *mi.ae.kim@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a current information collection.

Section 204 of the Magnuson-Stevens Fishery Conservation and Management Act and regulations at 50 CFR 600, Subpart F, provide for the issuance of fishing permits to foreign vessels. The information submitted in applications is used to determine whether permits should be issued to authorize directed foreign fishing, participation in joint ventures with United States (U.S.) vessels, or transshipments of fish or fish products within U.S. waters.

II. Method of Collection

Paper forms are used.

III. Data

OMB Control Number: 0648–0089.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3.

Estimated Time per Response: One and one half hours for an application for a directed fishery; 2 hours for a joint venture application; and 45 minutes for a transshipment permit.

Estimated Total Annual Burden Hours: 4 hours and 15 minutes.

Estimated Total Annual Cost to Public: $2,451, including permit fees.

IV. Request for Comments

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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 19, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–9780 Filed 4–21–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA389

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) Ad Hoc Salmon Amendment Committee (SAC) will hold a meeting to finalize alternatives and analyses for an amendment to the Pacific Coast Salmon Fishery Management Plan (FMP) to address the Magnuson-Stevens Act (MSA) requirements for annual catch limits (ACL) and accountability measures (AM). This meeting of the SAC is open to the public.

DATES: The meeting will be held Monday, May 16, 2011 from 10 a.m. to 4:30 p.m. and Tuesday, May 17, 2011 from 8:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Pacific Council Office, Large Conference Room, 7700 NE. Ambassador Place, Suite 101, Portland, OR 97220–1384; telephone: (503) 820–2280.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Salmon Management Staff Officer, Pacific Fishery Management Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The reauthorized MSA established new requirements to end and prevent overfishing through the use of ACLs and AMs. Federal FMPs must establish mechanisms for ACLs and AMs by 2010 for stocks subject to overfishing and by 2011 for all others, with the exceptions of stocks managed under an international agreement or stocks with a life cycle of approximately one year.

On January 16, 2009, NMFS published amended guidelines for National Standard 1 (NS1) of the MSA to provide guidance on how to comply with new ACL and AM requirements. The NS1 guidelines include recommendations for establishing several related reference points to ensure scientific and management uncertainty are accounted for when management measures are established.

The purpose of this meeting is to finalize alternatives and analyses to address those issues in a National Environmental Policy Act (NEPA) analysis that will be presented to the Council for final action at its June 2011 meeting in Spokane, WA.

Although non-emergency issues not contained in the meeting agenda may come before the SAC for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities.

Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: April 19, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–9803 Filed 4–21–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA388

North 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 North Pacific Fishery Management Council's Groundfish Plan Team will meet via teleconference in Juneau, AK, Seattle, WA and Anchorage, AK. Note the meeting starts at 1:30 p.m. (ADT)/2:30 PDT, but the lines will open ½ hour prior to the official start, check out the Council Web site at *http://www.alaskafisheries.noaa.gov/npfmc/* for WebEx, meeting numbers and passwords.

DATES: The session will start at 1:30 p.m. (ADT) on Tuesday, May 17, 2011.

ADDRESSES: The session will be held at the Auke Bay Laboratory, 17385 Glacier Highway, Juneau, AK; Anchorage Council office, Old Federal Building, Room 205, Anchorage, AK; Alaska Fishery Science Center (AFSC), Traynor Room, 7600 Sand Point Way NE., Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff contact, Jane DiCosimo; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The teams will be reviewing proposals for model runs for GOA and BSAI Pacific cod and making recommendations to the author for those that will be reviewed at the August 2011 Groundfish Plan Team meeting. Proposed model runs include those by the author, BSAI Plan Team, GOA Plan Team, Science and Statistical Committee, CIE reviewers (tentative) and the public. Joint Plan Team recommendations from this May 2011 meeting will be reviewed by the author with the SSC in June 2011. The deadline for proposing models had been extended to April 29 to allow the public an opportunity to consider the results of the CIE reviews, which are due April 22. Proposals should be submitted to Grant Thompson, AFSC, 7600 Sand Point Way NE., Building 4, Seattle, WA.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: April 19, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–9802 Filed 4–21–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA390

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will hold a meeting, via conference call, of the Groundfish Management Team (GMT). The meeting is open to the public.

DATES: The conference call will be held Tuesday, May 10, 2011, from 9 a.m. to 12 p.m. Pacific Time.

ADDRESSES: A listening station will be available at the Pacific Council offices. Please contact the Pacific Council Staff Officer for accommodations.

FOR FURTHER INFORMATION CONTACT: Kelly Ames, Staff Officer; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council (Council) will convene a conference call of the Groundfish Management Team to review the developing Ecosystem Fishery Management Plan. The GMT will discuss reports of the Ecosystem Plan Development Team and will develop statements for Council consideration at its June meeting in Spokane, WA.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: April 19, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–9804 Filed 4–21–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA382

Endangered Species; File No. 14949

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Carlos Diez, Ph.D., Puerto Rico Department of Natural Resources, Protected Species Program, P.O. Box 366147, San Juan, PR, 00936, has been issued a permit to take green (*Chelonia mydas*) and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727) 824–5312; fax (727)824–5309.

FOR FURTHER INFORMATION CONTACT: Colette Cairns or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: On March 22, 2010, notice was published in the **Federal Register** (75 FR 13488) that a request for a scientific research permit to take green and hawksbill sea turtles had been submitted by the above-named individual. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*)

and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Dr. Diez was issued a 5-year permit to provide information on the ecology and population dynamics of hawksbill and green turtles inhabiting the waters surrounding Puerto Rico and the adjacent islands including Mona, Monito, Desecheo, Caja-de-Muertos, Vieques, the Culebra Archipelago, and the Tres Palmas reserve. In addition, researchers would monitor the prevalence of fibropapillomatosis, a debilitating disease know to occur in green turtle foraging aggregations in Puerto Rico. Researchers may capture by hand, entanglement or cast net, transport, photograph, measure, weigh, flipper tag, passive integrated transponder tag, blood and tissue sample, ultrasound, attach satellite transmitters to and release sea turtles. A subset of up to 10 green turtles per year from the Culebra study sites may undergo fibropapillomatosis tumor removal surgery and subsequent rehabilitation.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 18, 2011.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–9852 Filed 4–21–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–C–2011–0011]

Trademark Trial and Appeal Board Participation in Settlement Discussions

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of inquiry.

SUMMARY: The United States Patent and Trademark Office ("USPTO" or "Office") is seeking comments from stakeholders about the extent to which the Trademark Trial and Appeal Board ("TTAB" or "Board") should become more directly involved in settlement discussions of parties to *inter partes* proceedings, including oppositions, cancellations and concurrent use cases. The purpose of this notice of inquiry is to determine whether the involvement of an Administrative Trademark Judge (ATJ) or Board Interlocutory Attorney (IA) would be desirable by parties, and if so, how extensively and at what points in proceedings. In addition, to the extent stakeholders voice a preference for assistance in settlement discussions but prefer such assistance to be provided by mediators or individuals other than Board judges and attorneys, it will be useful for the Board to receive suggestions on this option.

COMMENT DEADLINE DATE: Written comments must be received on or before June 21, 2011.

ADDRESSES: Written comments should be sent by electronic mail message over the Internet addressed to *TTAB_Settlement_comments@uspto.gov.* Comments may also be submitted by mail addressed to: Mail Stop Comments—TTAB, P.O. Box 1451, Alexandria, VA, 22313–1451, marked to the attention of Karen Kuhlke. Although comments may be submitted by mail, the Office prefers to receive comments electronically. Comments may also be submitted through the Federal eRulemaking Portal Web site at *http://www.regulations.gov.* Additional instructions on providing comments through the Federal eRulemaking Portal are available at *http://www.regulations.gov.* All comments submitted directly to the Office or provided on the Federal eRulemaking Portal should include the docket number (PTO–C–2011–0011).

The written comments will be available for public inspection at the Trademark Trial and Appeal Board, located in Madison West, Ninth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available via the Office's Internet Web site (address: *http://www.uspto.gov*). Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Karen Kuhlke, Administrative Trademark Judge, Trademark Trial and Appeal Board, at (571) 272–4287.

SUPPLEMENTARY INFORMATION: Over time, representatives of the Board have engaged in discussions with the Trademark Public Advisory Committee (TPAC) concerning the average overall length of Board trial proceedings. These discussions have generated a number of suggestions for process improvements, including suggestions related to fostering settlement discussions. The USPTO 2010–2015 Strategic Plan includes a commitment by the Office to assess the desirability among stakeholders, including trademark owners, intellectual property organizations, the trademark bar and others with an interest in defining Board procedures, for meaningful involvement of Board personnel in settlement discussions regarding *inter partes* proceedings (*i.e.,* trial cases). In general, the Office seeks comments from stakeholders on all aspects of this issue, and is now opening the discussion to stakeholders and will consider all comments and suggestions that address this subject as well as any others which may be pertinent to the discussion. Below, specific questions are posed to generate discussion, but it is useful to first consider some background information.

The Board estimates that two-thirds of all *inter partes* cases are disposed of without an answer being filed (*e.g.,* because of withdrawal, default, or settlement). This may suggest that it would not be resource-effective to have a judge, attorney or mediator routinely involved in settlement discussions prior to close of the pleadings. On the other hand, perhaps the two-thirds figure would be higher, or cases that do settle without an answer ever being filed would be disposed of more quickly, if judges, attorneys or mediators were involved in settlement discussions early on.

Most of the cases comprising the one-third that are not disposed of prior to an answer being filed still are disposed of without a full trial and do not require issuance of a final decision on the merits. While some of these are cases that a plaintiff fails to prosecute, or cases in which a defendant eventually abandons an application or surrenders a registration, *i.e.,* cases disposed of as the result of unilateral action (or inaction), many are cases that are settled by agreement of the parties. In informal discussions with Board personnel, some have suggested that more parties would be willing to discuss settlement, even of seemingly intractable disputes, if the Board required them to discuss settlement. Based on anecdotal reports and observations, it would appear that there are many cases in which settlement talks are most useful after the exchange of initial disclosures or after the exchange of discovery requests and responses. Thus, related to the inquiry about whether Board personnel should be involved in settlement discussions of the parties is the inquiry about the particular point (or points) in the chronology of a proceeding when Board involvement in discussions should be

initiated or resumed to be most effective.

In the Board's Notice of Final Rule Making published August 1, 2007, at 72 FR 42242, the Board introduced to its *inter partes* proceedings the requirement for a discovery conference, which includes a requirement for discussion of settlement or possible narrowing of claims and defenses. In that notice, and in response to concerns expressed by some who responded to the Notice of Proposed Rule Making, the Board stated that its involvement in settlement discussions would be rather limited. Subsequently, however, some stakeholders have suggested that the Board explore the possibility of more frequent Board-convened settlement conferences and consider the possibility of involving mediators on a routine basis.

Under current Board practice, if a party requests Board involvement in a discovery conference, Board personnel will first inquire whether the parties have initiated settlement discussions. To date, parties have infrequently invited Board personnel to participate in these conferences. Moreover, when Board personnel participate in discovery conferences, Board involvement in settlement discussions is only in the broadest context. There is no routine Board involvement in settlement discussions in cases in which the Board is not invited into the discovery conference or, for cases in which the Board is so invited, after the completion of the discovery conference.

Non-party involvement (through an ATJ, an IA, a USPTO mediator, or an outside mediator) in these settlement conferences could help the parties consider various means for resolution of the proceeding. For example, where parties are at an impasse because of difficulty resolving possible amendments to the identifications of goods or services, assistance could be provided to the parties in arriving at mutually agreeable amendments, and this is an area in which Board personnel could be particularly helpful. Or a mediator could be involved in discussions regarding possible restrictions on use of a mark, such as a requirement that it be used with a disclaimer or with a house mark. Also, in cases where pre-trial settlement is not possible, Board personnel or a mediator could be involved in discussions that would nonetheless narrow the issues for trial and encourage the parties to adopt an Accelerated Case Resolution procedure for their case. In other words, even if greater involvement by Board personnel or by mediators does not result in more frequent or faster settlements, an alternative result may be faster, more focused trials.

Thus, the Office seeks responses to the following questions, as well as comments or suggestions on related topics (as these questions are illustrative of the discussion to be generated and not the exclusive issues to be discussed):

(1) Should the Board be routinely involved in settlement discussions of parties, or instead, be involved only in particular cases on an "as needed" basis?

(2) If you believe parties would benefit from involvement of a non-party, would it be preferable for settlement discussions to be handled by (a) an ATJ, (b) an IA, (c) a USPTO employee trained as a mediator but who is not an ATJ or IA, or (d) a third-party mediator?

(3) How would the involvement be triggered? For example, by stipulation of the parties, by unilateral request or by some other trigger? Examples of situations that might be used as triggers for required settlement discussions involving a non-party could include the use by the parties of multiple suspensions for settlement discussions which proved unsuccessful, or events such as the filing of an answer, the exchange of disclosures, the completion of some discovery, or the close of the discovery period.

(4) How many triggers should there be that would prompt Board or mediator involvement in settlement talks? For example, apart from the initial discovery conference, should there be a follow-up inquiry from the Board in the middle of discovery, at the end of discovery, or before pre-trial disclosures are made and commencement of trial is imminent? Should there be a required phone conference after the second or any subsequent request to extend or suspend discovery for settlement?

(5) To what extent should Board personnel involved in settlement discussions be recused from working on the case?

(6) Should motions for summary judgment, the vast majority of which are denied and do not result in judgment, be barred unless the parties have been involved in at least one detailed settlement conference? Should an exception to such a rule be made for motions based on jurisdictional issues or claim or issue preclusion?

(7) Should the parties be accorded only limited discovery until they have had a detailed settlement discussion with a Board judge, attorney or mediator, with the need for subsequent discovery dependent on the results of the discussion?

(8) Should the Board amend its rules to require that a motion for summary judgment be filed before a plaintiff's pre-trial disclosures are due, and that the parties be required to engage in a settlement conference in conjunction with a discussion of plaintiff's pre-trial disclosures?

The potential benefits from facilitating more frequent and/or more detailed settlement discussions may include the following: (a) Increasing the number of settlements by having Board personnel or non-party mediators available to address parties' needs in *inter partes* cases with varying claims and complexity; (b) gaining efficiency for the Board and users of the Board's procedures by eliminating the cost and time of litigating through the full trial and briefing of all pleaded claims and defenses; and (c) increasing commercial stability by achieving faster and more cost-effective resolution to disputes, which provides for a more stable ownership platform.

Authority

Section 17 of the Trademark Act, 15 U.S.C. Section 1067, provides that the Trademark Trial and Appeal Board shall determine and decide the respective rights of registration of parties to various *inter partes* proceedings. Proposed amendments to any rules governing these proceedings, which may result from this notice of inquiry, would be announced in a Notice of Proposed Rule Making and be subject to public comment.

Notice of Inquiry: The Office is providing the public, including user groups, with an opportunity to comment on the procedures under consideration. The Office will consider the comments and decide whether to pursue suggestions for process improvements. If the Office decides to pursue implementation of suggestions, the Office will publish a notice to set forth the procedures and requirements. The Office appreciates any comments and feedback related to these subjects. Persons submitting written comments should note that the USPTO may not provide "comment and response" analysis, since notice and opportunity for public comment are not required for this notice under 5 U.S.C. 553(b) or any other law. The Board may further discuss this subject with stakeholders and user groups at a roundtable to be convened in the future.

Dated: April 8, 2011.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2011–9801 Filed 4–21–11; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to the Procurement List.

SUMMARY: The Committee is proposing to add a service to the Procurement List that will be provided by the nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: 5/23/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the service to the Government.
2. If approved, the action will result in authorizing small entities to provide the service to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following service is proposed for addition to Procurement List for production by the nonprofit agencies listed:

Service

Service Type/Location: Contact Center Service. Human Resources Command Contact Center, Fort Knox, KY.
NPAs: InspiriTec, Inc. Philadelphia, PA (prime), Employment Source, Inc., Fayetteville, NC (subcontractor).
Contracting Activity: Department of the Army, Human Resource Command, Fort Knox, KY.

Barry S. Lineback,
Director, Business Operations.

[FR Doc. 2011–9818 Filed 4–21–11; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes services from the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 5/23/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On 2/25/2011 (76 FR 10571), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to provide the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services deleted from the Procurement List.

End of Certification

Accordingly, the following services are deleted from the Procurement List:

Services

Service Type/Location: Dispatcher. Veterans Affairs Medical Center, 7305 N. Military Trail, West Palm Beach, FL.
NPA: Gulfstream Goodwill Industries, Inc., West Palm Beach, FL.
Contracting Activity: Department of Veterans Affairs.

Service Type/Location: Grounds Maintenance. Waco Distribution Center, 1801 Exchange Park, Waco, TX.
NPA: Statewide Consolidated Community Development Corporation, Inc., Beaumont, TX.
Contracting Activity: AAFES—Army & Air Force Exchange Service, Dallas, TX.

Barry S. Lineback,
Director, Business Operations.

[FR Doc. 2011–9817 Filed 4–21–11; 8:45 am]

BILLING CODE 6353–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can

be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed implementation of AmeriCorps National Civilian Community Corp's NCCC Team Leader Application. This Application was developed to collect applicant information for the hiring of NCCC team leaders at each of the five NCCC campuses. The application will be completed by prospective NCCC team leaders, during each campus hire cycle. Completion of this information collection is required to be selected as an NCCC team leader.

Copies of the information collection request can be obtained by contacting the office listed in the addresses section of this Notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by June 21, 2011.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service National Civilian Community Corps; *Attention:* Colleen Clay, Assistant Director Projects and Partnerships, Room 9305; 1201 New York Avenue, NW., Washington, DC, 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) *By fax to:* (202) 606–3462, Attention: Colleen Clay, Assistant Director Projects and Partnerships.

(4) Electronically through *http://www.regulations.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 606–3472 between 8:30 a.m. and 5 p.m. Eastern time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Colleen Clay, (202) 606–7561, or by e-mail at *cclay@cns.gov.*

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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 expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submissions of responses).

Background

This NCCC team leader application was developed to provide information pertinent to the selection of team leaders for AmeriCorps NCCC. Specifically, NCCC engages approximately 1100 corps members each year in community service. In order to achieve this goal, NCCC utilizes team leaders and support team leaders as project leaders and project developers, as well as on site team supervision and reporting. There is at least one team leader for each team of approximately ten Corps members. The application is available in paper or electronically for all team leader applicants.

Current Action

The Corporation seeks to renew the current information collection. The information collection will otherwise be used in the same manner as the existing application. The Corporation also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on 6/30/2011.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: NCCC Team Leader Application.

OMB Number: 3045–0005.

Agency Number: None.

Affected Public: NCCC team leader applicants.

Total Respondents: 400.

Frequency: Bi-annual application.

Average Time per Response: Two hours.

Estimated Total Burden Hours: 800 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 18, 2011.

Nicholas C. Zefran,

Director, Member Services, National Civilian Community Corps.

[FR Doc. 2011–9861 Filed 4–21–11; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Logistics Agency (DLA) Address Directory

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Defense Logistics Agency (DLA) is updating its Address Directory which is published as an appendix to DLA's compilation of Privacy Act systems of records notices. This notice benefits the public in advising them where to send requests for review. DLA FOIA/Privacy Points of Contact are found at: *http://www.dla.mil/foia-privacy/foia_poc.aspx.*

FOR FURTHER INFORMATION CONTACT: Ms. Jody Sinkler, 703–767–5045.

SUPPLEMENTARY INFORMATION: DLA Address Directory:

Defense Logistics Agency Headquarters, Andrew T. McNamara Building, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6221;

DLA Document Services Headquarters, 5450 Carlisle Pike Building 09, P.O. Box 2020, Mechanicsburg, PA 17055–0788;

DLA Distribution, 2001 Mission Drive, New Cumberland, PA 17070–5000;

DLA Energy, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6221;

DLA Logistics Information Service, 74 Washington Avenue, N., Battle Creek, MI 49037–3084;

DLA Strategic Materials, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6221;

DLA Disposition Services, 74 N. Washington, Battle Creek, MI 49037–3092;

DLA Land and Maritime, 3990 East Broad Street, Columbus, OH 43218–3990;

DLA Troop Support, 700 Robbins Avenue, Philadelphia, PA 19111–5092;

DLA Aviation, 8000 Jefferson Davis Highway, Richmond, VA 23297–5000;

DLA Transaction Services, 5250 Pearson Road, Building 207, Area C, Wright Patterson, OH 45433–5328;

DLA Logistics Management Standards Office, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6221;
DLA Central, 7115 South Boundary Boulevard, MacDill AFB, FL 33621–5101;
DLA Europe and Africa, Unit 23152, APO AE 09227;
DLA Pacific, 1025 Quincy Avenue, Suite 2000, Pearl Harbor, HI 96860–4512.

Dated: April 19, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–9752 Filed 4–21–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2011–OS–0044]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to Delete a System of Records.

SUMMARY: The Office of the Secretary of Defense is deleting a system of records notice from its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 23, 2011 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, OSD Mailroom 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Cindy Allard at (703) 588–6830, or Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the **FOR FURTHER INFORMATION CONTACT** address above. The Office of the Secretary of Defense proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 14, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION:

DWHS P25

Overseas Staffing Files (February 22, 1993, 58 FR 10227).

REASON:

Washington Headquarters Services no longer provides human resource services for the Defense Advanced Research Projects Agency, the North Atlantic Treaty Organization (NATO), or the U.S. Mission to NATO and has certified that all records have been disposed of in accordance with a National Archives and Records Administration approved retention period.

[FR Doc. 2011–9753 Filed 4–21–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2011–0014]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Air Force proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on May 23, 2011 unless comments are received that would result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and/RIN number and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, OSD Mailroom 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Shedrick, 703–696–6488, or Department of the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information Officer, ATTN: SAF/CIO A6, 1800 Air Force Pentagon, Washington DC 20330–1800.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, were submitted on April 15, 2011 to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996, (February 20, 1996, 61 FR 6427).

Dated: April 19, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F011 ACC A

SYSTEM NAME:

Air-to-Air Weapon System Evaluation Program (June 11, 1997, 62 FR 31793).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "The 83d Fighter Weapons Squadron, Analysis Division, Building 226, 1287 Florida Avenue, Tyndall Air Force Base, FL 32403–5217."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Air Force pilots and aircrew members who have live-fired missiles in the Air-to-Air Weapon System Evaluation Program."

* * * * *

STORAGE:

Delete entry and replace with "Maintained in file folders and computer storage media."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, 83d Fighter Weapons Squadron, Analysis Division, Building 226, 1287 Florida Avenue, Tyndall Air Force Base, FL 32403–5217."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to Commander, 83d Fighter Weapons Squadron, Analysis Division, Building 226, 1287 Florida Avenue, Tyndall Air Force Base, FL 32403–5217.

For verification purposes, individual should provide their full name, Social Security Number (SSN), any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States:

'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United State of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, 83d Fighter Weapons Squadron, Analysis Division, Building 226, 1287 Florida Avenue, Tyndall Air Force Base, FL 32403–5217.

For verification purposes, individual should provide their full name, Social Security Number (SSN), any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States:

'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'."

* * * * *

F011 ACC A

SYSTEM NAME:

Air-to-Air Weapon System Evaluation Program Records

SYSTEM LOCATION:

The 83d Fighter Weapons Squadron, Analysis Division, Building 226, 1287 Florida Avenue, Tyndall Air Force Base, FL 32403–5217.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force pilots and aircrew members who have live-fired missiles in the Air-to-Air Weapon System Evaluation Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN), unit of assignment, and flying experience information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; Powers and Duties, delegation by; as implemented by Air Force Regulation 55–11, Programming of Requirements and Reporting Expenditures for Missile/Targets in Noncombat Firing Programs; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

Used to measure program goals that dictate maximizing aircrew participation during their first fighter assignment tour. Personal data is also used to determine the effects of experience and training on Air-to-Air weapons employment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of system of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and computer storage media.

RETRIEVABILITY:

Retrieved by name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms, safes and cabinets. Those in computer storage devices are protected by computer system software, which is Common Access Card (CAC) enabled.

RETENTION AND DISPOSAL:

Paper records are retained for one year after data is entered in computer then destroyed by tearing into pieces, shredding, macerating, or burning. Electronic records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, 83d Fighter Weapons Squadron, Analysis Division, Building 226, 1287 Florida Avenue, Tyndall Air Force Base, FL 32403–5217.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to Commander, 83d Fighter Weapons Squadron, Analysis Division, Building 226, 1287 Florida Avenue, Tyndall Air Force Base, FL 32403–5217.

For verification purposes, individual should provide their full name, Social Security Number (SSN), any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in

accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States:

'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United State of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, 83d Fighter Weapons Squadron, Analysis Division, Building 226, 1287 Florida Avenue, Tyndall Air Force Base, FL 32403–5217.

For verification purposes, individual should provide their full name, Social Security Number (SSN), any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States:

'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information for this system is obtained from forms completed by aircrew members.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–9754 Filed 4–21–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Draft Environmental Impact Statement (DEIS) for the Real Property Master Plan at the Presidio of Monterey (POM), California

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability (NOA).

SUMMARY: The Department of the Army announces the availability of the DEIS for the Real Property Master Plan at the POM. This document analyzes and evaluates potential environmental impacts associated with proposed development at two properties: POM (located on the Monterey Peninsula between the cities of Monterey and Pacific Grove) and Ord Military Community (OMC) (approximately eight miles northeast of the POM and situated within the former Fort Ord military installation and adjacent to the City of Seaside). Both properties are located within Monterey County and in close proximity to the Pacific Ocean coast.

DATES: The public comment period will end 45 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: Questions or comments regarding the DEIS should be forwarded to: Department of the Army, U.S. Army Garrison Presidio of Monterey, Directorate of Public Works, Master Plans (*Attention:* Robert Guidi), P.O. Box 5004, Presidio of Monterey, California 93944–5004; e-mail to *robert.g.guidi@us.army.mil;* or fax to (831) 242–7097 (*Attention:* Master Plans).

FOR FURTHER INFORMATION CONTACT: Mr. John Elliott at (831) 242–7777 or via e-mail at *john.elliott5@us.army.mil.*

SUPPLEMENTARY INFORMATION: The Real Property Master Plan identifies facility improvements and phased construction to maintain and enhance the professional standards established by the Defense Language Institute Foreign Language Center (DLIFLC). Modernization of classrooms, living quarters, and support facilities helps ensure a sustainable mission throughout the foreseeable future.

The Department of Defense foreign language Proficiency Enhancement Program (PEP) changes the student-to-instructor ratio and will result in a greater overall base population. POM needs to train more linguists for deployment throughout the world, because current projections indicate a shortfall in personnel properly trained to interface with people of other nations. The existing facilities at the POM neither meet current needs nor the anticipated population growth at the DLIFLC. This fact coupled with anti-terrorism/force protection results in the need to change the physical landscape at the POM and OMC.

There are three project alternatives analyzed in this DEIS: No Action, POM centric and POM and OMC. Six other alternatives are considered and eliminated from further analysis.

(1) The No Action Alternative describes the conditions that would result by maintaining the current conditions and not proceeding with the proposed new construction. One key component of the No Action Alternative is the installation's population is expected to increase because of the demand for additional linguists even if no improvements are made. This condition results in a need for more housing and service throughout the neighboring communities.

(2) POM-centric (the preferred alternative) proposes the majority of the new construction and development within the existing central campus at the POM. Several community service facilities are proposed at the OMC to support the military family housing areas. No new barracks or instructional facilities are proposed at the OMC as part of the POM-centric alternative.

(3) The POM and OMC alternative proposes new construction at both properties. Construction at the OMC is limited to the existing Army-owned land, primarily next to military housing and within the Joe Lloyd Way compound.

The potential for significant environmental impacts is the greatest for the following resource areas: Aesthetics, endangered plant species and associated critical habitat, housing, land use, population, public services, traffic circulation, and water usage.

All government agencies, special interest groups and individuals are invited to attend the public meetings and/or submit their comments in writing. Information on the time and location of public meetings will be published locally.

Copies of the DEIS are available at Chamberlain Library, Seaside; City of Monterey Public Library, Monterey; City of Pacific Grove Public Library, Pacific Grove; and Monterey County Library, Seaside Branch, Seaside. The DEIS can also be viewed at the following Web

site: *http://www.monterey.army.mil/dpw/index.html.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–9680 Filed 4–21–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Information Management and Privacy Services, Office of Management, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before May 23, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: April 19, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Information Management and Privacy Services, Office of Management.

Office of Postsecondary Education

Type of Review: Extension.

Title of Collection: Financial Status and Program Performance Final Report for State and Partnership for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP).

OMB Control Number: 1840–0782.

Agency Form Number(s): N/A.

Frequency of Responses: Once.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 209.

Total Estimated Annual Burden Hours: 8,360.

Abstract: The purpose of this information collection is to determine whether recipients of the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) have made substantial progress towards meeting the objectives of their respective projects, as outlined in their grant applications and/or subsequent work plans. In addition, the final report will enable the Department to evaluate each grant project's fiscal operations for the entire grant performance period, and compare total expenditures relative to Federal funds awarded, and actual cost-share/matching relative to the total amount in the approved grant application. This report is a means for grantees to share the overall experience of their projects and document achievements and concerns, and describe effects of their projects on participants being served; project barriers and major accomplishments; and evidence of sustainability. The report will be GEAR UP's primary method to collect/analyze data on students' high school graduation and immediate college enrollment rates.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4518. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–9833 Filed 4–21–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Interagency Management Task Force Public Meeting

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of public meeting.

SUMMARY: The Federal Energy Management Program (FEMP) will hold public meetings of the Interagency Energy Management Task Force (Task Force) in 2011. FEMP intends to hold recurring public meetings of the Task Force. Interested parties can check *http://www.femp.energy.gov/news/events.html* for the time, location, agenda, and related materials of the meetings. The purpose of the town hall meetings is to provide information on current Federal energy management activities.

FOR FURTHER INFORMATION CONTACT: Hayes Jones, Federal Energy Management Program; EE–2L; 1000 Independence Ave., SW.; Washington, DC 20585; (202) 586–8873. More information on DOE's Federal Energy Management Program can be found at *http://www.femp.energy.gov.*

SUPPLEMENTARY INFORMATION: The Federal Energy Management Program (FEMP), within the Department of Energy's Office of Energy Efficiency and Renewable Energy, facilitates the Federal Government's implementation of sound, cost-effective energy management and investment practices to enhance the nation's energy security and environmental stewardship. In support of this goal, the FEMP Program Manager chairs the Interagency Task Force (Task Force). The Task Force was created by the Federal Energy Management Improvement Act of 1988 (Pub. L. 100–615) to coordinate the activities of the Federal Government in promoting energy conservation and the

efficient use of energy and in informing non-Federal entities of the Federal experience in energy conservation. The Task Force is composed of Federal energy managers. The purpose of these public Town Hall meetings is to present information related to Federal energy management and reporting requirements. The meetings may also present an opportunity for public comment on activities related to Federal energy management. The Task Force establishes working groups to address specific technical or programmatic issues and to develop new initiatives. It also serves as a forum for sharing lessons learned across Federal agencies.

Issued in Washington, DC, on April 12, 2011.

Jerry Dion,

Supervisor, Federal Market Development, Federal Energy Management Program, Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2011–9830 Filed 4–21–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–186–000]

Colorado Interstate Gas Company; Notice of Application for Abandonment

Take notice that on April 8, 2011, Colorado Interstate Gas Company (CIG), Post Office Box 1087 Colorado Springs, CO 80944, filed in Docket No. CP11–186–000, an application under section 7(b) of the Natural Gas Act (NGA) and section 157.5, *et seq.,* of the Federal Energy Regulatory Commission (Commission), requesting authorization to abandon, in place, certain existing compression facilities, with appurtenances, comprising of Unit Nos. 7, 8, 9, 10, 11 and 12 at CIG's Lakin Compressor Station (collectively referred to as the Units), located in Kearny County, Kansas. The motion is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Susan C. Stires, Director, Regulatory Affairs, Post Office Box 1087 Colorado Springs, CO 80944; telephone (719) 667–7514; facsimile (719) 667–7534; e-mail *CIGRegulatoryAffairs@elpaso.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: May 6, 2011.

Dated: April 15, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–9796 Filed 4–21–11; 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: ER11–3028–001.

Applicants: BBPC, LLC.

Description: BBPC, LLC submits tariff filing per 35.17(b): BBPC LLC Substitute MBR Tariff to be effective 5/16/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5149.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Docket Numbers: ER11–3061–000.
Applicants: Carolina Power & Light Company.
Description: Joint Motion of Carolina Power & Light Company and Duke Energy Carolinas, LLC to Add the Latter as Co-Applicant on Pending Request for a Limited Waiver of Market-Based Tariff Restrictions.
Filed Date: 04/14/2011.
Accession Number: 20110414–5169.
Comment Date: 5 p.m. Eastern Time on Thursday, April 28, 2011.

Docket Numbers: ER11–3187–001.
Applicants: SBR Energy, LLC.
Description: SBR Energy, LLC submits tariff filing per 35.17(b): Amending Baseline New to be effective 5/1/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5016.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Docket Numbers: ER11–3350–000.
Applicants: Public Service Company of Colorado.
Description: Public Service Company of Colorado submits tariff filing per 35.13(a)(2)(iii: 2011–4–14_297–PSCo_Gunbarrel COM Agmt to be effective 2/16/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5078.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Docket Numbers: ER11–3351–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii: Conforming MR1—Appendix A Tariff Record to be effective 3/16/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5090.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Docket Numbers: ER11–3352–000.
Applicants: Public Service Electric and Gas Company, PJM Interconnection, L.L.C.
Description: Public Service Electric and Gas Company submits tariff filing per 35.13(a)(2)(iii: PSE&G's Request for Incentive Rates for 5 Baseline Transmission Projects to be effective 6/14/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5119.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Docket Numbers: ER11–3353–000.
Applicants: Alpha Gas and Electric.
Description: Alpha Gas and Electric submits tariff filing per 35.13(a)(2)(iii: Market based rate tariff database to be effective 4/15/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5130.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Docket Numbers: ER11–3354–000.
Applicants: Rockpile Energy LP.
Description: Rockpile Energy LP submits tariff filing per 35.15: Notice of Cancellation of Market-Based Rate Tariff to be effective 4/15/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5147.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Docket Numbers: ER11–3355–000.
Applicants: Energy Endeavors LP.
Description: Energy Endeavors LP submits tariff filing per 35.15: Notice of Cancellation of Market-Based Rate Tariff for Energy Endeavors LP to be effective 4/15/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5148.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Docket Numbers: ER11–3356–000.
Applicants: Gotham Energy Marketing LP.
Description: Gotham Energy Marketing LP submits tariff filing per 35.15: Notice of Cancellation of Market Based Rate Tariff for Gotham Energy Marketing LP to be effective 4/15/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5150.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Docket Numbers: ER11–3357–000.
Applicants: Big Bog Energy LP.
Description: Big Bog Energy LP submits tariff filing per 35.15: Notice of Cancellation of Market-Based Rate Tariff for Big Bog Energy LP to be effective 4/15/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5151.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Docket Numbers: ER11–3358–000.
Applicants: Coaltrain Energy LP.
Description: Coaltrain Energy LP submits tariff filing per 35.15: Notice of Cancellation of Market-Based Rate Tariff for Coaltrain Energy LP to be effective 4/15/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5152.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Docket Numbers: ER11–3359–000.
Applicants: Silverado Energy LP.
Description: Silverado Energy LP submits tariff filing per 35.15: Notice of Cancellation of Market-Based Rate Tariff for Silverado Energy LP to be effective 4/15/2011.
Filed Date: 04/14/2011.
Accession Number: 20110414–5153.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–111–003.
Applicants: Portland General Electric Company.
Description: Compliance Filing of Portland General Electric Company.
Filed Date: 04/14/2011.
Accession Number: 20110414–5064.
Comment Date: 5 p.m. Eastern Time on Thursday, May 05, 2011.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF11–222–000.
Applicants: Harris Teeter, Inc.
Description: Form 556—Notice of Self-Certification of Qualifying Cogeneration Facility Status.
Filed Date: 04/13/2011.
Accession Number: 20110413–5168.
Comment Date: None Applicable.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status

may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 15, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–9776 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC11–67–000.
Applicants: Golden Spread Electric Cooperative, Inc., Denver City Energy Associates, L.P., Great Point Power Denver City LP, LLC, LSP–Denver City, LLC, GPP Investors I, LLC,QUIXX Mustang Station, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action of Denver City Energy Associates, L.P. *et al.*
Filed Date: 04/15/2011.
Accession Number: 20110415–5269.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG11–74–000.
Applicants: Yuba City Cogeneration Partners, LP.
Description: Self-Certification of Yuba City Cogeneration Partners, LP.
Filed Date: 04/15/2011.
Accession Number: 20110415–5171.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1790–003.
Applicants: BP Energy Company.
Description: BP Energy Company submits tariff filing per 35: Baseline MBR Tariff Filing of BP Energy Company to be effective 8/1/2010.
Filed Date: 04/15/2011.
Accession Number: 20110415–5183.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER10–3323–003.
Applicants: Indeck-Olean Limited Partnership.
Description: Indeck-Olean Limited Partnership submits tariff filing per 35: Indeck-Olean Compliance File Baseline FERC Electric MBR Tariff No. 1 to be effective 4/15/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5181.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–2617–001.
Applicants: ISO New England Inc., NSTAR Electric Company, Western Massachusetts Electric Company, Unitil Energy Systems, Inc.
Description: ISO New England Inc. submits tariff filing per 35: PTO Schedule 20A Service Providers and CSC Compliance Filing to be effective 4/1/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5097.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–2795–001.
Applicants: Pacific Gas & Electric Company.
Description: Pacific Gas and Electric Company Compliance Refund Report.
Filed Date: 04/15/2011.
Accession Number: 20110415–5259.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3325–001.
Applicants: Whiting Clean Energy, Inc.
Description: Whiting Clean Energy, Inc. submits tariff filing per 35: Baseline MBR Tariff Filing of Whiting Clean Energy, Inc. to be effective 4/16/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5179.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3360–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): FAP Changes to be effective 6/15/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5077.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3361–000.
Applicants: Tucson Electric Power Company.
Description: Tucson Electric Power Company submits tariff filing per 35.1: Second WestConnect Regional Transmission Tariff Filing to be effective 7/1/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5079.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3362–000.
Applicants: Tampa Electric Company.
Description: Tampa Electric Company submits tariff filing per 35.13(a)(2)(iii): Amendment of Rate Schedule No. 13_Cancellation of Schedule J to be effective 2/24/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5112.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3363–000.
Applicants: Tampa Electric Company.
Description: Tampa Electric Company submits tariff filing per 35.13(a)(2)(iii): Amendment of Rate Schedule No. 27_Cancellation of Schedule J to be effective 2/24/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5114.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3364–000.
Applicants: Tampa Electric Company.
Description: Tampa Electric Company submits tariff filing per 35.13(a)(2)(iii): Amendment of Rate Schedule No. 37_Cancellation of Schedule J to be effective 2/24/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5115.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3365–000.
Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii): Refinements to Excess Commitment Credit and Incremental Auction Rules to be effective 6/17/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5122.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3366–000.
Applicants: Wildcat Power Holdings, LLC.
Description: Wildcat Power Holdings, LLC submits tariff filing per 35.12: Wildcat Application for Market-Based Rates to be effective 5/6/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5130.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3367–000.
Applicants: Yuba City Cogeneration Partners, LP.
Description: Yuba City Cogeneration Partners, LP submits tariff filing per 35.12: YCC MBR Application to be effective 6/15/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5138.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3368–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii: BPA AC Intertie Agreement 3rd Revised to be effective 6/15/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5167.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3369–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii): Tri-State NITSA to be effective 4/1/2011.
Filed Date: 04/15/2011.
Accession Number: 20110415–5172.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES11–22–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Supplemental Information of The Midwest Independent Transmission System Operator, Inc.
Filed Date: 04/15/2011.
Accession Number: 20110415–5143.
Comment Date: 5 p.m. Eastern Time on Monday, April 25, 2011.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–54–009.
Applicants: PacifiCorp.
Description: Annual Report on Operational Penalties of PacifiCorp under OA07–54.
Filed Date: 04/15/2011.
Accession Number: 20110415–5140.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 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 docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 15, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–9777 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–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: ER10–3043–005.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits tariff filing per 35: Compliance Filing—Refile MST Attachment H Records to be effective 3/17/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5134.
Comment Date: 5 p.m. Eastern Time on Tuesday, April 26, 2011.

Docket Numbers: ER11–1829–001.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: ISO New England Inc. submits tariff filing per 35: Docket No. ER11–1829–001 120-Day Compliance Filing to be effective 12/19/2010.
Filed Date: 04/18/2011.
Accession Number: 20110418–5116.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3019–001.
Applicants: Greenbelt Energy.
Description: Greenbelt Energy submits tariff filing per 35: Greenbelt Amendment Filing to be effective 4/12/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5144.

Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3362–001.
Applicants: Tampa Electric Company.
Description: Tampa Electric Company submits tariff filing per 35.17(b): Amendment to Rate Schedule 13_Correcting Effective Date to be effective 2/24/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5002.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3373–000.
Applicants: Alcoa Power Generating Inc.
Description: Alcoa Power Generating Inc. submits tariff filing per 35.13(a)(2)(iii: APGI Tapoco-Related OATT Revisions to be effective 7/1/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5078.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3374–000.
Applicants: Florida Power Corporation.
Description: Florida Power Corporation submits tariff filing per 35.13(a)(2)(iii: Revised Transmission Loss Factor in Florida Power Corp. OATT to be effective 5/1/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5096.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3375–000.
Applicants: Carolina Power & Light Company.
Description: Carolina Power & Light Company submits tariff filing per 35.13(a)(2)(iii: Revised Transmission Loss Factor in Carolina Power and Light OATT to be effective 5/1/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5098.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3376–000.
Applicants: North Hurlburt Wind, LLC.
Description: North Hurlburt Wind, LLC submits tariff filing per 35.1: Baseline MBR for North Hurlburt to be effective 6/17/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5136.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3377–000.
Applicants: Horseshoe Bend Wind, LLC.
Description: Horseshoe Bend Wind, LLC submits tariff filing per 35.1: Baseline MBR Tariff for Horseshoe Bend to be effective 6/17/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5138.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3378–000.
Applicants: South Hurlburt Wind, LLC.
Description: South Hurlburt Wind, LLC submits tariff filing per 35.1: Baseline MBR Tariff for South Hurlburt to be effective 6/17/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5140.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3379–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Queue No. W1–121—Original Service Agreement No. 2839 to be effective 3/17/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5143.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3380–000.
Applicants: Scylla Energy LLC.
Description: Scylla Energy LLC submits tariff filing per 35.12: Scylla Energy LLC FERC Electric Tariff No. 1 to be effective 5/18/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5160.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3381–000.
Applicants: Horseshoe Bend Wind, LLC.
Description: Horseshoe Bend Wind, LLC submits tariff filing per 35.1: Baseline SFA for Horseshoe Bend to be effective 6/17/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5170.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3382–000.
Applicants: North Hurlburt Wind, LLC.
Description: North Hurlburt Wind, LLC submits tariff filing per 35.1: Baseline SFA for North Hurlburt to be effective 6/17/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5171.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: ER11–3383–000.
Applicants: South Hurlburt Wind, LLC.
Description: South Hurlburt Wind, LLC submits tariff filing per 35.1: Baseline SFA for South Hurlburt to be effective 6/17/2011.
Filed Date: 04/18/2011.
Accession Number: 20110418–5176.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–96–005.
Applicants: Southern Company Services, Inc.
Description: 2010 Annual OATT Penalty Assessment and Distribution Report of Southern Company Services, Inc.
Filed Date: 04/18/2011.
Accession Number: 20110418–5142.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 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.

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Dated: April 18, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–9812 Filed 4–21–11; 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 corporate filings:

Docket Numbers: EC11–68–000.

Applicants: Gila River Power, L.P., Union Power Partners, L.P., Entegra Power Services LLC, Gila River Energy Supply LLC, Merrill Lynch GENCO II, LLC, Entegra Power Group LLC.

Description: Joint Application For Order Authorizing Disposition of Jurisdictional Facilities Under Section 203 of the FPA and Request for Waivers and Expedited Action of Entegra Power Group LLC, *et al.*

Filed Date: 04/15/2011.

Accession Number: 20110415–5331.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1975–002; *ER10–1974–002.*

Applicants: North Jersey Energy Associates, L.P., Northeast Energy Associates, L.P.

Description: Notice of Change in Status of North Jersey Energy Associates, a Limited Partnership and Northeast Energy Associates, A Limited Partnership.

Filed Date: 04/15/2011.

Accession Number: 20110415–5343.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–1831–002.

Applicants: Columbus Southern Power Company.

Description: Columbus Southern Power Company submits tariff filing per 35: 20110415 CSP AEP Op Co MBR Conc to be effective 10/8/2010.

Filed Date: 04/15/2011.

Accession Number: 20110415–5231.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–1833–002.

Applicants: Indiana Michigan Power Company.

Description: Indiana Michigan Power Company submits tariff filing per 35: 20110415 IN MI AEP Op Co MBR Conc to be effective 10/8/2010.

Filed Date: 04/15/2011.

Accession Number: 20110415–5233.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–1834–002.

Applicants: Kentucky Power Company.

Description: Kentucky Power Company submits tariff filing per 35: 20110415 KPCo MBR Conc to be effective 10/8/2010.

Filed Date: 04/15/2011.

Accession Number: 20110415–5236.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–1835–003.

Applicants: Kingsport Power Company.

Description: Kingsport Power Company submits tariff filing per 35: 20110415 KgPCO AEP Op Co MBR Conc to be effective 10/8/2010.

Filed Date: 04/15/2011.

Accession Number: 20110415–5238.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–1837–002.

Applicants: Ohio Power Company.

Description: Ohio Power Company submits tariff filing per 35: 20110415 Ohio Power AEP Op Co MBR Conc to be effective 10/8/2010.

Filed Date: 04/15/2011.

Accession Number: 20110415–5241.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–1838–003.

Applicants: Wheeling Power Company.

Description: Wheeling Power Company submits tariff filing per 35: 20110415 WPCo AEP Op Co MBR Conc to be effective 10/8/2010.

Filed Date: 04/15/2011.

Accession Number: 20110415–5245.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–2482–000; ER11–2483–000; ER11–2484–000; ER11–2485–000; ER11–2486–000; ER11–2487–000; ER11–2488–000.

Applicants: Casselman Windpower LLC, Hardscrabble Wind Power LLC, Lempster Wind, LLC, Locust Ridge Wind Farm, LLC, Locust Ridge Wind Farm II, LLC, Providence Heights Wind, LLC, Streator-Cayuga Ridge Wind Power, LLC.

Description: Letter providing Category 1 Seller representations.

Filed Date: 04/15/2011.

Accession Number: 20110415–5330.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3370–000.

Applicants: Phalanx Energy Services, LLC.

Description: Phalanx Energy Services, LLC submits tariff filing per 35.12: Phalanx Energy Services, LLC Market-Based Rate Application to be effective 5/1/2011.

Filed Date: 04/15/2011.

Accession Number: 20110415–5221.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3371–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Queue No. W1–124—Original Service Agreement No. 2840 WMPA to be effective 3/17/2011.

Filed Date: 04/15/2011.

Accession Number: 20110415–5250.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Docket Numbers: ER11–3372–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Queue No. W1–119—Original Service Agreement No. 2838 to be effective 3/17/2011.

Filed Date: 04/15/2011.

Accession Number: 20110415–5279.

Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES11–21–000.

Applicants: Old Dominion Electric Cooperative, Inc.

Description: Amendment to Application of Old Dominion Electric Cooperative.

Filed Date: 04/18/2011.
Accession Number: 20110418–5085.
Comment Date: 5 p.m. Eastern Time on Thursday, April 28, 2011.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA11–1–000.
Applicants: Canandaigua Power Partners, LLC, Canandaigua Power Partners II, LLC, Evergreen Wind Power, LLC, Evergreen Wind Power III, LLC, Evergreen Wind Power V, LLC, First Wind Energy Marketing, LLC, Milford Wind Corridor Phase I, LLC, Milford Wind Corridor Phase II, LLC, Stetson Wind II, LLC.
Description: Report of Canandaigua Power Partners II, LLC, *et al.*
Filed Date: 04/15/2011.
Accession Number: 20110415–5340.
Comment Date: 5 p.m. Eastern Time on Friday, May 06, 2011.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–19–007; OA07–43–008; ER07–1171–008.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits its annual compliance report on penalty assessments and distributions.
Filed Date: 04/18/2011.
Accession Number: 20110418–5117.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: OA07–53–007.
Applicants: Progress Energy, Inc.
Description: Annual Penalty Revenues Refund Report of Florida Power Corporation *et al.*
Filed Date: 04/18/2011.
Accession Number: 20110418–5121.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 2011.

Docket Numbers: OA09–22–003.
Applicants: Florida Power & Light Company.
Description: Annual Compliance Report Regarding Penalties for Unreserved Use of Florida Power & Light Company.
Filed Date: 04/18/2011.
Accession Number: 20110418–5126.
Comment Date: 5 p.m. Eastern Time on Monday, May 09, 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: April 18, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–9807 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–145–000]

Florida Gas Transmission Company, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Cape Canaveral Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Cape Canaveral Project involving construction and operation of facilities by Florida Gas Transmission Company, LLC (FGT) in Orange County, Florida. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on May 12, 2011.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be

determined in accordance with State law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice FGT provided to landowners. This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

FGT proposes to construct and operate a new 15,000-horsepower (hp) electric compressor station (CS 32) along its existing 26-inch-diameter mainline near milepost (MP) 691.7; install appurtenant auxiliary facilities at an existing compressor station (CS 18) at MP 668.8; and upgrade existing pipeline facilities, all located in Orange County, Florida. The facilities are proposed in order to provide increased delivery pressure to Florida Power & Light Company's (FPL) Cape Canaveral Energy Center (CCEC) in Brevard County, Florida, that is presently being modernized with high efficiency electric power generators capable of producing 1,250 megawatts of power. According to FGT, two 15,000-hp compressor units would be required at the proposed CS 32 in order to allow for 100 percent redundancy. FGT stated that its project would provide a minimum of 650 pounds per square inch gauge delivery pressure at FPL's CCEC facilities, while maintaining the current contractual rights of all of its existing customers.

The Cape Canaveral Project would consist of the following facilities:

At CS 32

- Two new compressor buildings, each housing a centrifugal compressor unit with variable-speed gearbox and a 15,000-hp electric motor;
- An auxiliary building;
- A process control room enclosure;
- A switchgear enclosure;
- 30-inch-diameter suction and discharge piping;
- Main block, suction, and discharge valves;
- Three blow downs;
- A gas cooling system;
- Condensate and oily water tanks;
- A back-up generator;
- A construction yard;
- An access road; and
- Replacement of about 800 feet of 26-inch-diameter mainline from MP 691.6 to MP 691.8.
- an electric power substation.

At CS 18

- Addition of gas after coolers;
- Yard pulsation bottles; and
- Minor appurtenant facilities.

The general location of the project facilities is shown in Appendix 1.[1]

Land Requirements for Construction

Construction of the Cape Canaveral Project would require a total of about 41.6 acres which include about 14.6 acres for the facilities within the proposed CS 32, 11.8 acres for temporary work spaces, 10.4 acres for the construction yard, 1.7 acres for the access road, and 3.1 acres consisting of forested wetland and a 50-foot-wide upland buffer zone which would not be affected during construction or operation of the project. After construction about 24.9 acres would be restored and allowed to revert to their former uses. No new work space would be required at CS 18 as all construction-related activities would be confined to the existing compressor station.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Land use;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species; and
- Public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be presented in the EA. The EA will be placed in the public record and, depending on the comments received during the scoping process, may be published and distributed to the public. A comment period will be allotted if the EA is published for review. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section beginning on page 5.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian Tribes, and the public on the project's potential effects on historic properties.[3] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO(s) as the project is further developed. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *http://www.ferc.gov* using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] "We," "us," and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Historic properties are defined in those regulations as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register for Historic Places.

our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that they will be received in Washington, DC on or before May 12, 2011.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP11–145–000) with your submission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the *eComment* feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* An eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "*eRegister.*" You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing;" or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own property within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the EA is published for distribution, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an "intervenor" which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the "e-filing" link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *http://www.ferc.gov* using the "eLibrary" link. Click on the eLibrary link, click on "General Search" and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP11–145). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: April 15, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–9795 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC11–56–000]

SP 49 Pipeline LLC; Notice of Filing

Take notice that on April 12, 2011, SP 49 Pipeline LLC ("SP 49") submitted a request for waiver of the requirement to file the FERC Form No. 6 for the last two months of the 2010 calendar year. SP 49 requests was based on the fact that its tariffs only affect the last two months of the 2010 calendar year and would not provide useful information to the Commission or to shippers.

Effective November 12, 2010, SP 49 acquired a portion of Chevron Pipe Line Company's ("Chevron") pipeline system and associated equipment, specifically the South Pass Block 49 Pipeline System, in addition to certain related pipeline assets. SP 49 filed an Adoption Notice and related tariffs on December 6, 2010.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the

Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: May 26, 2011.

Dated: April 15, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–9794 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–3366–000]

Wildcat Power Holdings, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Wildcat Power Holdings, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 9, 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 Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 18, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–9811 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–3367–000]

Yuba City Cogenerations Partners, LP; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Yuba City Cogeneration Partners, LP's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 9, 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 Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 18, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–9810 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–3370–000]

Phalanx Energy Services, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Phalanx Energy Services, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR

part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 9, 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 Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 18, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–9809 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–370–000; EL08–22–006]

Missouri River Energy Services, Western Minnesota Municipal Power Agency; Notice of Motion To Withdraw Filing and Request for Expedited Action

On March 23, 2011, Missouri River Energy Services and Western Minnesota Municipal Power Agency (collectively, MRES/WMMPA) filed a motion to withdraw its Attachment O transmission formula rate tariff sheets under the Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff. MRES/WMMPA also request that the Commission act on this motion no later than May 1, 2011. MRES/WMMPA state that in light of changed circumstances, MRES has determined that it desires to now use the Midwest ISO's *pro forma* Non-levelized Template therefore its initial choice to use the Cash Flow Template Attachment O transmission formula rate filed in the above proceedings is no longer needed.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 22, 2011.

Dated: April 15, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–9800 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI11–5–000]

City of Redwood Falls; Notice of Petition for Declaratory Order and Soliciting Comments, Protests, and/or Motions to Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Petition for Declaratory Order.

b. *Docket No.:* DI11–5–000.

c. *Date Filed:* April 1, 2011.

d. *Applicant:* City of Redwood Falls.

e. *Name of Project:* Redwood Falls Hydroelectric Project.

f. *Location:* The existing Redwood Falls Hydroelectric Project is located on the Redwood River, in the town of Redwood Falls, Redwood County, Minnesota.

g. *Filed Pursuant to:* section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Tor S. Hansen, Barr Engineering Company, 4700 West 77th Street, Edina, MN 55435; telephone: (952) 832–2758; Fax: (952) 832–2601; e-mail: *http://www.thansen@barr.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or E-mail address: *henry.ecton@ferc.gov.*

j. *Deadline for filing comments, protests, and/or motions:* May 20, 2011.

All documents should be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-

filed. To paper-file, an original and seven copies should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

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.* Please include the docket number (DI11–5–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The existing Redwood Falls Hydroelectric Project consists of: (1) An existing 583-acre reservoir; (2) an existing 250-foot-long, 37-foot-high concrete dam; (3) an existing 1,080-foot-long, 20-to-25-square foot concrete flume/tunnel to a 100-foot-long, 5-foot-diameter concrete penstock; (4) an existing 30-foot-long, 35-foot-wide concrete block powerhouse that will contain a proposed 600-kW turbine/generator; (5) a tailrace returning flows to Redwood River; and (6) appurtenant facilities.

When a Petition for Declaratory Order is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the proposed project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "PROTESTS", AND/OR "MOTIONS TO INTERVENE", as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: April 15, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–9798 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL11–34–000]

Midwest Independent Transmission System Operator, Inc.; Notice of Petition for Declaratory Order

Take notice that on April 8, 2011, pursuant to Rule 207(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207(a)(2) (2011), Midwest Independent Transmission System Operator, Inc. (MISO) filed a petition for declaratory order seeking the Commission's confirmation that the terms of the Joint Operating Agreement (JOA) in effect between Southwest Power Pool and MISO, regarding the sharing of transmission capacity on a common path, as set forth in section 5.2 of the JOA, will remain in effect and applicable to Entergy Arkansas, Inc. (Entergy Arkansas) in the event Entergy Arkansas becomes a transmission-owning member of MISO.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 9, 2011.

Dated: April 15, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–9799 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14061–000]

Arizona Independent Power, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 12, 2011, Arizona Independent Power, Inc. 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 Verde Pumped Storage Project (project) to be located within the Colorado River region, near Maricopa County, Arizona. 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 roller compacted concrete dam (upper reservoir) having a total storage capacity of 13,900 acre-feet at a normal maximum operating elevation of 3,040 feet msl; (2) a roller compacted concrete dam (lower reservoir) having a total storage capacity of 13,900 acre-feet at a normal maximum operating elevation of 1,800 feet mean sea level (msl); (3) two 12,160-foot-long, 19-foot-diameter penstocks; (4) a powerhouse with approximate dimensions of 750 feet long by 70 feet wide by 175 feet high, housing three to 267 megawatt Francis pump turbines and motor generators units; (5) two 3,000-foot-long, 21-foot-diameter tailraces; (6) a twin circuit, 40-mile-long, 500-kilovolt transmission line extending to the existing transmission line rights-of-way owned by the Arizona Public Service Company or Salt River Project. The estimated annual generation of the Verde Pumped Storage Project would be 1,078 gigawatt-hours.

Applicant Contact: Mr. Frank L. Mazzone, President, Arizona Independent Power, Inc., 957 Fairway Drive, Sonoma, CA 95476; phone: (707) 996–2573.

FERC Contact: Mary Greene; phone: (202) 502–8865.

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–14061–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: April 15, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–9792 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–187–000]

Gulf South Pipeline Company, LP; Notice of Request Under Blanket Authorization

Take notice that on April 11, 2011, Gulf South Pipeline Company, LP (Gulf South), 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, pursuant to its blanket certificate issued in Docket No. CP82–430–000,[1] filed an application in accordance to sections 157.205(b), and 157.208(f)(2) of the Commission's Regulations under the Natural Gas Act (NGA) as amended, requesting to increase the pipeline capacity and maximum operating pressure of its Mobile Bay Lateral (Index 880) in Mobile County, Alabama, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Gulf South proposes to increase the south-bound capacity of its Index 880 by 54 MMcf/day to 304,000 MMcf/day by increasing the maximum operating pressure on the lateral from 976 to 982 psig. This increase in capacity will provide Gulf South's shippers the added flexibility to nominate additional deliveries into Florida markets through the Gulfstream Interconnect. Increasing the capacity by increasing the maximum operating pressure of the Index 880 will provide Gulf South with a timely and cost effective method of increasing firm transportation capacity to additional Florida markets. Gulf South states that its proposal will not have any adverse effects on the processing plant's operations.

Any questions concerning this application may be directed to J. Kyle Stephens, Vice President, Regulatory Affairs, Gulf South Pipeline Company, LP, 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, at (713) 479–8033 or via fax (713) 479–1846, or e-mail at *Kyle.Stephens@bwpmlp.com.*

This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, please contact FERC Online Support at *FERC OnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or, for TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages intervenors to file electronically.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for

[1] *Gulf South Pipeline Company, LP,* 20 FERC ¶ 62,416 (1982).

authorization pursuant to section 7 of the NGA.

Dated: April 15, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–9797 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at Southwest Power Pool Regional Entity Trustee, Regional State Committee and Board of Directors Meetings

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool, Inc. (SPP) Regional Entity Trustee (RE), Regional State Committee (RSC) and Board of Directors, as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

All meetings will be held at the Doubletree Hotel, 616 West 7th Street, Tulsa, OK 74127. The hotel phone number is (800) 838–7914.

SPP RE

April 25, 2011 (8:30 a.m.–2 p.m.).

SPP RSC

April 25, 2011 (1 p.m.–5 p.m.).

SPP Board of Directors

April 26, 2011 (8 a.m.–3 p.m.).

The discussions may address matters at issue in the following proceedings:

Docket No. ER06–451, *Southwest Power Pool, Inc.*
Docket No. ER08–1419, *Southwest Power Pool, Inc.*
Docket No. ER09–659, *Southwest Power Pool, Inc.*
Docket No. ER09–1050, *Southwest Power Pool, Inc.*
Docket No. OA08–104, *Southwest Power Pool, Inc.*
Docket No. ER10–696, *Southwest Power Pool, Inc.*
Docket No. ER10–941, *Southwest Power Pool, Inc.*
Docket No. ER10–1069, *Southwest Power Pool, Inc.*
Docket No. ER10–1254, *Southwest Power Pool, Inc.*
Docket No. ER10–1269, *Southwest Power Pool, Inc.*
Docket No. ER10–1697, *Southwest Power Pool, Inc.*
Docket No. ER10–2244, *Southwest Power Pool, Inc.*
Docket No. ER11–13, *Southwest Power Pool, Inc.*
Docket No. ER11–2303, *Southwest Power Pool, Inc.*
Docket No. ER11–2428, *Southwest Power Pool, Inc.*
Docket No. ER11–2528, *Southwest Power Pool, Inc.*
Docket No. ER11–2711, *Southwest Power Pool, Inc.*
Docket No. ER11–2719, *Southwest Power Pool, Inc.*
Docket No. ER11–2725, *Southwest Power Pool, Inc.*
Docket No. ER11–2736, *Southwest Power Pool, Inc.*
Docket No. ER11–2758, *Southwest Power Pool, Inc.*
Docket No. ER11–2781, *Southwest Power Pool, Inc.*
Docket No. ER11–2783, *Southwest Power Pool, Inc.*
Docket No. ER11–2787, *Southwest Power Pool, Inc.*
Docket No. ER11–2828, *Southwest Power Pool, Inc.*
Docket No. ER11–2837, *Southwest Power Pool, Inc.*
Docket No. ER11–2861, *Southwest Power Pool, Inc.*
Docket No. ER11–2881, *Southwest Power Pool, Inc.*
Docket No. ER11–2916, *Southwest Power Pool, Inc.*
Docket No. ER11–3025, *Southwest Power Pool, Inc.*
Docket No. ER11–3065, *Southwest Power Pool, Inc.*
Docket No. ER11–3073, *Southwest Power Pool, Inc.*
Docket No. ER11–3130, *Southwest Power Pool, Inc.*
Docket No. ER11–3133, *Southwest Power Pool, Inc.*
Docket No. ER11–3154, *Southwest Power Pool, Inc.*
Docket No. ER11–3159, *Southwest Power Pool, Inc.*
Docket No. ER11–3230, *Southwest Power Pool, Inc.*
Docket No. ER11–3299, *Southwest Power Pool, Inc.*
Docket No. ER11–3331, *Southwest Power Pool, Inc.*
Docket No. EL11–34, *Midwest Independent System Transmission Operator, Inc.*

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Dated: April 18, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–9808 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–13123–002—CA]

Eagle Mountain Pumped Storage Hydroelectric Project, Eagle Crest Energy; Notice of Teleconference

a. *Date and Time of Meeting:* Friday, May 6, 2011 at 1 p.m. (Pacific Time).

b. *Place:* By copy of this notice we are inviting all interested parties to attend a teleconference from their location.

c. *FERC Contact:* Kenneth Hogan, (202) 502–8434: *Kenneth.Hogan@ferc.gov.*

d. *Purpose of the Meeting:* Commission staff will be meeting with the staff of the U.S. Fish and Wildlife Service and Eagle Crest Energy as part of its on-going Section 7 Endangered Species Act consultation efforts.

e. All local, State, and Federal agencies, Tribes, and interested parties, are hereby invited to listen in on the teleconference. The phone number and passcode to the teleconference will be provided upon a request made by interested parties. Please make that request to Ms. Ginger Gillian, representative of Eagle Crest Energy, via e-mail at: *ggillin@geiconsultants.com;* or via telephone at: 503–697–1478. All requests for the teleconference phone number and passcode must be made no later than 3 p.m. (Pacific Time), Wednesday, May 4, 2011.

Dated: April 15, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–9793 Filed 4–21–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8996–5]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly Receipt of Environmental Impact Statements
Filed 04/11/2011 Through 04/15/2011
Pursuant to 40 CFR 1506.9

Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA met this mandate by

publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has included its comment letters on EISs on its Web site at: *http://www.epa.gov/compliance/nepa/eisdata.html.* Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, on March 31, 2010, EPA discontinued the publication of the notice of availability of EPA comments in the **Federal Register**.

EIS No. 20110120, Draft EIS, BLM, WY, Bighorn Basin Resource Management Revision Project, Implementation, Bighorn, Hot Springs, Park and Washakie Counties, WY, Comment Period Ends: 07/20/2011, Contact: Chris Carlton 307–775–6227.

EIS No. 20110121, Draft EIS, USA, CA, Presidio of Monterey Installation (POM) Project, To Implement the Real Property Master Plan, Monterey County, CA, Comment Period Ends: 06/06/2011, Contact: Michelle Royal 210–424–8331.

EIS No. 20110122, Draft EIS, FHWA, UT, Bangerter 600 West Project, Proposes Improvements to Address Projected Transportation Demand and Safety, Salt Lake County, UT, Comment Period Ends: 06/13/2011, Contact: Bryan Dillon 801–955–3517.

EIS No. 20110123, Final EIS, FHWA, MD, MD–3 Transportation Corridor Study, Address Existing and Projected Operational and Safety Issues, Along MD–3 from North of US–50 to South of MD–32, Funding, NPDES Permit and US Army COE Section 404 Permit, Anne Arundel and Prince George Counties, MD, Review Period Ends: 06/06/2011, Contact: Denise King 410—779–7145.

EIS No. 20110124, Final EIS, HUD, WA, Yesler Terrace Redevelopment Project, Proposed Redevelopment of Yesler Terrace to Create a Mixed Income, Mixed-Use-Residential Community on a 28 Acre Site, to Better Serve Existing and Future Residents, City of Seattle, WA, Review Period Ends: 05/23/2011, Contact: Dannette R. Smith 206–386–1001.

EIS No. 20110125, Draft Supplement, DOS, 00, Keystone XL Oil Pipeline Project, Additional Information, Presidential Permit for the Proposed Construction, Connection, Operation, and Maintenance of a Pipeline and Associated Facilities at the United States Border for Importation of Crude Oil from Canada, Comment Period Ends: 06/06/2011, Contact: Alexander Yuan 202–647–4284.

EIS No. 20110126, Draft Supplement, MMS, 00, Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sales: 2011 Western Planning Area Sales 218, TX,, Comment Period Ends: 06/06/2011, Contact: Gary Goeke 504–736–3233.

EIS No. 20110127, Final EIS, NRC, SC, Virgil C. Summer Nuclear Station Units 2 and 3, Application for Combined License to Construct and Operate a New Nuclear Reactors, Fairfield County, SC, Review Period Ends: 05/23/2011, Contact: Patricia Vokoun 301–415–3470.

Amended Notices

EIS No. 20110000, Final EIS, USFS, CA, Concow Hazardous Fuels Reduction Project, Propose to Reduce Hazardous Forest Fuels, Plus Establish and Maintain Spaces—Defensible Fuel Profile Zones (DFPZs), Feather River Ranger District, Plumas National Forest, Towns of Paradise, Magalia, Concow, Butte County, CA, Review Period Ends: 05/23/2011, Contact: Carol Spinos 530–532–8932.

Revision to FR Notice Published 01/14/2011: Reestablishing the Review Period, because Non-Distribution of EIS.

Dated: April 19, 2011.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2011–9850 Filed 4–21–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

April 14, 2011.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 23, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or the Internet at *Nicholas_A._Fraser@omb.eop.gov;* and to the Federal Communications Commission's PRA mailbox (*e-mail address: PRA@fcc.gov.*). Include in the e-mail the OMB control number of the collection as shown in the **SUPPLEMENTARY INFORMATION** section below, or if there is no OMB control number, include the Title as shown in the **SUPPLEMENTARY INFORMATION** section. If you are unable to submit your comments by e-mail, contact he person listed below to make alternate arrangements.

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0767.

Title: Sections 1.2110, 1.2111, and 1.2112, Auction and Licensing Disclosures—Ownership and Small Business Status.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 300 respondents; 300 responses.

Estimated Time per Response: .50 hours–2 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirements, and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154(i) and 309(j).

Total Annual Burden: 450 hours.

Total Annual Cost: $20,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality. However, if applicants want to seek confidential treatment of their information, they may do so under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection (IC) to the OMB during this comment period. The Commission is seeking OMB approval for revision of this information collection. However, OMB has approved separately the routine collections of information pursuant to these Commission rules in applications to participate in Commission auctions, FCC Form 175, OMB Control No. 3060–0600, and in Commission licensing applications, FCC Form 601, OMB Control No. 3060–0798. On occasion, the Commission may collection information pursuant to these rules to clarify information provided in these forms or in circumstances to which the standard forms may not directly apply. Accordingly, the Commission requests a revision of the approval of OMB Control No. 3060–0767 because some of the Paperwork Reduction Act requirements have been incorporated into OMB Control Nos.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–9767 Filed 4–21–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

April 14, 2011.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 21, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by e-mail sent them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1087.

Title: Section 15.615, General Administrative Requirements (Broadband Over Power Line (BPL)).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions and State, local or Tribal government.

Number of Respondents: 100 respondents; 100 responses.

Estimated Time per Response: 26 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154(i), 301, 302, 303(e), 303(f) and 303(r).

Total Annual Burden: 2,600 hours.

Total Annual Cost: $60,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The FCC does not require any confidentiality in the information provided to the database. There are no proprietary or trade/technological standards to which these BPL entities wish to restrict access.

Needs and Uses: Section 15.615 requires entities operating Access BPL systems shall supply to an industry-recognized entity, information on all existing Access BPL systems and all proposed Access BPL systems for inclusion into a publicly available database, within 30 days prior to installation of service. Such information shall include the name of the Access BPL provider; the frequencies of the Access BPL operation; the postal ZIP codes served by the specific Access BPL operation; the manufacturer and type of Access BPL equipment and its associated FCC ID number; contact information; and proposed/or actual date of operation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–9768 Filed 4–21–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

April 18, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520 Comments are requested concerning:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to

further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 21, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission. To submit your PRA comments by e-mail send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0795.

Title: Associated WTB and/or PSHSB Call Signs and Antenna Structure Registration Numbers with Licensee's FRN.

Form No.: FCC Form 606.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, and State, local or Tribal government.

Number of Respondents: 43,000 respondents; 43,000 responses.

Estimated Time per Response: 17.6 hours (average).

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Debt Collection Improvement Act of 1996 (DCIA).

Total Annual Burden: 10,750 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality. On a case-by-case basis, the Commission may be required to withhold from public disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the full three year clearance from them. The Commission is requesting OMB approval for an extension (no change in the reporting and/or third party disclosure requirements). There is an adjustment decrease in the total annual burden of 418,250 hours. This is due to 386,000 fewer respondents/responses.

Licensees use FCC Form 606 to associate their FCC Registration Number (FRN) with their Wireless Telecommunications Bureau and/or Public Safety and Homeland Security Bureau call signs and antenna structure registration numbers. The form must be submitted before filing any subsequent applications associated with the existing license or antenna structure registration that is not associated with a FCC Registration Number (FRN).

The information collected in the FCC Form 606 is used to populate the Universal Licensing System (ULS) with the FRNs of licensees and antenna structure registration owners who interact with ULS.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–9771 Filed 4–21–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

April 18, 2011.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995, (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 23, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or the Internet at *Nicholas_A._Fraser@omb.eop.gov;* and to the Federal Communications Commission PRA mailbox (e-mail address: *PRA@fcc.gov*). Include in the e-mail the OMB control number of the collection as shown in the **SUPPLEMENTARY INFORMATION** section below, or if there is no OMB control number, include the Title as shown in the **SUPPLEMENTARY INFORMATION** section. If you are unable to submit your comments by e-mail, contact the person listed below to make alternate arrangements.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1140.

Title: Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket No. 06–229, DA 10–2342.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: State, local or tribal government.

Number of Respondents: 50 respondents; 350 responses.

Estimated Time per Response: 5 hours to 50 hours.

Frequency of Response: Quarterly and one time reporting requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154(i), 301, 303, 332 and 337.

Total Annual Burden: 23,600 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information. However, petitioners may request confidential treatment of their information that they believe to be confidential pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection (IC) to the OMB during this comment period to obtain the three year clearance from them. The Commission is seeking OMB approval for a revision of this information collection.

The Commission adopted an Order, DA 10–2342, which requires public safety broadband waiver recipients to certify, at various stages of deployment, their compliance with the technical requirements set forth in the Order, and to submit additional information regarding their early deployments. The Order provides that waiver recipients may include this information in their quarterly reports to the Commission's Public Safety and Homeland Security Bureau, which are required to be submitted under a previous order (FCC 10–79). The revised information collections required under this Order will enable the Commission and Bureau to monitor the progress of 700 MHz public safety broadband waiver recipients' network deployments and ensure that such deployments are consistent with the Commission's long-standing goal or ensuring nationwide interoperability among public safety broadband networks.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–9770 Filed 4–21–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

April 15, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501—3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 21, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director, (202) 418–0217. For additional information, contact Leslie F. Smith, 202–418–0217, or via e-mail to *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1064.

Title: Regulatory Fee Assessment True-Ups.

Form Number: N/A

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit organizations.

Number of Respondents and Responses: 280 respondents; 280 responses.

Estimated Time per Response: 15 minutes (0.25 hours).

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 70 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: There is nor need for confidentially. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the FCC's rules.

Needs and Uses: Section 9 of the Communications Act of 1934, as amended, 47 CFR 9, mandates that the Commission collect annual regulatory fees from its regulatees. To facilitate this effort, the Commission publishes various Public Notices and Fact Sheets each year that (1) announce when fees payments are due; (2) provide the current schedule of fee amounts for all service categories; and (3) provide guidance for making fee payments to the Commission.

The Commission mails fee assessment notifications to broadcast licensees and commercial mobile radio service (CMRS) licensees on an annual basis. (The Commission notes that beginning in Fiscal Year (FY) 2004, the Commission mailed fee assessment notifications to cable television operators. The Commission stopped this practice in FY 2007 because the method was ineffective and the data sent out on the notifications were unreliable. In OMB 3060–0855, Telecommunications Reporting Worksheet and Related Collections, FCC Form 499–A, FCC499–Q, the Commission has required regulatees to provide e-mail address and revenue amount as the fee assessment basis. The Commission plans to use these e-mail addresses collected in OMB 3060–0855 to transmit the fee assessment notifications in the future.)

With these fee assessment notifications, we also provide regulatees with a "true-up," *i.e.,* to fit, place or shape accurately, opportunity to contact the FCC to update or otherwise correct their assessed fee amounts well before the actual due date for payment of regulatory fees. Providing a "true-up" opportunity is necessary because the data sources that were used to generate the fee assessments may not be complete or accurate.

The Commission offers several ways for regulatees to "true-up" their assessed fee amount. Regulatees may call the Commission's Financial Operations Help Desk. They may return their amended assessment notification or otherwise send written correspondence to a designated Commission mailing address. In addition, regulates may use a Commission-authorized Web site at *http://www.fcc.fees.com* to key-in

corrections to their assessment information.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–9769 Filed 4–21–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: CEDAR COVE BROADCASTING, INC., Station KAVI, Facility ID 173643, BMPED–20110303ABV, From ALAMOSA, CO, To WESTCLIFFE, CO; CHURCH PLANTERS OF AMERICA, Station WOPR, Facility ID 173562, BMPED–20110302ABD, From DANBURY, NC, To MADISON, NC; COX RADIO, INC., Station WHIO–FM, Facility ID 73908, BPH–20110301ABT, From PIQUA, OH, To PLEASANT HILL, OH; CUMULUS LICENSING LLC, Station KMCK–FM, Facility ID 64630, BPH–20110301ACG, From SILOAM SPRINGS, AR, To PRAIRIE GROVE, AR; CUMULUS LICENSING LLC, Station KYNF, Facility ID 70257, BPH–20110301ACH, From PRAIRIE GROVE, AR, To CEDARVILLE, AR; CUMULUS LICENSING LLC, Station WTYB, Facility ID 14069, BPH–20110302ABO, From TYBEE ISLAND, GA, To BLUFFTON, SC; CUMULUS LICENSING LLC, Station WZAT, Facility ID 25549, BPH–20110302ABP, From SAVANNAH, GA, To TYBEE ISLAND, GA; EDUCATIONAL MEDIA FOUNDATION, Station KXPC–FM, Facility ID 61987, BPH–20110302ACD, From LEBANON, OR, To HARRISBURG, OR; EDUCATIONAL PUBLIC RADIO, INC., Station WRTH, Facility ID 175255, BMPED–20110303AAR, From LAYTON, FL, To KEY COLONY BEACH, FL; ENTERTAINMENT MEDIA TRUST, DENNIS J. WATKINS, TRUSTEE, Station WQQW, Facility ID 90598, BP–20100510ATN, From HIGHLAND, IL, To UNIVERSITY CITY, MO; FARMWORKER EDUCATIONAL RADIO NETWORK, INC., Station KBHH, Facility ID 82085, BPH–20110302ACB, From KERMAN, CA, To CANTUA CREEK, CA; FELLOWSHIPWORLD, INC., Station WFWO, Facility ID 172262, BMPED–20110307AAA, From MEDINA, NY, To NEWFANE, NY; GS RADIO OF ILLINOIS, LLC, Station WCSJ, Facility ID 17039, BP–20110228ADK, From MORRIS, IL, To ROANOKE, IL; MARTIN BROADCASTING, INC., Station KYOK, Facility ID 40484, BP–20110407ABH, From CONROE, TX, To KATY, TX; MIDNATION MEDIA LLC, Station KNDH, Facility ID 165977, BPH–20110301ACN, From HETTINGER, ND, To NEW SALEM, ND; OLD NORTHWEST BROADCASTING, INC., Station WWBL, Facility ID 50239, BPH–20110302AAC, From WASHINGTON, IN, To PETERSBURG, IN; RADIO ONE LICENSES, LLC, Station WFXK, Facility ID 24931, BPH–20110301ABN, From TARBORO, NC, To BUNN, NC; RAMS I, Station NEW, Facility ID 160978, BMP–20110311ABB, From FAYETTE, AL, To COKER, AL; SAIDNEWSFOUNDATION, Station KYCO, Facility ID 175979, BMPED–20100909ABQ, From LIMON, To HUGO; THE ORIGINAL COMPANY, INC, Station WBTO–FM, Facility ID 52567, BPH–20110302AAE, From PETERSBURG, IN, To HAUBSTADT, IN; TOM F. HUTH, Station KRAC, Facility ID 54978, BP–20110302ACC, From QUINCY, CA, To RED BLUFF, CA; UNITED STATES CP, LLC, Station KXCL, Facility ID 164277, BMPH–20110303ABW, From WESTCLIFFE, CO, To ROCK CREEK PARK, CO.

DATES: Comments may be filed on or before June 21, 2011.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.* A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554 telephone 1–800–378–3160 or *http://www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2011–9859 Filed 4–21–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as "of record" notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *http://www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: April 18, 2011.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10353	Bartow County Bank	Cartersville	GA	04/15/2011
10354	Heritage Banking Group	Carthage	MS	04/15/2011
10355	New Horizons Bank	East Ellijay	GA	04/15/2011

INSTITUTIONS IN LIQUIDATION—Continued

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10356	Nexity Bank	Birmingham	AL	04/15/2011
10357	Rosemount National Bank	Rosemount	MN	04/15/2011
10358	Superior Bank	Birmingham	AL	04/15/2011

[FR Doc. 2011–9788 Filed 4–21–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

TIME AND DATE: 3 p.m., Monday, April 25, 2011.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Federal Mine Safety and Health Review Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Nally & Hamilton Enterprises, Inc.*, Docket No. KENT 2008–712. (Issues include whether the judge erred in finding no violation of 30 CFR 77.410(c), which requires that warning devices be "maintained" in functional condition.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2011–9951 Filed 4–20–11; 4:15 pm]

BILLING CODE 6735–01–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 May 19, 2011.

A. Federal Reserve Bank of Atlanta (Clifford Stanford, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *PB Bancshares, Inc., Employee Stock Ownership Plan,* Clifton, Tennessee; to become a bank holding company by retaining 27.34 percent of the voting shares of PB Bancshares, Inc., and Peoples Bank, both in Clifton, Tennessee.

Board of Governors of the Federal Reserve System, April 19, 2011.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–9787 Filed 4–21–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, 12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 9, 2011.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Piedmont Community Bank Holdings, Inc.,* Raleigh, North Carolina; to engage *de novo* through its subsidiary, VantageSouth Holdings, LLC Raleigh, North Carolina, in lending and credit-related activities, pursuant to sections 225.28(b)(1) and (b)(2)(vi) of Regulation Y.

Board of Governors of the Federal Reserve System, April 19, 2011.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–9786 Filed 4–21–11; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0037; Docket 2011–0079; Sequence 3]

Federal Acquisition Regulation; Information Collection; Presolicitation Notice and Response

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Regulatory Secretariat (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning presolicitation notice and response.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before June 21, 2011.

ADDRESSES: Submit comments identified by Information Collection 9000–0037 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting "Information Collection 9000–0037" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0037". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0037" on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0037.

Instructions: Please submit comments only and cite Information Collection 9000–0037, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Procurement Analyst, Acquisition Policy Division, GSA (202) 219–0202 or *Cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Presolicitation notices are used by the Government for several reasons, one of which is to aid prospective contractors in submitting proposals without undue expenditure of effort, time, and money. The Government also uses the presolicitation notices to control printing and mailing costs. The presolicitation notice response is used to determine the number of solicitation documents needed and to assure that interested offerors receive the solicitation documents. The responses are placed in the contract file and referred to when solicitation documents are ready for mailing. After mailing, the responses remain in the contract file and become a matter of record.

B. Annual Reporting Burden

Respondents: 5,310.

Responses per Respondent: 8.

Annual Responses: 42,480.

Hours per Response: .08.

Total Burden Hours: 3,398.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 1st Street, NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0037, Presolicitation Notice and Response, in all correspondence.

Dated: April 15, 2011.

Millisa Gary,

Acting Director, Office of Governmentwide Acquisition Policy.

[FR Doc. 2011–9759 Filed 4–21–11; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0001; Docket 2011–0079; Sequence 8]

Federal Acquisition Regulation; Information Collection; Affidavit of Individual Surety, (Standard Form 28)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Regulatory Secretariat (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Affidavit of Individual Surety, Standard Form 28.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before June 21, 2011.

ADDRESSES: Submit comments identified by Information Collection 9000–0001 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting "Information Collection 9000–0001" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0001". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0001" on your attached document.

• *Fax:* 202–501–4067.

• *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417. *Attn:* Hada Flowers/IC 9000–0001.

Instructions: Please submit comments only and cite Information Collection 9000–0001, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Procurement Analyst, Acquisition Policy Division, GSA (202) 219–0202 or e-mail *cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The Affidavit of Individual Surety (Standard Form (SF) 28) is used by all executive agencies, including the Department of Defense, to obtain information from individuals wishing to serve as sureties to Government bonds. To qualify as a surety on a Government bond, the individual must show a net worth not less than the penal amount of the bond on the SF 28. It is an elective decision on the part of the maker to use individual sureties instead of other available sources of surety or sureties for Government bonds. We are not aware if other formats exist for the collection of this information.

The information on SF 28 is used to assist the contracting officer in determining the acceptability of individuals proposed as sureties.

B. Annual Reporting Burden

Respondents: 500.

Responses per Respondent: 2.

Total Responses: 1,000.

Hours per Response: .4.

Total Burden Hours: 400.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Branch (MVCB), 1275 First Street, NE., Washington, DC, telephone (202) 501–4755. Please cite OMB Control No. 9000–0001, Affidavit of Individual Surety, Standard Form 28, in all correspondence.

Dated: April 15, 2011.

Millisa Gary,

Acting Director, Office of Governmentwide Acquisition Policy.

[FR Doc. 2011–9764 Filed 4–21–11; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0022; Docket 2011–0079; Sequence 11]

Federal Acquisition Regulation; Information Collection; Duty-Free Entry

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Regulatory Secretariat (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning duty-free entry.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before June 21, 2011.

ADDRESSES: Submit comments identified by Information Collection 9000–0022 by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting "Information Collection 9000–0022" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0022". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0022" on your attached document.

• *Fax:* 202–501–4067.

• *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417. *Attn:* Hada Flowers/IC 9000–0022.

Instructions: Please submit comments only and cite Information Collection 9000–0022, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Procurement Analyst, Acquisition Policy Division, GSA (202) 219–0202 or e-mail *Cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

United States laws impose duties on foreign supplies imported into the customs territory of the United States. Certain exemptions from these duties are available to Government agencies. These exemptions are used whenever the anticipated savings outweigh the administrative costs associated with processing required documentation. When a Government contractor purchases foreign supplies, it must notify the contracting officer to determine whether the supplies should be duty-free. In addition, all shipping documents and containers must specify certain information to assure the duty-free entry of the supplies.

The contracting officer analyzes the information submitted by the contractor to determine whether or not supplies should enter the country duty-free. The information, the contracting officer's determination, and the U.S. Customs forms are placed in the contract file.

B. Annual Reporting Burden

Respondents: 1,330.

Responses per Respondent: 10.

Total Responses: 13,300.

Hours per Response: .5.

Total Burden Hours: 6,650.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0022, Duty-Free Entry, in all correspondence.

Dated: April 15, 2011.

Millisa Gary,

Acting Director, Office of Governmentwide Acquisition Policy.

[FR Doc. 2011–9762 Filed 4–21–11; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0153; Docket 2011–0079; Sequence 12]

Federal Acquisition Regulation; Information Collection; OMB Circular A–119

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0153).

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Regulatory Secretariat (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning OMB Circular A–119.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before June 21, 2011.

ADDRESSES: Submit comments identified by Information Collection 9000–0153 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting "Information Collection 9000–0153" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0153". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0153" on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417. *Attn:* Hada Flowers/IC 9000–0153.

Instructions: Please submit comments only and cite Information Collection 9000–0153, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Robinson, Procurement Analyst, Contract Policy Branch, GSA (202) 501–2658 or e-mail *anthony.robinson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

On February 19, 1998, a revised OMB Circular A–119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities," was published in the **Federal Register** at 63 FR 8545, February 19, 1998. FAR Subparts 11.1 and 11.2 were revised and a solicitation provision was added at 52.211–7, Alternatives to Government-Unique Standards, to implement the requirements of the revised OMB circular. If an alternative standard is proposed, the offeror must furnish data and/or information regarding the alternative in sufficient detail for the Government to determine if it meets the Government's requirements.

B. Annual Reporting Burden

Respondents: 100.

Responses per Respondent: 1.

Total Responses: 100.

Hours per Response: 1.

Total Burden Hours: 100.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0153, OMB Circular A–119, in all correspondence.

Dated: April 15, 2011.

Millisa Gary,

Acting Director, Office of Governmentwide Acquisition Policy.

[FR Doc. 2011–9761 Filed 4–21–11; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Centers for Disease Control and Prevention/Health Resources and Services Administration (CDC/HRSA) Advisory Committee on HIV and STD Prevention and Treatment (CHACHSPT)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), CDC/HRSA announces the following meeting of the aforementioned committee.

Times and Dates

8 a.m.–5:30 p.m., May 10, 2011.
8 a.m.–3 p.m., May 11, 2011.

Place: Loews Atlanta Hotel, 1065 Peachtree Street, NE., Atlanta, Georgia 30309, *Telephone:* (202) 234–0700.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

Purpose: This Committee is charged with advising the Director, CDC and the Administrator, HRSA, regarding activities related to prevention and control of HIV/AIDS and other STDs, the support of health care services to persons living with HIV/AIDS, and education of health professionals and the public about HIV/AIDS and other STDs.

Matters To Be Discussed: Agenda items include (1) Update on Institute of Medicine Studies related to HIV testing, Barriers and Linkage to HIV Care; (2) Update on Strategic Prevention Activities from both CHAC Workgroups on Sexual Health and Viral Hepatitis; (3) Update on CDC HIV Prevention Portfolio with Emphasis on the new Division of HIV/AIDS Prevention Strategic Plan, HIV Surveillance, Expanded HIV Testing, and Fiscal Year 2012 Activities; (4) Panel Presentation on CDC Strategic Priorities and Coordination of Media and Social Marketing related to HIV, STD and Viral Hepatitis prevention; and (5) Rethinking Sexually Transmitted Disease Prevention in a transformed health system: Opportunities and Challenges.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Margie Scott-Cseh, CDC, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, 1600 Clifton Road, NE., Mailstop E–07, Atlanta, Georgia 30333, *Telephone:* (404) 639–8317.

The Director, Management Analysis and Services Office, has been delegated

the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Dated: April 15, 2011.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2011–9879 Filed 4–21–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–R–21]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections 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 function; (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.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Withholding Medicare Payments to Recover Medicaid Overpayments and Supporting Regulations in 42 CFR 447.31; *Form No.:* CMS–R–21 (OMB#: 0938–0287); *Use:* Section 2104 of the Omnibus Reconciliation Act of 1981 provides CMS with the authority to withhold Medicare payments to recover Medicaid overpayments that the Medicaid State Agency has been unable to recover. When the CMS Regional Office (RO) receives an overpayment case from a State Agency, the case file is examined to determine whether the conditions for withholding Medicare payments have been met. If the RO determines that the case is appropriate for withholding Medicare payments, the RO will contact the institution's intermediary or individual's carrier to determine the amount of Medicare payments to which the entity would otherwise be entitled. The RO will then give notice to the intermediary/carrier to withhold the entity's Medicare payment; *Frequency:* Occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 54; *Total Annual Responses:* 27; *Total Annual Hours:* 81. (For policy questions regarding this collection contact Rory Howe at 410–786–4878. For all other issues call 410–786–1326.)

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on *May 23, 2011.*

OMB, Office of Information and Regulatory Affairs, *Attention:* CMS Desk Officer, *Fax Number:* (202) 395–6974, *E-mail: OIRA_submission@omb.eop.gov.*

Dated: April 19, 2011.

Martique Jones,

Director, Regulations Development Group—Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2011–9846 Filed 4–21–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2332–FN]

Medicare and Medicaid Programs; Approval of the American Association for Accreditation of Ambulatory Surgery Facilities, Inc. for Deeming Authority for Organizations That Provide Outpatient Physical Therapy and Speech-Language Pathology Services

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final notice.

SUMMARY: This notice announces our decision to approve the American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF) for recognition as a national accreditation program for organizations that provide outpatient physical therapy and speech-language pathology services seeking to participate in the Medicare or Medicaid programs.

DATES: *Effective Date:* This final notice is effective April 22, 2011 through April 22, 2015.

FOR FURTHER INFORMATION CONTACT: Alexis Prete, (410) 786–0375. Patricia Chmielewski, (410) 786–6899.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive outpatient physical therapy and speech language pathology covered services from a provider of services, a clinic, a rehabilitation agency, a public health agency, or by others under an arrangement with and under the supervision of such provider, clinic, rehabilitation agency, or public health agency (collectively, "organizations"), provided certain requirements are met. Section 1861(p)(4) of the Social Security Act (the Act) establishes distinct criteria for organizations seeking approval to provide outpatient physical therapy and speech language pathology services. The regulations at 42 CFR part 485, subpart H specify, among other things, the conditions that an organization providing outpatient physical therapy and speech-language pathology services must meet to participate in the Medicare program. Regulations concerning provider agreements are located at 42 CFR part 489 (Provider Agreements and Supplier Approval) and those pertaining to survey and certification of facilities at 42 CFR part 488.

Generally, in order to enter into a provider agreement, an organization offering outpatient physical therapy and speech language pathology services must first be certified by a State survey agency as complying with the conditions or requirements set forth in section 1861(p)(4) of the Act, and 42 CFR part 485, subpart H. Thereafter, the organization is subject to ongoing review by a State survey agency to determine whether it continues to meet the Medicare requirements. There is an alternative, however, to State compliance surveys. Accreditation by a nationally-recognized accreditation program can substitute for ongoing State review.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accreditation organization (AO) that all applicable Medicare conditions are met or exceeded, we may "deem" that provider entity as having met the requirements. Accreditation by an accreditation organization is voluntary and is not required for Medicare

participation. A national AO applying for deeming authority under part 488 subpart A, must provide us with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions.

II. Deeming Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for deeming authority is conducted in a timely manner. The Act provides us 210 calendar days after the date of receipt of a complete application, with any documentation necessary to make a determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accreditation body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice and Response to Comments

On November 29, 2010, we published a proposed notice in the **Federal Register** (75 FR 73088) announcing AAAASF's request for approval as a deeming organization for organizations that provide outpatient physical therapy and speech-language pathology services. In that notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.4 (Application and reapplication procedures for accreditation organizations), we conducted a review of AAAASF's application in accordance with the criteria specified by our regulations, which include, but are not limited to, the following:

- An onsite administrative review of AAAASF's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- A comparison of AAAASF's outpatient physical therapy and speech-language pathology services accreditation standards to our current Medicare outpatient physical therapy and speech-language pathology services conditions of participation (CoPs).
- A documentation review of AAAASF's survey processes to:
  + Determine the composition of the survey team, surveyor qualifications, and AAAASF's ability to provide continuing surveyor training.
  + Compare AAAASF's processes to those of State survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
  + Evaluate AAAASF's procedures for monitoring organizations providing outpatient physical therapy and speech-language pathology services found to be out of compliance with AAAASF's program requirements. The monitoring procedures are used only when the AAAASF identifies noncompliance. If noncompliance is identified through validation reviews, the State survey agency monitors corrections as specified at § 488.7(d).
  + Assess AAAASF's ability to report deficiencies to the surveyed organizations and respond to the facility's plan of correction in a timely manner.
  + Establish AAAASF's ability to provide us with electronic data and reports necessary for effective validation and assessment of AAAASF's survey process.
  + Determine the adequacy of staff and other resources.
  + Review AAAASF's ability to provide adequate funding for performing required surveys.
  + Confirm AAAASF's policies with respect to whether surveys are announced or unannounced.
  + Obtain AAAASF's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the November 26, 2010 proposed notice also solicited public comments regarding whether AAAASF's requirements meet or exceed the Medicare CoPs for outpatient physical therapy and speech-pathology services. We received 2 comments in response to our proposed notice.

Comment: One commenter expressed concern that AAAASF does not have adequate experience and familiarity with organizations that provide outpatient physical therapy and speech-pathology services, nor does AAAASF have accreditation standards that exceed the current Medicare requirements.

Response: Regulations at § 488.4 and § 488.8 specify the process to be followed for application, review, approval and renewal of deeming authority for AOs. A national AO applying for approval of deeming authority under part 488, subpart A, must provide CMS with reasonable assurance that the AO requires accredited provider entities to meet the requirements that are at least as stringent as the Medicare conditions. AO standards may, but are not required to, exceed our requirements. AAAASF's application was thoroughly reviewed in accordance with these requirements and found to meet the Medicare requirements.

Comment: One commenter expressed concern that AAAASF's application did not include occupational therapy services.

Response: The regulations at 42 CFR part 485, subpart H specify, among other things, the conditions that an organization providing outpatient physical therapy and speech-language pathology services must meet to participate in the Medicare program. These regulations do not include a requirement for occupational therapy services. Therefore, it was not necessary for occupational therapy services to be addressed in AAAASF's application.

IV. Provisions of the Final Notice

A. Differences Between AAAASF's Standards and Requirements for Accreditation and Medicare's Conditions and Survey Requirements

We compared AAAASF's outpatient physical therapy and speech-pathology services accreditation requirements and survey process with the Medicare CoPs and survey process as outlined in the State Operations Manual (SOM). Our review and evaluation of AAAASF's deeming application, which were conducted as described in section III of this final notice, yielded the following:

- AAAASF revised its standards to ensure social workers meet the requirements outlined in 42 CFR part 484 for States that do not require licensure.
- AAAASF revised its crosswalk to include the requirements that all vocational specialists must meet to comply with the requirements at § 485.705(c)(7)(i) through (iii).
- AAAASF revised its policies to ensure its survey files were complete, accurate and consistent with the Medicare requirements at § 488.6(a).
- AAAASF revised its accreditation decision letters to ensure they are accurate and contain all of the elements necessary for the CMS Regional Office to render a decision regarding deemed status of an organization that provides outpatient physical therapy and speech-language pathology services.
- AAAASF modified its policies regarding timeframes for sending and

receiving a required plan of correction in accordance with the requirements at section 2728 of the SOM.

B. Term of Approval

Based on the review and observations described in section III of this final notice, we have determined that AAAASF's requirements for organizations providing outpatient physical therapy and speech-language pathology services meet or exceed our requirements. Therefore, we approve AAAASF as a national accreditation organization for organizations that provide outpatient physical therapy and speech-language pathology services that request participation in the Medicare program, effective April 22, 2011 through April 22, 2015.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 30, 2011.

Donald M. Berwick,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2011–9176 Filed 4–21–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2372–N]

Announcement of the Re-Approval of the American Society of Histocompatibility and Immunogenetics (ASHI) as an Accreditation Organization Under the Clinical Laboratory Improvement Amendments of 1988

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the application of the American Society for Histocompatibility and Immunogenetics (ASHI) for re-approval as an accreditation organization for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program for the following specialty and subspecialty areas: General Immunology; Histocompatibility; and ABO/Rh typing. We have determined that the ASHI meets or exceeds the applicable CLIA requirements. We are announcing the re-approval and grant ASHI deeming authority for a period of 5 years.

DATES: *Effective Date:* This notice is effective from April 22, 2011 to April 22, 2016.

FOR FURTHER INFORMATION CONTACT: Penelope Meyers, (410) 786–3366.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

On October 31, 1988, the Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578). CLIA amended section 353 of the Public Health Service Act. We issued a final rule implementing the accreditation provisions of CLIA on July 31, 1992 (57 FR 33992). Under those provisions, CMS may grant deeming authority to an accreditation organization if its requirements for laboratories accredited under its program are equal to or more stringent than the applicable CLIA program requirements in 42 CFR part 493 (Laboratory Requirements). Subpart E of part 493 (Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program) specifies the requirements an accreditation organization must meet to be approved by CMS as an accreditation organization under CLIA.

II. Notice of Approval of the ASHI as an Accreditation Organization

In this notice, we approve ASHI as an organization that may accredit laboratories for purposes of establishing its compliance with CLIA requirements for the subspecialty of General Immunology, the specialty of Histocompatibility, and the subspecialty of ABO/Rh typing. We have examined the initial ASHI application and all subsequent submissions to determine its accreditation program's equivalency with the requirements for approval of an accreditation organization under subpart E of part 493. We have determined that the ASHI meets or exceeds the applicable CLIA requirements. We have also determined that the ASHI will ensure that its accredited laboratories will meet or exceed the applicable requirements in subparts H, I, J, K, M, Q, and the applicable sections of R. Therefore, we grant the ASHI approval as an accreditation organization under subpart E of part 493, for the period stated in the **DATES** section of this notice for the subspecialty of General Immunology, the specialty of Histocompatibility, and the subspecialty of ABO/Rh typing. As a result of this determination, any laboratory that is accredited by the ASHI during the time period stated in the **DATES** section of this notice will be deemed to meet the CLIA requirements for the listed subspecialties and specialties, and therefore, will generally not be subject to routine inspections by a State survey agency to determine its compliance with CLIA requirements. The accredited laboratory, however, is subject to validation and complaint investigation surveys performed by CMS, or its agent(s).

III. Evaluation of the ASHI Commission Request for Approval as an Accreditation Organization Under CLIA

The following describes the process used to determine that the ASHI accreditation program meets the necessary requirements to be approved by CMS and that, as such, CMS may approve ASHI as an accreditation program with deeming authority under the CLIA program. ASHI formally applied to CMS for approval as an accreditation organization under CLIA for the subspecialty of General Immunology, the specialty of Histocompatibility, and the subspecialty of ABO/Rh typing. In reviewing these materials, we reached the following determinations for each applicable part of the CLIA regulations:

A. Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program

The ASHI submitted its mechanism for monitoring compliance with all requirements equivalent to condition-level requirements, a list of all its current laboratories and the expiration date of their accreditation, and a detailed comparison of the individual accreditation requirements with the comparable condition-level requirements. The ASHI policies and procedures for oversight of laboratories performing laboratory testing for the subspecialty of General Immunology,

the specialty of Histocompatibility, and the subspecialty of ABO/Rh typing are equivalent to those of CLIA in the matters of inspection, monitoring proficiency testing (PT) performance, investigating complaints, and making PT information available. ASHI's requirements for monitoring and inspecting laboratories are the same as those previously approved by CMS for laboratories in the areas of accreditation organization, data management, the inspection process, procedures for removal or withdrawal of accreditation, notification requirements, and accreditation organization resources. The requirements of the accreditation programs submitted for approval are equal to the requirements of the CLIA regulations.

B. Subpart H—Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing

The ASHI's requirements are equal to or more stringent than the CLIA requirements at § 493.801 through § 493.865.

For the specialty of Histocompatibility, ASHI requires participation in at least one external PT program, if available, in histocompatibility testing with an 80 percent score required for successful participation and enhanced PT for laboratories that fail an event. The CLIA regulations do not contain a requirement for external PT for the specialty of Histocompatibility. For the subspecialty of General Immunology, and the subspecialty of ABO/Rh typing, ASHI's requirements are equal to the CLIA requirements.

C. Subpart J—Facility Administration for Nonwaived Testing

The ASHI's requirements for the submitted subspecialties and specialties are equal to the CLIA requirements at § 493.1100 through § 493.1105.

D. Subpart K—Quality System for Nonwaived Testing

The ASHI requirements for the submitted subspecialties and specialties are equal to or more stringent than the CLIA requirements at § 493.1200 through § 493.1299. For instance, ASHI's control procedure requirements for the test procedures Nucleic Acid Testing and Flow Cytometry are more specific and detailed than the CLIA language for requirements for control procedures. Sections 493.1256(c)(1) and (c)(2) require control materials that will detect immediate errors and monitor accuracy and precision of test performance that may be caused by test system failures, environmental conditions and variance in operator performance. ASHI standards provide detailed, specific requirements for the control materials to be used to meet these CLIA requirements.

E. Subpart M—Personnel for Nonwaived Testing

We have determined that ASHI requirements for the submitted subspecialties and specialties are equal to or more stringent than the CLIA requirements at § 493.1403 through § 493.1495 for laboratories that perform moderate and high complexity testing. Experience requirements for Director, Technical Supervisor, and General Supervisor exceed CLIA's personnel experience requirements in the specialty of Histocompatibility.

F. Subpart Q—Inspections

We have determined that the ASHI requirements for the submitted subspecialties and specialties are equal to or more stringent than the CLIA requirements at § 493.1771 through § 493.1780. The ASHI inspections are more frequent than CLIA requires. ASHI performs an onsite inspection every 2 years and requires submission of a self-evaluation inspection in the intervening years. If the self-evaluation inspection indicates that an onsite inspection is warranted, ASHI conducts an additional onsite review.

G. Subpart R—Enforcement Procedures

The ASHI meets the requirements of subpart R to the extent that it applies to accreditation organizations. The ASHI policy sets forth the actions the organization takes when laboratories it accredits do not comply with its requirements and standards for accreditation. When appropriate, the ASHI will deny, suspend, or revoke accreditation in a laboratory accredited by the ASHI and report that action to us within 30 days. The ASHI also provides an appeals process for laboratories that have had accreditation denied, suspended, or revoked.

We have determined that the ASHI's laboratory enforcement and appeal policies are equal to or more stringent than the requirements of part 493 subpart R as they apply to accreditation organizations.

IV. Federal Validation Inspections and Continuing Oversight

The Federal validation inspections of laboratories accredited by ASHI may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections, performed by CMS or our agents, or the State survey agencies, will be our principal means for verifying that the laboratories accredited by the ASHI remain in compliance with CLIA requirements. This Federal monitoring is an ongoing process.

V. Removal of Approval as an Accrediting Organization

Our regulations provide that we may rescind the approval of an accreditation organization, such as that of the ASHI, for cause, before the end of the effective date of approval. If we determine that the ASHI has failed to adopt, maintain and enforce requirements that are equal to, or more stringent than, the CLIA requirements, or that systemic problems exist in its monitoring, inspection or enforcement processes, we may impose a probationary period, not to exceed 1 year, in which the ASHI would be allowed to address any identified issues. Should the ASHI be unable to address the identified issues within that timeframe, we may, in accordance with the applicable regulations, revoke ASHI's deeming authority under CLIA.

Should circumstances result in our withdrawal of the ASHI's approval, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

VI. Collection of Information Requirements

This notice does not impose any information collection and record keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with the accreditation process for clinical laboratories under the CLIA program, codified in 42 CFR part 493 subpart E, are currently approved by OMB under OMB approval number 0938–0686.

VII. Executive Order 12866 Statement

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

Authority: Section 353 of the Public Health Service Act (42 U.S.C. 263a).

Dated: April 7, 2011.

Donald M. Berwick,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2011–8948 Filed 4–21–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Developmental Disabilities Annual Protection and Advocacy Systems Program Performance Report.

OMB No.: 0980–0160.

Description: This information collection is required by Federal statute. Each State Protection and Advocacy System must prepare and submit a program Performance Report for the preceding fiscal year of activities and accomplishments and of conditions in the State. The information in the Annual Report will be aggregated into a national profile of Protection and Advocacy Systems. It will also provide the Administration on Developmental Disabilities (ADD) with an overview of program trends and achievements and will enable ADD to respond to administration and congressional requests for specific information on program activities. This information will also be used to submit a Centennial Report to Congress as well as to comply with requirements in the Government Performance and Results Act of 1993.

Respondents: Protection and Advocacy Entities.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Program Performance Report	57	1	44	2,508

Estimated Total Annual Burden Hours: 2,508.

Additional Information: Copies of the proposed collection may be obtained 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. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, E-mail: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–9772 Filed 4–21–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0033]

Withdrawal of Approval of New Animal Drug Applications; Phenylbutazone; Pyrantel; Tylosin; Sulfamethazine; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) published a document in the **Federal Register** of March 2, 2011 (76 FR 11490), providing notice of the voluntary withdrawal of approval of eight new animal drug applications (NADAs). That document contained an error in the preamble. FDA is correcting the name and address for the sponsor of five of the NADAs. This correction is being made to improve the accuracy of the **Federal Register**.

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: In the **Federal Register** of March 2, 2011, in FR Doc. 2011–4545, on page 11490, in the first column, correct the Truow Nutrition, Inc., name and address to read: Trouw Nutrition USA LLC, P.O. Box 219, 115 Executive Dr., Highland, IL 62249.

Dated: April 15, 2011.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2011–9778 Filed 4–21–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Administration for Children and Families

Advisory Committee on the Maternal, Infant and Early Childhood Home Visiting Program Evaluation; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. appendix 2), notice is hereby given of the following meeting:

Name: Advisory Committee on the Maternal, Infant and Early Childhood Home Visiting (MIECHV) Program Evaluation.

Date and Time: Thursday, May 5, 2011:
9 a.m.–5:15 p.m. EST. Friday, May 6, 2011:
9 a.m.–2:15 p.m. EST.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, Virginia 22314. (703) 837–0440.

This notice announces a forthcoming meeting of a public advisory committee of the Health Resources and Services Administration and the Administration for Children and Families. The meeting will be open to the public. This notice is being published less than 15 days prior to the meeting due to difficulties in securing adequate and accessible space to accommodate the public.

Meeting Registration: To register for the meeting, the public can contact Carolyn Swaney at *cswaney@icfi.com.*

Agenda: The purpose of this meeting is to gather comments from the Committee on the design of the MIECHV

program evaluation. Topics to be discussed include an overview of the impact and implementation study designs, sampling design, analysis of state needs assessments, and cost effectiveness study.

Public Comments: The public can submit comments for the Committee on the design of the national evaluation of the home visiting program to Carlos Cano, Health Resources and Services Administration, at *ccano@hrsa.gov.* Comments should be submitted by May 2, 2011.

Special Accommodations: Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed above at least 10 days prior to the meeting.

For Further Information Contact: T'Pring Westbrook, Administration for Children and Families, *tpring.westbrook@acf.hhs.gov.*

Supplementary Information: The Advisory Committee on the Maternal, Infant and Early Childhood Home Visiting Program Evaluation is authorized by subsection 511(g)(1) of Title V of the Social Security Act (42 U.S.C. 701 *et seq.*) as amended by section 2951 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148) (the Affordable Care Act). The purpose of the Committee is to advise the Secretary of Health and Human Services on the design, plan, progress, and findings of the evaluation required for the home visiting program under the Affordable Care Act. More specifically, the Committee is to review, and make recommendations on, the design and plan for this evaluation; maintain and advise the Secretary regarding the progress of the evaluation; and comment, if the Committee so desires, on the report submitted to Congress under subsection 511(g)(3) of Title V.

Under a government contract, the MDRC, formerly known as Manpower Demonstration Research Corporation, a nonprofit, nonpartisan education and social policy research organization, developed the design options for the evaluation of the home visiting program. These study design options for this national evaluation will be formally presented to the Committee for review. As specified in the legislation, the evaluation will provide a state-by-state analysis of the needs assessments and the States' actions in response to the assessments. Additionally, as specified in the legislation, the evaluation will provide an assessment of: (a) The effect of early childhood home visiting programs on outcomes for parents, children, and communities with respect to domains specified in the Affordable Care Act (such as maternal and child health status, school readiness, and domestic violence, among others); (b) the effectiveness of such programs on different populations, including the extent to which the ability to improve participant outcomes varies across programs and populations; and (c) the potential for the activities conducted under such programs, if scaled broadly, to enhance health care practices, eliminate health disparities, improve health care system quality, and reduce costs.

Dated: April 18, 2011.

Mary K. Wakefield,

Administrator, Health Resources and Services Administration.

Dated: April 18, 2011.

Joan Lombardi,

Deputy Assistant Secretary and Inter-Departmental Liaison for Early Childhood Development, Administration for Children and Families.

[FR Doc. 2011–9756 Filed 4–21–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Health Information National Trends Survey 4 (HINTS 4) (NCI)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Health Information National Trends Survey 4 (HINTS 4) (OMB 0925–0538, Exp 11/30/2008). *Type of Information Collection Request:* Reinstatement with Change. *Need and Use of Information Collection:* HINTS 4 will provide NCI with a comprehensive assessment of the American public's current access to, and use of, information about cancer across the cancer care continuum from cancer prevention, early detection, diagnosis, treatment, and survivorship. The content of the survey will focus on understanding the degree to which members of the general population understand vital cancer prevention messages. More importantly, this NCI survey will couple knowledge-related questions with inquiries into the communication channels through which understanding is being obtained, and assessment of cancer-related behavior. The Public Health Services Act, Sections 411 (42 U.S.C. 285a) and 412 (42 U.S.C. 285a–1.1 and 285a–1.3), outline the research and information dissemination mission of the NCI which authorizes the collection of this information. *Frequency of Response:* Once. *Affected Public:* Individuals. *Type of Respondents:* U.S. adults (persons aged 18+). The annual reporting burden is documented in the table below. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Data collection cycle	Type of respondent	Number of respondents	Frequency of response	Average time per response minutes/hour	Annual hour burden
Cycle 1	Mail survey	3,533	1	30/60 (.5)	1,766.5
Cycle 2	Mail survey	3,533	1	30/60 (.5)	1,766.5
Cycle 3	Mail survey	3,500	1	30/60 (.5)	1,750
Cycle 4	Mail survey	3,500	1	30/60 (.5)	1,750
Total					7,033

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Bradford W. Hesse, PhD, Project Officer, National Cancer Institute, NIH, EPN 4068, 6130 Executive Boulevard, MSC 7365, Bethesda, Maryland 20892–7365, or call non-toll free number 301–594–9904 or fax your request to 301–480–2198, or e-mail your request, including your address, to *hesseb@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: April 18, 2011.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2011–9827 Filed 4–21–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: June 6–7, 2011.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Ranga Srinivas, PhD, Chief, Extramural Project Review Branch, EPRB, NIAAA, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852. (301) 451–2067. *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: April 14, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–9814 Filed 4–21–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Biomedical Research Review Subcommittee.

Date: June 14–15, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Philippe Marmillot, PhD, Scientific Review Officer, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, RM 2019, Bethesda, MD 20892, 301–443–2861, *marmillotp@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: April 14, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–9825 Filed 4–21–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA Blending Research and Practice (1145).

Date: April 22, 2011.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Minna Liang, PhD, Scientific Review Officer, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4226, MSC 9550, Bethesda, MD 20852–9550 (301) 435–1432, *liangm@nida.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: April 15, 2011.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–9824 Filed 4–21–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Bacterial Pathogens and Drug Discovery.

Date: May 11–12, 2011.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting.)

Contact Person: Liangbiao Zheng, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–402–5671, *zhengli@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroscience and Neurodegeneration Study Section.

Date: May 19, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Samuel C Edwards, PhD, Chief, Brain Disorders and Clinical Neuroscience, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Kidney, Urology Continues Submission.

Date: May 26, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting.)

Contact Person: Mushtaq A Khan, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, 301–435–1778, *khanm@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 15, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–9823 Filed 4–21–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Oncology.

Date: May 10–11, 2011.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting.)

Contact Person: Aaron Mendelsohn, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7770, Bethesda, MD 20892, 301–435–1721. *mendelsohnab@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Endocrinology and Metabolism.

Date: May 13, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting.)

Contact Person: John Bleasdale, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–4514. *bleasdaleje@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Virology.

Date: May 17, 2011, 1 p.m. to 4 p.m.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: Liangbiao Zheng, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–402–5671. *zhengli@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Chronic Diseases.

Date: May 18–19, 2011.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting.)

Contact Person: Aaron Mendelsohn, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7770, Bethesda, MD 20892, 301–435–1721. *mendelsohnab@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 15, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–9822 Filed 4–21–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Mental Health.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended, for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Mental Health, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Mental Health.

Date: May 9–10, 2011.

Time: May 9, 2011, 9:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Rockville, MD 20817.

Time: May 9, 2011, 10:45 a.m. to 12:15 p.m.

Agenda: To review and evaluate the Intramural Laboratories with a site visit of the Human Genetics Branch and to meet with PIs and Training Fellows.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Rockville, MD 20817.

Time: May 9, 2011, 12:15 p.m. to 3 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Rockville, MD 20817.

Time: May 9, 2011, 8 p.m. to 10 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Rockville, MD 20817.

Time: May 10, 2011, 8:30 a.m. to 12:15 p.m.

Agenda: To review and evaluate the Intramural Laboratories with site visits of the Unit on Behavioral Genetics, Section on Pharmacology, Section on Neural Gene Expression, and to meet with PIs, Training Fellows, and Staff Scientists.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Rockville, MD 20817.

Time: May 10, 2011, 12:30 p.m. to 3 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Rockville, MD 20817.

Contact Person: Dawn M. Johnson, PhD, Executive Secretary, Division of Intramural Research Programs, National Institute of Mental Health, 10 Center Drive, Building 10, Room 4N222, Bethesda, MD 20892, 301–402–5234, *dawnjohnson@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 18, 2011.

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–9816 Filed 4–21–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: May 25–26, 2011.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Ranga Srinivas, PhD, Chief, Extramural Project Review Branch, EPRB, NIAAA, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: April 14, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–9815 Filed 4–21–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2011–0016]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the U.S. Coast Guard is forwarding Information Collection Requests (ICRs), abstracted below, to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) requesting approval of a revision to the following collections of information: 1625–0005, Application and Permit to Handle Hazardous Materials, 1625–0024, Safety Approval of Cargo Containers, 1625–0036, Plan Approval and Records for U.S. and Foreign Tank Vessels Carrying Oil in Bulk, and 1625–0061, Commercial Fishing Industry Vessel Safety Regulations.

Our ICRs describe the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before May 23, 2011.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2011–0016] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) or to OIRA. To avoid duplication, please submit your comments by only one of the following means:

(1) Electronic submission. (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To OIRA by e-mail via: *oira_submission@omb.eop.gov.*

(2) Mail or Hand delivery. (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Hand deliver between the hours of

9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. (b) To OIRA, 725 17th Street, NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) Fax. (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–5806. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from:

Commandant (CG–611), Attn Paperwork Reduction Act Manager, U.S. Coast Guard, 2100 2nd St., SW. Stop 7101, Washington DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Ms. Kenlinishia Tyler, Office of Information Management, telephone 202–475–3652 or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION: The Coast Guard invites comments on whether these ICRs should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICRs. They must also contain the docket number of this request, [USCG–2011–0016]. For your comments to OIRA to be considered, it is best if they are received on or before May 23, 2011.

Public participation and request for comments: We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the "Privacy Act" paragraph below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2011–0016], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. In response to your comments, we may revise the ICR or decide not to seek an extension of approval for this collection. The Coast Guard and OIRA will consider all comments and material received during the comment period.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this Notice as being available in the docket. Click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2011–0016" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review the Privacy Act statement regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (76 FR 5815, February 2, 2011) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Request

1. *Title:* Application and Permit to Handle Hazardous Materials.

OMB Control Number: 1625–0005.

Type of Request: Revision of a currently approved collection.

Respondents: Shipping agents and terminal operators that handle hazardous materials.

Abstract: The information sought by this collection, which includes Form CG–4260, ensures the safe handling of explosives and other hazardous materials around ports and aboard vessels.

Forms: CG–4260.

Burden Estimate: The estimated burden has increased from 185 hours to 205 hours a year.

2. *Title:* Safety Approval of Cargo Containers.

OMB Control Number: 1625–0024.

Type of Request: Revision of a currently approved collection.

Respondents: Owners and manufacturers of containers, and organizations that the Coast Guard delegates to act as an approval authority.

Abstract: This information collection is associated with requirements for owners and manufacturers of cargo containers to submit information and keep records associated with the approval and inspection of those containers. This information is required to ensure compliance with the International Convention for Safe Containers (CSC), 29 U.S.T. 3707; T.I.A.S. 9037.

Forms: None.

Burden Estimate: The estimated burden has decreased from 105,920 hours to 104,096 hours a year.

3. *Title:* Plan Approval and Records for U.S. and Foreign Tank Vessels Carrying Oil in Bulk.

OMB Control Number: 1625–0036.

Type of Request: Revision of a currently approved collection.

Respondents: Owners and operators of vessels.

Abstract: This information collection aids the Coast Guard in determining if a vessel complies with certain safety and environmental protection standards. Plans, to include records, for construction or modification of U.S. or foreign vessels submitted and maintained on board, are required for compliance with these standards.

Forms: Not applicable.

Burden Estimate: The estimated burden has increased from 1,253 hours to 1,357 hours a year.

4. *Title:* Commercial Fishing Industry Vessel Safety Regulations.

OMB Control Number: 1625–0061.

Type of Request: Revision of a currently approved collection.

Respondents: Owners, agents, individuals-in-charge of commercial fishing vessels, and insurance underwriters.

Abstract: This information collection is intended to improve safety on board vessels in the commercial fishing industry. The requirements apply to those vessels and to seamen on them.

Forms: None.

Burden Estimate: The estimated burden has increased from 5,917 hours to 5,945 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: April 7, 2011.

D. M. Dermanelian,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2011–9738 Filed 4–21–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5477–N–16]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 14, 2011.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2011–9506 Filed 4–21–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

Cape Wind Energy Project

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice of the Availability (NOA) of an Environmental Assessment (EA); NOA of a Record of Decision (ROD).

SUMMARY: Pursuant to the Council on Environmental Quality (CEQ) regulation implementing the National Environmental Policy Act (NEPA) at 40 CFR 1506.6, BOEMRE announces the availability of an EA, a Finding of No New Significant Impact (FONNSI), and a ROD on whether to approve, approve with modifications, or disapprove a Construction and Operations Plan (COP) for the Cape Wind Energy Project located on the Outer Continental Shelf (OCS) in Nantucket Sound, off the coast of Massachusetts. BOEMRE prepared the EA to determine whether there are any substantial changes in the proposed action or whether there is new information since the first ROD (2010 ROD) approving the issuance of a lease to Cape Wind Associates (CWA) that would require preparation of a Supplemental Environmental Impact Statement (SEIS). This EA was also prepared to assist BOEMRE in deciding whether to approve, approve with modifications, or disapprove CWA's COP for a commercial wind facility. On the basis of the analysis contained in the EA, BOEMRE has determined that a SEIS is not required and has prepared a FONNSI supporting that determination (*See* Section 2 of this notice). After careful consideration, BOEMRE has decided to issue this second ROD (2011 ROD) approving CWA's COP with modifications (*See* Section 3 of this notice).

Availability: The EA, FONNSI, and ROD are available at *http://www.boemre.gov/offshore/RenewableEnergy/CapeWind.htm.*

FOR FURTHER INFORMATION CONTACT: Michelle Morin, BOEMRE Office of Offshore Alternative Energy Programs, 381 Elden Street, MS 4090, Herndon, Virginia 20170–4817, (703) 787–1340 or *michelle.morin@boemre.gov.*

Authority: The NOA of an EA, FONNSI, and ROD is published pursuant to 43 CFR 46.305.

SUPPLEMENTARY INFORMATION:

1. Background

In November 2001, CWA applied for a permit from the U.S. Army Corps of Engineers (USACE) under the Rivers and Harbors Act of 1899 to proceed with its proposal to construct an offshore wind power facility on the OCS in Nantucket Sound, on Horseshoe Shoal. In 2005, the Energy Policy Act of 2005 (EPAct) was passed amending the Outer Continental Shelf Lands Act (OCSLA). The OCSLA amendments granted the Secretary of the Department of the Interior (DOI) the authority to issue leases, easements, or rights-of-way for renewable energy projects on the OCS. The Secretary delegated that authority to the Minerals Management Service (now BOEMRE). During the fall of 2005, BOEMRE reviewed the CWA proposal and determined that BOEMRE would proceed with the review by preparing a Cape Wind Draft Environmental Impact Statement (DEIS).

BOEMRE published the DEIS on January 18, 2008 (73 FR 3482), which was followed by publication of the Final Environmental Impact Statement (FEIS) (74 FR 3635) on January 21, 2009. On May 4, 2010, BOEMRE published the NOA of the 2010 EA (75 FR 23798) and the NOA of the 2010 ROD, which authorized the issuance of a lease to CWA (75 FR 34152). On October 6, 2010, BOEMRE and CWA signed a lease, effective on November 1, 2010, that granted CWA the exclusive right to submit, for BOEMRE's approval, a COP detailing the construction, operation, and decommissioning of its proposed project. CWA submitted its COP to BOEMRE on October 29, 2010, and a revised version of the COP on February 4, 2011.

As detailed in the COP, the Proposed Action remains substantially the same as that described in the FEIS (FEIS, pp. 2–1 to 2–32). The Proposed Action calls for 130, 3.6 +/−MW wind turbine generators (WTG), each with a maximum blade height of 440 feet (ft), to be constructed in a grid pattern on the OCS in Nantucket Sound offshore Cape Cod, Martha's Vineyard, and Nantucket Island, Massachusetts (the Islands). With a maximum electric output of 468 MW and an average anticipated output of approximately 182 MW, the facility is projected to generate

up to three-quarters of Cape Cod and the Islands' annual electricity demand. Each of the 130 WTGs will generate electricity independently. Solid dielectric submarine inner-array cables (33 kilovolt) from each WTG will interconnect within the array and terminate on an electrical service platform (ESP), which will serve as the common interconnection point for all of the WTGs. The proposed submarine transmission cable system (115 kilovolt) running from the ESP to the landfall location in Yarmouth would be approximately 12.5 miles (mi.) in length (7.6 mi. of which would fall within Massachusetts' territory).

2. Environmental Assessment and Finding of No New Significant Impact

BOEMRE prepared an EA in order to determine whether an SEIS is required and to assist BOEMRE in deciding whether to approve, approve with modifications, or disapprove CWA's application to construct, operate, and decommission a commercial wind facility in Nantucket Sound off the coast of Massachusetts as described in the FEIS and its COP. In accordance with CEQ regulations, the EA examined whether there are any "substantial changes in the proposed action that are relevant to environmental concerns" or "significant new circumstances or information relevant to environmental concerns and bearing on the proposed action" that either were not fully discussed in the FEIS or did not exist at the time the 2010 ROD was issued (40 CFR 1502.9).

BOEMRE sought public input during its review of the Cape Wind COP by posting the COP, as well the Notice of Preparation of an EA for the purpose stated above, on the BOEMRE Web site, which announced the start of the public comment period on February 22, 2011. Consulting parties and local governments were informed of the comment period via e-mail, which provided the BOEMRE Web site and address for comments. Approximately 160 comments were received and are available at *http://www.regulations.gov/#!docketDetail;rpp=10;po=0;D=BOEM-2011-0007.* Issues that BOEMRE considered include: Additional surveys and sampling; conflicts with aviation traffic and fishing use; emergency response; migratory birds; microclimate; oil within wind turbine generators; sloshing dampers; transition piece grout; permits issued by other Federal agencies; and consultations with other agencies.

As a result of its review described in the EA, BOEMRE found no substantial changes in the proposed action or new information that would require it to supplement the analysis in the FEIS, and prepared a FONNSI.

3. Record of Decision

In preparing its decision on whether or not to approve the Cape Wind Energy Project COP, BOEMRE considered alternatives to the Proposed Action, the impacts as presented in the FEIS, and all comments received throughout the NEPA process. The FEIS assessed the physical, biological and socioeconomic impacts of the Proposed Action and 13 alternatives, including a no-action alternative. Since publication of the FEIS in January 2009, BOEMRE prepared two EAs to evaluate whether substantial changes in the proposed action that are relevant to environmental concerns or significant new circumstances or information relevant to environmental concerns and bearing on the proposed action were either not fully discussed or did not exist at the time of the preparation of the FEIS such that BOEMRE would be required to supplement the FEIS.

After careful consideration, BOEMRE, as documented in the 2011 ROD, has decided to approve CWA's COP with modifications. The subjects of the additional terms and conditions included in the COP include: Scour and benthic monitoring; turbine foundations; compliance with other Federal laws; compliance with generally accepted industry standards; certified verification agent nomination; safety management system; contractor's responsibilities; operations and maintenance plan; avoidance of cultural resources; supplementary surveys; and sloshing dampers.

Dated: April 18, 2011.

L. Renee Orr,

Acting Associate Director for Offshore Energy and Minerals Management.

[FR Doc. 2011–9779 Filed 4–21–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2011–N073;10120–1113–0000–C2]

Endangered and Threatened Wildlife and Plants; Draft Revised Recovery Plan for the Northern Spotted Owl—Appendix C

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability; reopening of comment period.

SUMMARY: On September 15, 2010, we, the U.S. Fish and Wildlife Service, announced the availability of the Draft Revised Recovery Plan for the Northern Spotted Owl (*Strix occidentalis caurina*) for public review and comment. We are reopening the comment period on an updated version of Appendix C of that document, which describes the development of a spotted owl habitat modeling tool.

DATES: To ensure consideration, please send your written comments by May 23, 2011.

ADDRESSES: *Document availability:* Electronic copies of the draft revised recovery plan and the updated version of Appendix C are available online at: *http://www.fws.gov/oregonfwo/Species/Data/NorthernSpottedOwl/Recovery/.* Printed loose-leaf copies of the updated version of Appendix C are available by request from Diana Acosta, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 SE 98th Avenue, Ste. 100, Portland, OR 97266 (*phone:* 503–231–6179). *Comment submission:* Written comments regarding the updated version of Appendix C should be addressed to the above Portland address or sent by e-mail to: *NSORPComments@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brendan White at the above address and phone number.

SUPPLEMENTARY INFORMATION: On September 15, 2010, we published a **Federal Register** notice (75 FR 56131) announcing the availability of the Draft Revised Recovery Plan for the Northern Spotted Owl (*Strix occidentalis caurina*) for public review and comment under the Endangered Species Act (16 U.S.C. 1531 *et seq.*). We originally opened this comment period for 60 days, from September 15, 2010, to November 15, 2010. On November 12, 2010, we announced by way of press release an extension of the comment period until December 15, 2010, in response to several requests for additional time to review and comment on the Draft Revised Recovery Plan. On November 30, 2010, we announced in the **Federal Register** the reopening of the public comment period until December 15, 2010 (75 FR 74073). At that time we also announced the availability of a synopsis of the population response modeling results for public review and comment. This and other information regarding the modeling process was posted on our Web site. Of the approximately 11,700 comments received, many requested the opportunity to review and comment on more detailed information on the habitat modeling process in Appendix C of the Draft Revised Recovery Plan.

For background information on the Draft Revised Recovery Plan, see our September 15, 2010, **Federal Register** notice (75 FR 56131). The version of Appendix C contained in the Draft Revised Recovery Plan described the modeling framework under development for evaluation of habitat conservation measures for the spotted owl. Since that was written, we have completed development and testing of this modeling framework for public review and comment. Once comments have been considered and incorporated as appropriate, this modeling framework will have a wide variety of applications in support of spotted owl recovery.

The revised Appendix C, which is now available for comment, describes the three-part modeling framework, which includes: A spotted owl habitat suitability model; a spotted owl conservation planning model that can be used to design habitat conservation network scenarios; and a spotted owl population simulation model to predict relative population responses to different habitat conservation network scenarios and conservation measures. To test the modeling framework's ability to evaluate the influence of habitat conservation network size and spatial distribution on spotted owl population performance, revised Appendix C also describes the results of an analysis of 10 different habitat conservation network scenarios under different conditions. We are seeking comments on the modeling process, our test results and other aspects of revised Appendix C.

We anticipate revising recovery action 4 in the Revised Recovery Plan to reflect completion of development and testing of the modeling framework as part of recovery plan development.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: April 1, 2011.

Richard Hannan,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 2011–9864 Filed 4–21–11; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYR0000.L16100000.DP0000. LXSS042K0000]

Notice of Availability of Draft Resource Management Plans and Associated Environmental Impact Statement for the Bighorn Basin Resource Management Plan Revision Project, Cody and Worland Field Offices, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Draft Resource Management Plan (RMP) for the Cody Field Office, a Draft RMP for the Worland Field Office, and an associated Draft Environmental Impact Statement (EIS). The two Draft RMPs and the associated Draft EIS comprise the Bighorn Basin RMP Revision Project (Project). By this notice, the BLM is announcing the opening of a 90-day comment period.

DATES: To ensure that comments are considered, the BLM must receive written comments on the Draft RMPs/EIS within 90 days following the date the Environmental Protection Agency publishes its notice of the Draft RMPs/EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or the Project Web site at *http://www.blm.gov/wy/st/en/programs/Planning/RMPs/bighorn.html.*

ADDRESSES: You may submit written comments related to the Project Draft RMPs/EIS by any of the following methods:

Web site: http://www.blm.gov/wy/st/en/programs/Planning/RMPs/bighorn.html.

E-mail: BBRMP_WYMail@blm.gov.

Mail: Worland Field Office, *Attn:* RMP Project Manager, 101 South 23rd Street, P.O. Box 119, Worland, Wyoming 82401.

Copies of the Draft RMPs/EIS are available at the following locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.
- Bureau of Land Management, Cody Field Office, 1002 Blackburn Avenue, Cody, Wyoming 82414.
- Bureau of Land Management, Worland Field Office, 101 South 23rd Street, Worland, Wyoming 82401.

FOR FURTHER INFORMATION CONTACT: Caleb Hiner, RMP Project Manager, telephone (307) 347–5171; address P.O. Box 119, 101 South 23rd Street, Worland, Wyoming 82401; e-mail *caleb_hiner@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Planning Area for the Project includes lands within the BLM Cody and Worland Field Offices' administrative boundaries, in of Big Horn, Park, Washakie Counties, and Hot Springs Counties in north-central Wyoming. The Planning Area includes all lands, regardless of jurisdiction, totaling 5.6 million acres; however, the BLM will only make decisions on lands that fall under the BLM's jurisdiction. Lands within the Planning Area under the BLM's jurisdiction make up the Decision Area. The Decision Area consists of BLM-administered surface, totaling 3.2 million acres, and the Federal mineral estate, totaling 4.2 million acres. The revised RMPs will replace the Washakie and Grass Creek RMPs in Worland, Wyoming, and the Cody RMP in Cody, Wyoming.

The Draft RMPs/EIS includes a series of management actions, within four management alternatives, including the No Action Alternative, designed to address management challenges and issues raised during scoping, including, but not limited to: Recreation, Areas of Critical Environmental Concern (ACEC), wildlife habitats, livestock grazing, energy development, air quality and global climate change, and lands with wilderness characteristics and Wild Lands. The four alternatives are:

- *Alternative A:* Continue existing management practices (No Action Alternative);
- *Alternative B:* Foster conservation of natural and cultural resources while

providing for compatible development and use;

• *Alternative C:* Emphasize resource development and use; and

• *Alternative D:* Provide development opportunities while protecting sensitive resources (Preferred Alternative).

The Preferred Alternative has been identified as described in 40 CFR 1502.14(e). However, identification of a Preferred Alternative does not represent the final agency decision. The BLM encourages comments on all alternatives and management actions described in the Draft RMPs/EIS and will assess and consider public comments properly received.

Pursuant to 43 CFR 1610.7–2(b), this notice announces a concurrent public comment period on proposed ACECs. A total of 18 ACECs are proposed in the Draft RMPs/EIS, 9 of which are existing ACECs. The proposed ACECs and the proposed resource use limitations that will occur for each proposed ACEC if formally designated are:

• *Big Cedar Ridge* (264 acres): Value(s) of Concern—Paleontological. Proposed Use Limitation(s)—Right-of-way (ROW) exclusion area, a no-surface occupancy (NSO) restriction applied to fluid mineral leases, closed to geophysical exploration, closed to mineral material disposals and related exploration and development activities, motorized vehicle use limited to existing roads and trails, and pursue a withdrawal from appropriation under the mining laws.

• *Red Gulch Dinosaur Tracksite* (1,798 acres): Value(s) of Concern—Paleontological. Proposed Use Limitation(s)—Closed to surface-disturbing activities except to enhance public education, heavy equipment restriction on fire suppression activities, motorized vehicle use limited to designated roads and trails, interpretive area closed to livestock grazing, an NSO restriction applied to fluid mineral leases, and pursue a withdrawal from appropriation under the mining laws.

• *Sheep Mountain Anticline* (11,528 acres): Value(s) of Concern—Geologic, Caves, Cultural and Scenic. Proposed Use Limitation(s)—Motorized vehicle use limited to designated roads and trails, generally closed to surface-disturbing activities, unavailable for fluid mineral leasing, and pursue a withdrawal from appropriation under the mining laws.

• *Spanish Point Karst* (6,627 acres): Value(s) of Concern—Caves, Recreational, Sinking Stream Segments and Water Quality. Proposed Use Limitation(s)—Unavailable for fluid mineral leasing, closed to geophysical exploration, closed to off highway vehicle use, ROW avoidance/mitigation area, and pursue a withdrawal from appropriation under the mining laws.

• *Brown/Howe Dinosaur Area* (5,517 acres with an expansion to 15,246 acres): Value(s) of Concern—Paleontological. Proposed Use Limitation(s)—Closed to mineral material disposals, unavailable for fluid mineral leasing, ROW avoidance/mitigation area, and pursue a withdrawal from appropriation under the mining laws.

• *Carter Mountain* (10,867 acres with an expansion to 16,573 acres): Value(s) of Concern—Vegetation, Wildlife, Cultural, Recreational, Special Status Species, Watershed and Soils. Proposed Use Limitation(s)—Heavy equipment restriction on fire suppression activities, ROW avoidance/mitigation area, motorized vehicle use limited to designated roads and trails, closed to surface-disturbing activities on slopes greater than 7 percent, unavailable for fluid mineral leasing, closed to mineral material disposals, and pursue a withdrawal from appropriation under the mining laws.

• *Five Springs Falls* (163 acres with an expansion to 1,809 acres): Value(s) of Concern—Recreational, Scenic, Special Status Species, Geologic and Public Safety. Proposed Use Limitation(s)—Heavy equipment restriction on fire suppression activities, ROW avoidance/mitigation area, climbing not allowed on the cliff that forms the falls, motorized vehicle use limited to designated roads and trails, and unavailable for fluid mineral leasing.

• *Little Mountain* (21,475 acres with an expansion to 69,110 acres): Value(s) of Concern—Caves, Cultural, Paleontological, Scenic, Recreational, Special Status Species, Vegetation and Wildlife. Proposed Use Limitation(s)—Heavy equipment restriction for fire suppression activities, motorized vehicle use limited to designated roads and trails, a ROW avoidance/mitigation area, unavailable for fluid mineral leasing, and pursue a withdrawal from appropriation under the mining laws.

• *Upper Owl Creek Area* (13,057 acres with an expansion to 32,777): Value(s) of Concern—Cultural, Fish, Recreational, Scenic, Soils, Special Status Species, Vegetation and Wildlife. Proposed Use Limitation(s)—Motorized vehicle use limited to designated roads and trails, closed to surface-disturbing activities, pursue a withdrawal from appropriation under the mining laws for 13,238 acres, ROW avoidance/mitigation area, and unavailable for fluid mineral leasing.

• *Chapman Bench* (23,976 acres): Value(s) of Concern—Special Status Species, Vegetation, and Wildlife. Proposed Use Limitation(s)—Motorized vehicle use limited to existing roads and trails pursue a withdrawal from appropriation under the mining laws, closed to mineral material disposals, unavailable for fluid mineral leasing, closed to surface-disturbing activities, and ROW avoidance/mitigation area.

• *Clarks Fork Basin/Polecat Bench West Paleontological Area* (23,895 acres): Value(s) of Concern—Paleontological and Scenic. Proposed Use Limitation(s)—Closed to surface-disturbing activities, closed to mineral material disposals, unavailable for fluid mineral leasing, pursue a withdrawal from appropriation under the mining laws, motorized vehicle use limited to designated roads and trails, and renewable energy ROW exclusion area.

• *Clarks Fork Canyon* (12,259 acres): Value(s) of Concern—Geologic, Open Space, Recreational, Special Status Species, and Wildlife. Proposed Use Limitation(s)—Close 1,211 acres to motorized vehicle use with the remainder limited to designated roads and trails, closed to surface-disturbing activities, closed to mineral material disposals, closed to geophysical exploration, unavailable for fluid mineral leasing, pursue a withdrawal from appropriation under the mining laws, renewable energy ROW exclusion area, and ROW avoidance/mitigation area.

• *Foster Gulch Paleontological Area* (27,302 acres): Value(s) of Concern—Paleontological and Scenic. Proposed Use Limitation(s)—Renewable energy ROW exclusion area, motorized vehicle use limited to designated roads and trails, closed to surface-disturbing activities, closed to mineral material disposals, unavailable for fluid mineral leasing, and pursue a withdrawal from appropriation under the mining laws.

• *McCullough Peaks South Paleontological Area* (6,994 acres): Value(s) of Concern—Paleontological and Scenic. Proposed Use Limitation(s)—Unavailable for fluid mineral leasing, pursue a withdrawal from appropriation under the mining laws, closed to mineral material disposals, renewable energy ROW avoidance/mitigation area, motorized vehicle use limited to designated roads and trails, closed to surface-disturbing activities, and ROW avoidance/mitigation area.

• *Rainbow Canyon* (1,433 acres): Value(s) of Concern—Geologic, Paleontological, and Scenic. Proposed Use Limitation(s)—Unavailable for fluid mineral leasing, pursue a withdrawal from appropriation under the mining laws, closed to mineral material

disposals, renewable energy ROW avoidance/mitigation area, motorized vehicle use limited to designated roads and trails, closed to surface-disturbing activities, and ROW avoidance/mitigation area.

• *Rattlesnake Mountain* (19,119 acres): Value(s) of Concern—Special Status Species, Vegetation and Wildlife. Proposed Use Limitation(s)—Motorized vehicle use limited to designated roads and trails, closed to mineral material disposals, unavailable for fluid mineral leasing, closed to surface-disturbing activities, ROW exclusion area, and pursue a withdrawal from appropriation under the mining laws.

• *Sheep Mountain* (25,153 acres): Value(s) of Concern—Special Status Species, Vegetation and Wildlife. Proposed Use Limitation(s)—Motorized vehicle use limited to designated roads and trails, unavailable for fluid mineral leasing, closed to mineral material disposals, pursue a withdrawal from appropriation under the mining laws, closed to surface-disturbing activities, and ROW avoidance/mitigation area.

• *Paleocene and Eocene Thermal Maximum* (14,906 acres): Value(s) of Concern—Paleontological. Proposed Use Limitation(s)—NSO restriction applied to fluid mineral leases, and closed to mineral material disposals.

Alternative A proposes to maintain the nine existing ACECs. Alternative B proposes to establish all of the ACECs listed above, with expansions, except Paleocene and Eocene Thermal Maximum. Alternative C proposes to maintain only Spanish Point Karst and Brown/Howe Dinosaur Area as ACECs. Alternative D, the Preferred Alternative, proposes ACEC designation for Big Cedar Ridge (264 acres); Red Gulch Dinosaur Tracksite (1,798 acres); Sheep Mountain Anticline (11,528 acres); Spanish Point Karst (6,627 acres); Brown/Howe Dinosaur Area (5,517 acres); Carter Mountain (10,867 acres); Five Springs Falls (163 acres); Little Mountain (21,475 acres); Upper Owl Creek (13,057 acres); Clarks Fork Canyon (2,724 acres); Sheep Mountain (14,201 acres); and Paleocene, Eocene Thermal Maximum (14,906 acres) for a total of 103,087 acres proposed to be managed as ACECs.

The BLM initiated a Wild and Scenic Rivers (WSR) review of all BLM-administered public lands along waterways within the Worland and Cody planning areas. The BLM requests the public to submit information regarding the suitability of eligible river segments for inclusion in the National Wild and Scenic Rivers System. The BLM will use comments submitted during the announced comment period to gather additional data to determine suitability for inclusion into the National Wild and Scenic Rivers System. You may submit comments in writing to the BLM at any public meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. In order to reduce the use of paper and control costs, the BLM strongly encourages the public to submit comments electronically at the project Web site or via e-mail. Only comments submitted using the methods described in the **ADDRESSES** section above will be accepted. Comments submitted must include the commenter's name and street address. Whenever possible, please include reference to either the page or section in the Draft RMPs/EIS to which the comment applies. Please note that public comments and information submitted—including names, street addresses and e-mail addresses of persons who submit comments—will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information–may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 1506.10 and 43 CFR 1610.2, 1610.7–2 and 8350.

Ruth Welch,

Associate State Director.

[FR Doc. 2011–9703 Filed 4–21–11; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYD01000–2009–LL13100000–NB0000–LXSI016K0000]

Notice of Meetings of the Pinedale Anticline Working Group, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) announces that the Pinedale Anticline Working Group (PAWG) will conduct meetings and a field tour in Pinedale, Wyoming. All meetings and tours are open to the public.

DATES: The PAWG will meet on the following dates: August 3, 2011, and November 8, 2011, beginning at 9 a.m. Mountain Time at the BLM Pinedale Field Office. A field tour of the Pinedale Anticline Project Area (PAPA) will also be held on August 2, 2011 at 10 a.m. Mountain Time. Members of the public are asked to RSVP no later than 1 week prior to the field tour to Shelley Gregory, BLM Pinedale Field Office, P.O. Box 768, Pinedale, Wyoming 82941; 307–315–0612; *ssgregory@blm.gov.*

ADDRESSES: BLM Pinedale Field Office, 1625 West Pine Street, Pinedale, Wyoming.

FOR FURTHER INFORMATION CONTACT: Shelley Gregory, BLM Pinedale Field Office, 1625 West Pine Street, P.O. Box 768, Pinedale, Wyoming 82941; 307–315–0612; *ssgregory@blm.gov.* Persons who use a telecommunications device for the deaf (TDD), may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The PAWG was established by the Environmental Impact Statement (EIS) Record of Decision (ROD) for the PAPA on July 27, 2000, and carried forward with the release of the ROD for the PAPA Supplemental EIS on September 12, 2008.

The PAWG is a FACA-chartered group which develops recommendations and provides advice to the BLM on mitigation, monitoring, and adaptive management issues as oil and gas development in the PAPA proceeds.

Additional information about the PAWG can be found at: *http://www.blm.gov/wy/st/en/field_offices/pinedale/pawg.html.*

Donald A. Simpson,

State Director.

[FR Doc. 2011–9704 Filed 4–21–11; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC00000 L07770900 XZ0000]

Notice of Public Meeting of the Carrizo Plain National Monument Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Carrizo Plain National Monument Advisory Council (MAC) will meet as indicated below.

DATES: The meeting will be held on Saturday, June 25, 2011, at the Carrisa Plains Elementary School, located approximately 2 miles northwest of Soda Lake Road on Highway 58. The meeting will begin at 10 a.m. and finish at 2:15 p.m. The meeting will focus on accomplishments completed and implementation strategy for the Carrizo Plain National Monument. There will be a public comment period from 1:15 p.m. to 2:15 p.m. Lunch will be available for $8.

FOR FURTHER INFORMATION CONTACT: The BLM, attention: Johna Hurl, Monument Manager, 3801 Pegasus Drive, Bakersfield, CA 93308. Phone (661) 391–6093 or e-mail: *jhurl@blm.gov.*

SUPPLEMENTARY INFORMATION: The nine-member MAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues associated the public land management in the Carrizo Plain National Monument in Central California. At this meeting, Monument staff will present updated information on implementation planning for the RMP/EIS and accomplishments. This meeting is open to the public. Depending on the number of persons wishing to comment, and the time available, the time allotted for individual oral comments may be limited. Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact the BLM as indicated above.

Dated: April 11, 2011.

Johna Hurl,

Monument Manager.

[FR Doc. 2011–9863 Filed 4–21–11; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Draft Program Environmental Impact Statement/Environmental Impact Report (PEIS/R) and Public Hearings for San Joaquin River Restoration Program, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability and public hearings.

SUMMARY: The Bureau of Reclamation and the California Department of Water Resources (DWR) have prepared a joint Draft PEIS/R, for the implementation of the Stipulation of Settlement (Settlement) in *NRDC et al.* v. *Kirk Rodgers et al.* The Settlement is based on two goals: (1) To restore and maintain fish populations in "good condition" in the mainstem of the San Joaquin River below Friant Dam to the confluence of the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish (Restoration Goal); and (2) to reduce or avoid adverse water supply impacts to all of the Friant Division long-term contractors that may result from the flows provided for in the Settlement (Water Management Goal). The Draft PEIS/R document evaluates the direct, indirect, and cumulative effects of implementing the Settlement. The alternatives considered in the Draft PEIS/R include actions that will be implemented to work towards achieving the Settlement's Restoration and Water Management goals.

DATES: The Draft PEIS/R will be available for a 60-day public review period. Comments are due by June 21, 2011.

Four public hearings have been scheduled to receive oral or written comments on the Draft PEIS/R:

- Tuesday, May 24, 2011, 10 a.m.–12:30 p.m., Visalia, CA.
- Tuesday, May 24, 2011, 6–8:30 p.m., Fresno, CA.
- Wednesday, May 25, 2011, 6–8:30 p.m., Los Banos, CA.
- Thursday, May 26, 2011, 1:30–4 p.m., Sacramento, CA.

A presentation and open house to view project information and interact with San Joaquin River Restoration Program (SJRRP) staff will precede the public hearings.

ADDRESSES: Send written comments on the Draft PEIS/R to Alicia Forsythe, SJRRP Program Manager, Bureau of Reclamation, 2800 Cottage Way, MP–170, Sacramento, CA 95825, or via e-mail at *PEISRComments@restoresjr.net.*

The public hearings will be held at the following locations:

- Visalia, CA at the Lamp Liter Inn Ballroom, 3300 West Mineral King Avenue.
- Fresno, CA at the Piccadilly Inn—University Grand Ballroom, 4961 North Cedar Avenue.
- Los Banos, CA at the Merced County Fairgrounds Germino Room, 403 F Street.
- Sacramento, CA at the Holiday Inn Capitol Plaza John Q. Ballroom, 300 J Street.

The Draft PEIS/R is available on the SJRRP Web site at *http://www.restoresjr.net* or Reclamation's Web site at *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=2940.* If you would like to request a compact disc containing the document, please contact Ms. Margaret Gidding at 916–978–5461, or *mgidding@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Michelle Banonis at 916–978–5457, via fax at 916–978–5469, or e-mail at *mbanonis@usbr.gov.* Additional information is available online at *http://www.restoresjr.net.*

SUPPLEMENTARY INFORMATION: In 1988, a coalition of environmental groups, led by the Natural Resources Defense Council (NRDC), filed a lawsuit challenging the renewal of long-term water service contracts between the United States and the Central Valley Project (CVP) Friant Division contractors. After more than 18 years of litigation, this lawsuit, known as *NRDC, et al.,* v. *Kirk Rodgers, et al.,* was settled. On September 13, 2006, the Settling Parties, including NRDC, Friant Water Users Authority, and the U.S. Departments of the Interior and Commerce, agreed on the terms and conditions of the Settlement, which was subsequently approved by the U.S. District Court, Eastern District of California (Court) on October 23, 2006. The Settlement establishes two primary goals:

- Restoration Goal—To restore and maintain fish populations in "good condition" in the mainstem San Joaquin River below Friant Dam to the confluence of the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish.
- Water Management Goal—To reduce or avoid adverse water supply impacts on all of the Friant Division long-term contractors that may result from the Interim and Restoration flows provided for in the Settlement.

The planning and environmental review necessary to implement the Settlement is authorized under the San

Joaquin River Restoration Settlement Act (Act), included in Public Law 111–11. The Secretary of the Interior is authorized and directed to implement the terms and conditions of the Settlement through the Act. The SJRRP, consisting of Reclamation, DWR, the U.S. Fish and Wildlife Service (FWS), the National Marine Fisheries Service (NMFS), and the California Department of Fish and Game (DFG), will work to implement the Settlement.

Reclamation, on behalf of the Secretary of the Interior, proposes to implement the terms and conditions of the Settlement, consistent with the Act. Additionally, the Settling Parties agreed that implementation of the Settlement will also require participation of the state of California (State). Therefore, concurrent with the execution of the Settlement, the Settling Parties entered into a Memorandum of Understanding with the State (by and through the California Resources Agency, DWR, DFG, and the California Environmental Protection Agency) regarding the State's role in the implementation of the Settlement. The "implementing agencies," which include Reclamation, FWS, NMFS, DWR, and DFG, are responsible for the management of the program to implement the Settlement.

The Draft PEIS/R evaluates and documents numerous physical and operational actions that, when implemented, could potentially directly, indirectly, or cumulatively affect environmental conditions in the Central Valley. The Draft PEIS/R study area includes areas potentially affected by Settlement actions and involves the San Joaquin River, from Millerton Reservoir to the Sacramento-San Joaquin Delta, and the water service areas of the CVP and State Water Project, including the Friant Division.

The Draft PEIS/R considers a reasonable range of alternatives and analyzes the environmental effects of implementation of the Settlement. Seven alternatives are evaluated in the document, including a No-Action Alternative and six action alternatives. The Draft PEIS/R analyzes most activities that would be implemented at a program level. Actions analyzed at a program level in the Draft PEIS/R would require future project-specific environmental compliance. The Draft PEIS/R also analyzes the reoperation of Friant Dam to implement the Settlement at a project level. The project level review for the reoperation of Friant Dam comprises the entire NEPA analysis for this component of the Settlement. The Draft PEIS/R provides broad direction for a wide range of possible future project-level actions while allowing the opportunity for flexibility to respond to changing needs.

Copies of the Draft PEIS/R are available for public inspection and review, including the following locations:

- Bureau of Reclamation, 2800 Cottage Way, MP–170, Sacramento, California.
- Bureau of Reclamation, South-Central California Area Office, 1243 N Street, Fresno, California.
- California Department of Water Resources, South Central Region Office, 3374 East Shields Avenue, Fresno, CA.
- Visalia Branch Library, 200 West Oak Avenue, Visalia, CA.
- Central Branch, 2420 Mariposa Street, Fresno, CA.
- Sacramento Public Library, 828 I Street, Sacramento, CA.
- Merced County, Los Banos Public Library, 1312 S. 7th Street, Los Banos, CA.

Special Assistance for Public Meetings

If special assistance is required to participate in the public meetings, please contact Ms. Margaret Gidding at 916–978–5461, by TDD 916–978–5608, or via e-mail at *mgidding@usbr.gov.* Please contact Ms. Gidding at least 10 working days prior to the meetings.

Public Disclosure

Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: October 28, 2010.

Pablo R. Arroyave,

Mid-Pacific Region.

Editorial Note: This document was received in the Office of the Federal Register on April 19, 2011.

[FR Doc. 2011–9744 Filed 4–21–11; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–388–391 and 731–TA–817–821 (Second Review)]

Cut-to-Length Carbon Steel Plate From India, Indonesia, Italy, Japan, and Korea; Scheduling of Full Five-Year Reviews Concerning the Countervailing Duty Orders and Antidumping Duty Orders on Cut-to-Length Carbon Steel Plate From India, Indonesia, Italy, Japan, and Korea

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the countervailing duty orders on cut-to-length carbon steel plate from India, Indonesia, Italy, and Korea and/or therevocation of the antidumping duty orders on cut-to-lengthcarbonsteel plate from India, Indonesia, Italy, Japan, and Korea would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B). For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* April 18, 2011.

FOR FURTHER INFORMATION CONTACT: Angela M. W. Newell (202–708–5409), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On February 4, 2011, the Commission determined that

responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (76 FR 8772, February 15, 2011). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on September 28, 2011, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on October 20, 2011, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 12, 2011. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 17, 2011, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *incamera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is October 11, 2011. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is October 31, 2011; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before October 31, 2011. On November 22, 2011, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 29, 2011, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 Fed. Reg. 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviewsare being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: April 18, 2011.

James R. Holbein,

Acting Secretary to the Commission.

[FR Doc. 2011–9783 Filed 4–21–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–694]

Certain Multimedia Display and Navigation Devices and Systems, Components Thereof, and Products Containing Same; Notice of Commission Determination To Extend the Target Date; Request for Supplemental Briefing

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the target date for completion of the above-captioned investigation from April 18, 2011, to June 17, 2011. The Commission is requesting supplemental briefing from the public and from the parties to the investigation with respect to certain questions set forth below.

FOR FURTHER INFORMATION CONTACT: Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–1999. Copies of non-confidential documents filed in connection with this investigation are or will be available for

inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.*

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the instant investigation on December 16, 2009, based on a complaint filed by Pioneer Corporation of Tokyo, Japan and Pioneer Electronics (USA) Inc. of Long Beach, California (collectively, "Pioneer"). 74 FR 66676 (Dec. 16, 2009). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain multimedia display and navigation devices and systems, components thereof, and products containing same by reason of infringement of various claims of United States Patent Nos. 5,365,448 ("the '448 patent"), 5,424,951 ("the '951 patent"), and 6,122,592 ("the '592 patent"). The complaint named Garmin International, Inc. of Olathe, Kansas, Garmin Corporation of Taiwan (collectively, "Garmin") and Honeywell International Inc. of Morristown, New Jersey ("Honeywell") as the proposed respondents. Honeywell was subsequently terminated from the investigation.

On December 16, 2010, the ALJ issued his final initial determination ("ID"). In his final ID, the ALJ found no violation of section 337 by Garmin. Specifically, the ALJ found that the accused products do not infringe claims 1 and 2 of the '448 patent, claims 1 and 2 of the '951 patent, or claims 1 and 2 of the '592 patent. The ALJ found that the '592 patent was not proven to be invalid and that Pioneer has established a domestic industry under 19 U.S.C. 1337(a)(3)(C). On February 23, 2011, the Commission determined to review the final ID in part.

Target Date: The Commission has determined to extend the target date for completion of the investigation by sixty (60) days from April 18, 2011 to June 17, 2011, to accommodate supplemental briefing.

Supplemental Briefing Request: A domestic industry may be shown to exist, inter alia, by "substantial investment" in the "exploitation" of an asserted patent. 19 U.S.C. 1337(a)(3)(C). Such investment may take the form of "engineering, research and development, or licensing," but other kinds of investments are not precluded. *See Certain Coaxial Cable Connectors and Components Thereof and Products Containing Same,* Inv. No. 337–TA–650, Comm'n Op. at 45 (Apr. 14, 2010). The following questions explore the domestic industry requirement in the context of a complainant that invests in licensing a patent portfolio, which includes the asserted patent among the licensed patents.

(1) Assuming that the evidence in the record does not show the patent asserted in a section 337 investigation to have more or less value than the rest of the patents of a portfolio, to what extent should the Commission attribute total expenses in licensing the portfolio toward the complainant's investment in exploitation of the asserted patent under section 337(a)(3)(C)? Please comment on whether the statute authorizes the Commission to allocate to the asserted patent the amount of the total expenses divided by the number of patents in the portfolio?

(2) Assuming that the statute authorizes allocation of total licensing expenses across all of the patents in the portfolio, what is the significance of evidence demonstrating that at the time the licensing expenses were incurred, the complainant did or did not present information to potential licensees that the asserted patent was being practiced or infringed by the respondent or a third party? What is the significance of evidence showing that the asserted patent was more or less important or valuable than the others in the portfolio? What is the significance of evidence indicating that, while total expenses in licensing a portfolio may be substantial, the share of the expenses allocated to the asserted patent is not?

(3) In light of any practical benefits of licensing a group of patents in a portfolio rather than licensing patents individually, does the statute permit expenses in the licensing of an entire portfolio to be considered an investment in the exploitation of the individual asserted patent?

(4) How should licensing expenses and activities relating to (a) cross-licenses and (b) global portfolio licenses (*i.e.,* U.S. and foreign patents) be treated under section 337(a)(3)(C)?

(5) What is the nature and extent of the "nexus" between an asserted patent and a licensing expense or activity that is sufficient to prove that such expense or activity constitutes an investment in the asserted patent? What factors should be considered in determining whether the required nexus is established? What is the evidentiary showing required to prove a nexus between the asserted patent and the licensing activities and expenses in the context of a portfolio license?

(6) Is a "nexus" between an asserted patent and a licensing activity sufficient to prove that expenses associated with that licensing activity are an investment in the asserted patent under section 337(a)(3)(C) even if other patents are involved? *See* ID at 165 (citing *Certain 3G Wideband Code Division Multiple Access (WCDMA) Handsets and Components Thereof,* Inv. No. 337–TA–601, Order No. 20 (unreviewed ID) (June 24, 2010)). If a "nexus" is sufficient, is the strength of that nexus relevant in determining the amount of investment in the asserted patent(s)? For example, is the number of patents included in a license relevant in determining the amount of investment in an asserted patent(s) compared to the expenses generally associated with licensing all of the patents? Is the breadth of technology covered by the portfolio, as a whole, relative to the breadth of technology covered by the asserted patent(s) relevant in determining the amount of investment in the asserted patent(s)?

(7) In *Certain Stringed Musical Instruments and Components Thereof,* Inv. No. 337–TA–586, the Commission noted that "the requirement for showing the existence of a domestic industry will depend on the industry in question, and the complainant's relative size." Comm'n Op. at 25–26 (May 16, 2008). Please comment on the appropriate context for determining whether a complainant's investments in licensing a portfolio of patents, which includes the asserted patent, is "substantial" within the meaning of section 337(a)(3)(C) in a particular industry? In other words, in determining whether appropriately identified investments in licensing the portfolio constitute a "substantial investment in [the asserted patent's] exploitation" within the meaning of the statute, against what specific measure should those investments be assessed? In discussing the context for determining whether portfolio licensing investments are substantial, please discuss relevant factors, criteria, and evidence that should be considered in determining whether the complainant's licensing investments are "substantial" in the

context of a portfolio license. Please include in the discussion, how these factors, criteria, and evidence may vary depending on the industry in question and complainant's relative size.

(8) Please comment on the significance of whether and to what extent the complainant receives royalties under the license agreement or acquires other rights or benefits as a result of a portfolio license in assessing whether the complainant's licensing expenses and activities constitute a "substantial investment in [the asserted patent's] exploitation."

(9) Please comment on the significance of whether and to what extent a complainant engages in ancillary exploitation activities that frequently accompany licensing efforts, such as development, engineering, or servicing of licensed articles, in assessing whether a complainant has made a "substantial investment in [the asserted patent's] exploitation" through licensing.

(10) For the parties to the investigation only:

a. Please cite and discuss the specific evidence of record in this investigation supporting your position as to each of the above questions.

b. Assuming the licensing efforts of complainant Pioneer and Discovision Associaties are viewed together, to what extent did the expenses in licensing Pioneer's navigation portfolio (before Pioneer retained outside counsel) represent Pioneer's investment in licensing the asserted patents? Please support your response with citations to the record.

c. Please comment on the weight that should be given to documents concerning complainant's licensing activities and expenses from which information has been redacted. Please discuss the significance, *vel non,* of the content of the redacted documents to the complainant's licensing activities and investments in view of such redactions.

Parties to the investigation and members of the public are invited to file written submissions addressing the questions set forth above regarding the domestic industry requirement of section 337(a)(3)(C). Opening submissions of the parties to the investigation are due no later than May 3, 2011. A public version of these submissions must be filed with the Secretary no later than May 10, 2011. Reply submissions of the parties to the investigation are due no later than May 17, 2011. Written submissions from members of the public will be accepted anytime on or before May 17, 2011. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–50).

By order of the Commission.

Issued: April 18, 2011.

James R. Holbein,

Acting Secretary to the Commission.

[FR Doc. 2011–9784 Filed 4–21–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Alternative Method of Compliance for Certain SEPs pursuant to 29 CFR 2520.104–49

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employee Benefits Security Administration is soliciting comments on the proposed extension of the collection of information included in the alternative method of compliance for certain simplified employee pensions regulation (29 CFR 2520.104–49).

A copy of the information collection request (ICR) can be obtained by contacting the individual shown in the Addresses section of this notice or at *http://www.RegInfo.gov.*

DATES: Written comments must be submitted to the office shown in the Addresses section on or before June 21, 2011.

ADDRESSES: G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–8410, FAX (202) 693–4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

Section 110 of the Employment Retirement Income Security Act (ERISA) authorizes the Secretary to prescribe alternative methods of compliance with the reporting and disclosure requirements of Title I of ERISA for pension plans. Simplified employee pensions (SEPs) are established in section 408(k) of the Internal Revenue Code (Code). Although SEPs are primarily a development of the Code and subject to its requirements, SEPs are also pension plans subject to the reporting and disclosure requirements of Title I of ERISA.

The Department previously issued a regulation under the authority of section 110 of ERISA (29 CFR 2520.104–49) that intended to relieve sponsors of certain SEPs from ERISA's Title I reporting and disclosure requirements by prescribing an alternative method of compliance. These SEPs are, for purposes of this Notice, referred to as "non-model" SEPs because they exclude (1) those SEPs which are created through use of Internal Revenue Service (IRS) Form 5305–SEP, and (2) those SEPs in which the employer limits or influences the employees' choice to IRAs into which employers' contributions will be made and on which participant withdrawals are prohibited. The disclosure requirements in this regulation were developed in conjunction with the Internal Revenue Service (IRS Notice

81–1). Accordingly, sponsors of "non-model" SEPs that satisfy the limited disclosure requirements of the regulation are relieved from otherwise applicable reporting and disclosure requirements under Title I of ERISA, including the requirements to file annual reports (Form 5500 Series) with the Department, and to furnish summary plan descriptions and summary annual reports to participants and beneficiaries.

This ICR includes four separate disclosure requirements. First, at the time an employee becomes eligible to participate in the SEP, the administrator of the SEP must furnish the employee in writing specific and general information concerning the SEP; a statement on rates, transfers and withdrawals; and a statement on tax treatment. Second, the administrator of the SEP must furnish participants with information concerning any amendments. Third, the administrator must notify participants of any employer contributions made to the IRA. Fourth, in the case of a SEP that provides integration with Social Security, the administrator shall provide participants with statement on Social Security taxes and the integration formula used by the employer.

II. Review Focus

The Department of Labor (Department) 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 submissions of responses.

III. Current Actions

The Office of Management and Budget's (OMB) approval of this ICR will expire on July 31, 2011. After considering comments received in response to this notice, the Department intends to submit the ICR to OMB for continuing approval. No change to the existing ICR is proposed or made at this time.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection; they also will become a matter of public record.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Alternative Method of Compliance for Certain SEPs pursuant to 29 CFR 2520.104–49.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0034.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 460.

Responses: 103,590.

Frequency of Response: On occasion.

Average Response Time: 35 minutes.

Estimated Total Burden Hours: 21,227.

Total Burden Cost (operating/maintenance): $31,297.

Dated: April 18, 2011.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 2011–9837 Filed 4–21–11; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,023]

Chrysler Group, LLC, Power Train Division, Mack Avenue Engine Plant #1, Including On-Site Leased Workers From Caravan Knight, Detroit, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 6, 2011, applicable to workers of Chrysler Group, LLC, Power Train Division, Mack Avenue Engine Plant #1, including on-site leased workers of Caravan Knight, Detroit, Michigan. The workers are engaged in the production of automotive engines. The notice will be published soon in the Federal Register.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The review shows that on December 4, 2008, a certification of eligibility to apply for adjustment assistance was issued for all workers of Chrysler LLC, Mack Avenue Engine Plants 1 & 2, Power Train Division, Detroit, Michigan, separated from employment on or after October 30, 2007 through December 4, 2010. The notice was published in the **Federal Register** on December 18, 2008 (73 FR 77067).

In order to avoid an overlap in worker group coverage, the Department is amending the December 16, 2009 impact date established for TA–W–75,023, to read December 5, 2010.

The amended notice applicable to TA–W–75,023 is hereby issued as follows:

All workers of Chrysler Group, LLC, Power Train Division, Mack Avenue Engine Plant #1, including on-site leased workers of Caravan Knight, Detroit, Michigan, who became totally or partially separated from employment on or after December 5, 2010, through April 6, 2013, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 12th day of April 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–9840 Filed 4–21–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,336]

Polaris Industries, Including On-Site Leased Workers From Westaff, Supply Technologies, Aerotek, Securitas Security Services, and Volt Workforce Solutions, Osceola, WI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 26, 2010, applicable to workers of Polaris Industries, including on-site leased workers from Westaff, Osceola, Wisconsin. The workers are engaged in activities related to the production of components for recreational vehicles. The notice was published in the **Federal**

Register on September 15, 2010 (75 FR 56143). The notice was amended on December 6, 2010 and January 21, 2011 to include on-site leased workers from Supply Technologies, Aerotek and Securitas Security Services. The notice was published in the **Federal Register** on December 13, 2010 (75 FR 77666) and February 2, 2011 (76 FR 5833), respectively.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The company reports that workers leased from Volt Workforce Solutions were employed on-site at the Osceola, Wisconsin location of Polaris Industries. The Department has determined that these workers were sufficiently under the control of Polaris Industries to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Volt Workforce Solutions working on-site at the Osceola, Wisconsin location of Polaris Industries.

The amended notice applicable to TA–W–74,336 is hereby issued as follows:

All workers of Polaris Industries, including on-site leased workers from Westaff, Supply Technologies, Aerotek, Securitas Security Services, and Volt Workforce Solutions, Osceola, Wisconsin, who became totally or partially separated from employment on or after June 28, 2009 through August 26, 2012, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 12th day of April 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–9839 Filed 4–21–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *April 4, 2011 through April 8, 2011.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a

domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
74,976	Armstrong World Industries, Armstrong Building Products Division, Including An On-Site Contractor.	Beaver Falls, PA	December 7, 2009.
75,081	Crawford Furniture Manufacturing Corporation	Jamestown, NY	January 7, 2010.
75,092	Jacobson Hat Company, Inc.	Scranton, PA	January 7, 2010.
75,093	Yakama Forest Products, The Tribes of the Yakama Nation-Tribal Enterprise	White Swan, WA	January 12, 2010.
75,143	Alliance Group Technologies Company Kokomo, Inc	Peru, IN	January 26, 2010.
75,194	Weyerhaeuser NR Company, Ilevel Zwolle Veneer Division	Zwolle, LA	February 7, 2010.
75,195	Ilevel By Weyerhaeuser, Human Resources Division	Albany, OR	February 7, 2010.
75,195A	Ilevel By Weyerhaeuser, Human Resources Division	Idabel, OK	February 7, 2010.
75,195B	Ilevel By Weyerhaeuser, Human Resources Division	Cosmopolis, WA	February 7, 2010.
75,195C	Ilevel By Weyerhaeuser, Human Resources Division	Federal Way, WA	February 7, 2010.
75,204	ArcelorMittal Laplace, LLC, Leased Workers G&A Environmental Contractors, Inc. and Dynamic Security.	Harriman, TN	February 9, 2010.
75,252	The Goodyear Tire and Rubber Company, North American Tire	Union City, TN	February 10, 2010.
75,252A	Leased Workers from The Hamilton-Ryker Group, LLC; Securitas, etc., Working On-Site at the The Goodyear Tire and Rubber Company.	Union City, TN	February 10, 2010.
75,254	Cima Labs, Manufacturing Operations, Cephalon Inc., Leased Workers Aerotek Science, etc.	Eden Prairie, MN	February 11, 2010.
75,267	AK Steel Corporation, Ashland Works Coke Plant	Ashland, KY	February 11, 2011.
75,307	BSH Home Appliances Corporation, Laundry Factory, Tesi Staffing and Employee Screening Services.	New Bern, NC	February 14, 2010.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
74,723	Oracle America, Inc., Oracle Corporation, Order-to-Cash Strategy and Operations Division.	Broomfield, CO	October 8, 2009.
74,954	VCustomer Corporation, Including Tele-Workers Reporting to Kirkland, Washington.	Kirkland, WA	November 30, 2009.
75,023	Chrysler Group, LLC, Power Train Div., Mack Avenue Engine Plant #1, Caravan Knight.	Detroit, MI	December 5, 2010.
75,036	Panasonic Corporation of North America, Business Operations Group	Rolling Meadows, IL	November 22, 2009.
75,096	Hilton Worldwide, Memphis Operations, Brands & Commercial Services Divisions, etc.	Memphis, TN	January 12, 2010.
75,096A	Hilton Worldwide, Brands & Commercial Services Divisions, etc	Mclean, VA	January 12, 2010.
75,096B	Hilton Worldwide, Brands & Commercial Services Divisions, etc	Addison, TX	January 12, 2010.
75,169	Elkay Manufacturing	Ogden, UT	February 1, 2010.
75,224	Tetra Pak Gable Top Systems, Inc., A Subsidiary of Tetra Pak, Inc	Minneapolis, MN	December 11, 2010.
75,253	Hewlett Packard Company, CASS Volume Operations Division	Omaha, NE	February 11, 2010.
75,256	Cooper Standard Automotive, Inc	New Lexington, OH	February 2, 2010.
75,276	Associated Tube USA, Leased Workers from Manpower and Advance Staffing	Elizabethtown, KY	February 14, 2010.
75,286	Moulton Logistics Management, Call Center Services, Select Staffing, Accountabilities & Barrington.	Van Nuys, CA	February 11, 2010.
75,303	Gildan USA, Inc., Retail Sales Div., Off-Site Workers Reporting to Charleston, SC from KY.	Charleston, SC	February 14, 2010.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
75,218	International Automotive Components, North America, Personnel and CJR Solutions D/B/A Harvard Resources Solutions.	Lebanon, PA	February 9, 2010.
75,243	Ansley, Inc., Including Off-Site Workers in Idaho and Washington	Bonners Ferry, ID	February 10, 2010.
75,263	Macsteel Service Centers USA, Inc., Eastern Division	Liverpool, NY	February 11, 2010.

The following certifications have been issued. The requirements of Section 222(c) (downstream producer for a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
75,042	Allied Systems, Ltd, AKA Allied Automotive Group, Allied Systems Holding	Janesville, WI	December 15, 2009.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
74,898	Fry Communications, Inc., Heat Set Press Department	Mechanicsburg, PA.	
74,905	International Union UAW Local 735, Working on Site at General Motors Willow Run Powertrain, etc.	Ypsilanti, MI.	
75,020	John Hancock Life Insurance Company (USA), Long Term Care Division	Milwaukee, WI.	
75,041	Lockheed Martin, Mission Systems & Sensors, Leased Workers DCR and Caribou Thunder.	Eagan, MN.	
75,214	Foodswing, Inc.	Cambridge, MD.	
75,221	World Color (USA), LLC, World Color (USA) Corp., Quad Graphics, Inc., Leased Premium Personnel, etc.	Lebanon, OH.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
74,982	vCustomer Corporation	Kirkland, WA.	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
75,279	Hewlett Packard Company, Enterprise Storage and Networks, Supply Chain Division.	Roseville, CA.	
75,289	American Food and Vending, Working On-Site at Goodyear Tire	Union City, TN.	

I hereby certify that the aforementioned determinations were issued during the period of *April 4, 2011 through April 8, 2011.* Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or *tofoiarequest@dol.gov.* These determinations also are available on the Department's Web site at *http://www.doleta.gov/tradeact* under the searchable listing of determinations.

Dated: April 13, 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–9842 Filed 4–21–11; 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 Office 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 May 2, 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 May 2, 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 14th day of April 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[16 TAA petitions instituted between 4/4/11 and 4/8/11]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80084	Dietrich Industries, Inc. (Company)	Blairsville, PA	04/04/11	04/01/11
80085	Hyosung USA, Inc. (Company)	Utica, NY	04/04/11	04/01/11
80086	Eastman Kodak Company (Company)	Rochester, NY	04/04/11	04/01/11
80087	Fiskars (Company)	Greensboro, NC	04/05/11	03/31/11
80088	Holcim (US) Inc. (State/One-Stop)	Catskill, NY	04/05/11	04/04/11
80089	Parkdale America #22 (Workers)	Galax, VA	04/06/11	03/31/11
80090	Whitman Packaging Corp. (State/One-Stop)	Islandia, NY	04/06/11	03/31/11
80091	G&G Garments (State/One-Stop)	New York, NY	04/06/11	03/30/11
80092	Covidien (Company)	Norwood, MA	04/06/11	04/04/11
80093	The Pearlson Company (Workers)	Montpelier, OH	04/06/11	03/01/11
80094	Motorola Mobility (Workers)	Libertyville, IL	04/06/11	03/26/11
80095	6ix Sigma Apparel Network, LLC (Workers)	New York, NY	04/07/11	04/06/11
80096	Metal Textiles (Union)	Edison, NJ	04/08/11	04/08/11
80097	Ingersoll Rand (State/One-Stop)	Carmel, IN	04/08/11	04/08/11
80098	The Minster Machine Company (Company)	Beaufort, SC	04/08/11	04/08/11
80099	Siemens Industry Inc. (Workers)	Bellefontaine, OH	04/08/11	04/08/11

[FR Doc. 2011–9841 Filed 4–21–11; 8:45 am]

BILLING CODE 4510–FN–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2011–1]

Cable Statutory License: Specialty Station List

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of specialty station filings.

SUMMARY: The Copyright Office is publishing an initial list of television stations listed in filed affidavits in which the owner or licensee of the television station attests that the station qualifies as a specialty station in accordance with the Federal Communications Commission's ("FCC") definition of specialty station in effect on June 24, 1981, and is requesting any objections to an owner's claim of specialty station status be filed with the Copyright Office. The final list shall be used to verify the specialty station status of those television stations identified as such by cable systems on their semi-annual statements of account.

DATES: Comments or objections must be received within May 23, 2011.

ADDRESSES: Comments or objections shall be submitted electronically. To meet accessibility standards, all filings must be uploaded in a single file in either the Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). Comments or objections should be sent via e-mail to the following address: *licensing@loc.gov.* Persons who are unable to file electronically should contact Tracie Coleman of the Licensing Division at 202–707–8150 to make alternative arrangements.

FOR FURTHER INFORMATION CONTACT: Ben Golant, Assistant General Counsel, and Tanya M. Sandros, Deputy General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: Under the cable statutory license, a cable operator may carry the signal of a television station classified as a specialty station at the base rate rather than at the higher 3.75% rate that is incurred for the carriage of a non-permitted signal. 37 CFR 256.2(c). Specialty station status is determined by reference to the former regulations of the FCC which defined a specialty station as "a commercial television broadcast station that generally carries foreign-language, religious, and/or automated programming in one-third of the hours of an average broadcast week and one-

third of the weekly prime-time hours." 47 CFR 76.5(kk) (1981). The FCC no longer determines whether a station qualifies as a specialty station; however, the Copyright Office still keeps an active list because it remains relevant to the cable statutory license scheme.

The Copyright Office published its first specialty station list in 1990 under a procedure which allowed the owner of the station to file an affidavit with the Office attesting to the fact that the station's programming comports with the 1981 FCC definition, and hence, qualifies it as a specialty station. 55 FR 40021 (October 1, 1990). The Office agreed at that time to periodically update the list.

Accordingly, on January 28, 2011, the Copyright Office published a notice asking the owner, or a valid agent of the owner, to file a sworn affidavit stating that the station's programming satisfies the FCC's former requirements for specialty station status. 76 FR 5213 (January 28, 2011).

The Office has received affidavits from 63 broadcast stations for which the owner or licensee of the television station had filed the requested affidavit. Any party objecting to any claim to specialty station status must submit comments with the Office, per the filing instructions noted above, stating his or her objections within thirty days of publication of this Notice in the **Federal Register**.

Once the list is published, the Copyright Office Licensing examiners shall refer to it in examining a statement of account where a cable system operator claims specialty station status for a particular station. If a cable system operator claims specialty station status for a station not on the published final list, the examiner must determine whether the owner of the station has filed an affidavit since publication of the final list. Affidavits received after publication of the final annotated list shall become part of the public file maintained by the Licensing Division of the Copyright Office. Any interested party may file an objection to any such later-filed affidavit and the objection shall be filed together with the corresponding affidavit.

List of Specialty Stations: Call Letter and Cities of License

CBAFT, Moncton, New Brunswick, Canada
CBFT, Montreal, Quebec, Canada
CBKFT, Regina, Saskatatchewan, Canada
CBLFT, Toronto, Ontario, Canada
CBOFT, Ottawa, Ontario, Canada
CBUFT, Vancouver, British Columbia, Canada
CBVT, Quebec City, Quebec, Canada
CBWFT, Winnipeg, Manitoba, Canada
CBXFT, Edmonton, Alberta, Canada
CHLT–TV, Sherbrooke, Quebec, Canada
CIMT, Riviere-du-Loup, Quebec, Canada
CJBR, Rimouski, Quebec, Canada
CKSH, Sherbrooke, Quebec, Canada
CKTM, Trois-Rivieres, Quebec, Canada
CKTV, Saguenay, Quebec, Canada
K24IC–D, Bellingham, WA
KAZA–DT, Avalon, CA
KBBC–TV, Bishop, CA
KBCB–TV, Bellingham, WA
KBFD–DT, Honolulu, HI
KBKF–LP, San Jose, CA
KDBK–LP, Caliente, CA
KEBK–LP, Bakersfield, CA
KEFM–LP, Chico, CA
KFIQ–LP, Lubbock, TX
KFMP–LP, Lubbock, TX
KHTV–LP, Los Angeles, CA
KILA–LP, Cherry Valley, CA
KMRZ–LP, Moreno Valley, CA
KNET–CA, Los Angeles, CA
KNLA–LP, Los Angeles, CA
KNNN–LP, Redding, CA
KRMV–LP, Walnut, CA
KRPE–LP, Banning, CA
KRVD–LP, Banning, CA
KSCZ–LP, Greenfield, CA
KSFV–CA, Los Angeles, CA
KSGO–LP, Chico, CA
KSXC–LP, S. Sioux City, NE
KTSF, San Francisco, CA
KWHY–TV, Los Angeles, CA
KWTA–LP, Tucson, AZ
W20CM, Port Jervis, NY
W26DB, Port Jervis, NY
W34DI, Port Jervis, NY
W42CX, Port Jervis, NY
W46DQ, Port Jervis, NY
W49DK, Port Jervis, NY
W52DW, Port Jervis, NY
W59EA, Port Jervis, NY
WBPA–LP, Pittsburgh, PA
WBQD–LP, Davenport, IA
WCHU–LP, Chicago, IL
WHCT–LP, Hartford/Springfield, CT
WLFM–LP, Chicago, IL
WLJC–TV, Beattyville, KY
WNJJ–LD, Paterson, NJ
WNYA–CA, Kinderhook, NY
WPRU–LP, Aguadilla, P.R.
WSJP–LP, Aguadilla, P.R.
WSJX–LP, Aguadilla, P.R.
WVXF(TV), Charlotte Amalie, USVI
WXOX–LP, Cleveland, OH

Dated: April 18, 2011.

Maria A. Pallante,

Acting Register of Copyrights.

[FR Doc. 2011–9806 Filed 4–21–11; 8:45 am]

BILLING CODE 1410–30–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Impromptu Notice of Change (Addition of Agenda Item)

The National Science Board's (NSB) Task Force on Merit Review (MR), pursuant to NSF regulations (45 CFR part 614), the NSF Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of an *Impromptu Change* in regard to the addition of an agenda item to the MR teleconference meeting scheduled for April 25, 2011 at 1 p.m., as follows:

ORIGINAL DATE AND TIME: No change.

SUBJECT MATTER (AGENDA ITEM ADDED): Briefing by Carl Wieman, OSTP.

STATUS: No change.

LOCATION: No change.

BASIS FOR ADDING THE AGENDA ITEM AND VOTE: In accordance with 5 U.S.C. 552b (e), on April 20, 2011 a majority of the Executive Committee of the NSB voted to add this agenda item to the NSB's MR teleconference meeting scheduled for April 25, 2011 at 1 p.m. The Executive Committee found that agency business requires the addition of this agenda item and that no earlier announcement was possible. Board Members Drs. Bowen, Gulari, Galloway, Benbow and Suresh participated in the vote through an e-mail polling of the Executive Committee.

UPDATES & POINT OF CONTACT: Please refer to the National Science Board Web site *http://www.nsf.gov/nsb* for additional information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/*. Point of contact for this meeting is: Kim Silverman, National Science Board Office, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7000.

Daniel A. Lauretano,

Counsel to the National Science Board.

[FR Doc. 2011–9974 Filed 4–20–11; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–027 and 52–028; NRC–2008–0441]

South Carolina Electric and Gas; Notice of Availability of the Final Environmental Impact Statement for Virgil C. Summer Nuclear Station, Units 2 and 3, Combined Licenses Application Review

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Army Corps of Engineers as a cooperating agency have published a final environmental impact statement (EIS), NUREG–1939, Final Environmental Impact Statement for Combined Licenses for Virgil C. Summer Nuclear Station, Units 2 and 3:

Final Report" for the Virgil C. Summer Nuclear Station, Units 2 and 3, Combined Licenses application.

The Draft EIS was published in April 2010; a notice of availability appeared in the **Federal Register** on April 23, 2010 (75 FR 21368). The purpose of this notice is to inform the public that the final EIS is available for public inspection. The final EIS may be viewed online at: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1939/.* In addition, the final EIS is available for inspection in the NRC Public Document Room (PDR) located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 or from NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html.* The ADAMS accession numbers for the final EIS are ML11098A044 and ML11098A057. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the PDR reference staff by telephone at 1–800–397–4209 or 1–301–415–4737 or by e-mail at *pdr.resource@nrc.gov.* The Fairfield County Library, located at 300 Washington Street, Winnsboro, South Carolina has also agreed to make the final EIS available to the public.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Vokoun, Environmental Projects Branch 2, Office of New Reactors, U.S. Nuclear Regulatory Commission, Mail Stop T7–E30, Washington, DC 20555–0001. Ms. Vokoun may be contacted by telephone at 301–415–3470 or via e-mail to *Patricia.Vokoun@nrc.gov.*

Dated at Rockville, Maryland, this 15th day of April 2011.

For the Nuclear Regulatory Commission.

Gregory Hatchett,

Acting Deputy Director, Division of Site and Environmental Reviews, Office of New Reactors.

[FR Doc. 2011–9834 Filed 4–21–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–3098; NRC–2011–0081]

Shaw AREVA MOX Services, Mixed Oxide Fuel Fabrication Facility; License Amendment Request, Notice of Opportunity To Request a Hearing and To Petition for Leave To Intervene, and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of license amendment request, opportunity to comment, opportunity to request a hearing, and Commission order.

DATES: Requests for a hearing or leave to intervene must be filed by June 21, 2011. Any potential party as defined in Title 10 of the Code of Federal Regulations (10 CFR) 2.4 who believe access to sensitive unclassified non-safeguards information (SUNSI) is necessary to respond to this notice must request document access by May 2, 2011.

ADDRESSES: Please include Docket ID NRC–2011–0081 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the U.S. Nuclear Regulatory Commission (NRC or the Commission) Web site and on the Federal rulemaking Web site, *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments by any one of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0081. Address questions about NRC dockets to Carol Gallagher, telephone: 301–492–3668; e-mail: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

You can access publicly available documents related to this notice using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* The request to amend the Construction Authorization is available electronically under ADAMS Accession Number ML110390535.
- *Federal Rulemaking Web site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2011–0081.

FOR FURTHER INFORMATION CONTACT: David Tiktinsky, Senior Project Manager, Mixed Oxide and Uranium Deconversion Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop EBB2–C40M, Washington, DC 20555–0001, telephone: 301–492–3229; fax number: 301–492–3363; e-mail: *David.Tiktinsky@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC has received, by letter dated February 8, 2011, an amendment request from Shaw AREVA MOX Services for an amendment to the Construction Authorization No. CAMOX–001 for the Mixed Oxide Fuel Fabrication Facility currently under construction on the Savannah River Site in Aiken, South Carolina. The CAMOX–001 authorizes the construction of a plutonium processing and fuel fabrication plant. Specifically, the amendment incorporates the design bases and commitments in the License

Application into the Construction Authorization.

An NRC administrative review found the application acceptable to begin a technical review. If the NRC approves the amendment, the approval will be documented in an amendment to NRC CAMOX–001. However, before reaching a decision on the proposed application, the NRC will need to make the findings required by the Atomic Energy Act of 1954 (the Act), as amended, and the NRC's regulations. These findings will be documented in a Safety Evaluation Report. This license amendment appears to qualify for a categorical exclusion at 10 CFR 51.22.

II. Opportunity To Request a Hearing

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, "Hearing requests, petitions to intervene, requirements for standing, and contentions." Interested persons should consult 10 CFR 2.309, which is available at the NRC's PDR, located at O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 (or call the PDR at 1–800–397–4209 or 301–415–4737). The NRC regulations are also accessible electronically from the NRC's Electronic Reading Room on the NRC Web site at *http://www.nrc.gov.*

III. Petitions for Leave To Intervene

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board (the Licensing Board) will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Licensing Board or a presiding officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A State, county, municipality, Federally-recognized Indian Tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by June 21, 2011. The petition must be filed in accordance with the filing instructions in Section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and Federally-recognized Indian Tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above may also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by June 21, 2011.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for

hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/EHD/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from April 22, 2011. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and

OGCmailcenter@nrc.gov, respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under Paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 18th day of April 2011.

For the Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the Presiding Officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Day	Event/activity
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
80	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
90	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
> A + 60	Decision on contention admission.

[FR Doc. 2011–9831 Filed 4–21–11; 8:45 am]
BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. MT2011–4; Order No. 717]

Postal Service Market Test

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service proposal to conduct a limited market test involving a postage-refund guarantee for certain senders of First-Class Mail and Standard Mail. This document describes the proposed test, addresses procedural aspects of the filing, and invites public comment.

DATES: *Comment deadline*: April 29, 2011; *reply comment deadline*: May 6, 2011.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov*.

SUPPLEMENTARY INFORMATION:

Background. On April 15, 2011, the Postal Service filed a Notice, pursuant to 39 U.S.C. 3641, announcing its intent to conduct a test of an experimental market dominant product identified as Mail Works Guarantee.[1] The Postal Service asserts that the test offers the potential for it to tap a greater share of advertising media expenditures, while offering participating mailers the possibility of postage refunds if qualifying advertising campaigns (consisting of First-Class or Standard Mail) are not successful. *Id.* at 1.

Terms duration. The test will initially be offered to 16 companies who spend at least $250 million annually on advertising, but do not include mail as a large part of their advertising mix.[2] Id. at 1. The test may be expanded to include more mailers. *Id.* at 7. The Postal Service and each participant will jointly develop a set of unique metrics for purposes of evaluating the success of a test Direct Mail campaign, along with a mutually agreed upon percentage increase in the unique metric that will serve as the basis for determining a campaign's success. *Id.* at 2. Each participant will be expected to mail a minimum of 500,000 pieces up to a maximum of 1 million pieces of First-Class Mail or Standard Mail. *Id.* The test will begin on or shortly after May 16, 2011 and continue for up to 2 years. *Id.* at 6.

Refunds. In the event a campaign does not meet established metrics, as verified by a Postal Service representative, the Postal Service will provide a refund of postage paid during the market test, up to a total of $250,000, in the form of a credit to the appropriate Centralized Account Payment System account. Production and printing costs for the campaign are not refundable. *Id.* at 2–3.

Consistency with statutory criteria. The Notice addresses why the Postal Service believes the market test satisfies the section 3461 criteria for market tests, including why it is a significantly different product and is unlikely to cause disruption within the advertising mail market. *Id.* at 3–5. It also discusses why the Postal Service believes the test complies with 39 U.S.C. 403, which prohibits undue discrimination against (or an undue preference for) any mailer and is correctly characterized as a market dominant product. *Id.* at 5.

Volume and revenue; data collection. Exact volumes and revenues for Mail Works Guarantee will depend on customer participation and the amount of mail each customer enters under the test. At a maximum, the Postal Service anticipates that the test, as currently structured, can generate no more than 16 million new pieces and therefore no more than $10,000,000 in any fiscal year. *Id.* at 6. The Postal Service has prepared a data collection plan and says it can report the results to the Commission upon request. *Id.*

Docket information. The Commission establishes Docket No. MT2011–4 for consideration of matters this Notice raises. It encourages interested persons to review the Notice for additional details. It also invites interested persons to submit comments on whether the Postal Service's filing in the captioned docket is consistent with the policies of 39 U.S.C. 3641. Comments are due no later than April 29, 2011. Reply comments are due no later than May 6, 2011. The filing can be accessed via the Commission's Web site (*http://*

[1] Notice of the United States Postal Service of Market Test of Experimental Product—Mail Works Guarantee, April 15, 2011 (Notice).

[2] Among the group of companies that spend $250 million annually on advertising, postage represents less than 0.36 percent of total advertising spending.

www.prc.gov). The Commission encourages interested persons to review the Notice in its entirety.

The Commission appoints Kenneth E. Richardson to serve as Public Representative in this docket.

It is ordered:

1. The Commission establishes Docket No. MT2011–4 for consideration of the matters raised in this Notice.

2. Pursuant to 39 U.S.C. 505, Kenneth E. Richardson is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons are due no later than April 29, 2011.

4. Reply comments are due no later than May 6, 2011.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2011–9819 Filed 4–21–11; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Corrected Extension:

Rule 19b–4 and Form 19b–4; OMB Control No. 3235–0045; SEC File No. 270–38.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

1. Rule 19b–4 (17 CFR 240.19b–4) and Form 19b–4—Filings with respect to proposed rule changes by self-regulatory organizations.

Section 19(b) of the Securities Exchange Act of 1934 ("Act") (15 U.S.C. 78s(b)) requires each self-regulatory organization ("SRO") to file with the Commission copies of any proposed rule, or any proposed change in, addition to, or deletion from the rules of such SRO. Rule 19b–4 (17 CFR 240.19b–4) implements the requirements of Section 19(b) by requiring the SROs to file their proposed rule changes on Form 19b–4 and by clarifying which actions taken by SROs are deemed proposed rule changes and so must be filed pursuant to Section 19(b).

The collection of information is designed to provide the Commission with the information necessary to determine, as required by the Act, whether the proposed rule change is consistent with the Act and the rules thereunder. The information is used to determine if the proposed rule change should be approved, disapproved, or if proceedings should be instituted to determine whether the proposed rule change should be approved or disapproved.

The respondents to the collection of information are self-regulatory organizations (as defined by the Act), including national securities exchanges, national securities associations, registered clearing agencies and the Municipal Securities Rulemaking Board.

Twenty-five respondents file an average total of 1,405 responses per year. Each response takes approximately 38.057 hours to complete. The total annual reporting burden for filing proposed rule changes is 53,470 hours. The respondents are required to post all proposed rule changes to their Web sites, each of which takes approximately four hours to complete. For 1,405 proposed rule changes, the total annual reporting burden for posting them to respondents' Web sites is 5,620 hours. The respondents are required to update the postings of those proposed rule changes which become effective (on average, 1,071 per year), each of which takes approximately four hours to complete. The total annual reporting burden for updating proposed rule change postings on the respondents' Web sites is 4,284 hours. Thus, the total estimated annual response burden pursuant to Rule 19b–4 and Form 19b–4 is the sum of the total annual reporting burdens for filing proposed rule changes, posting them to the respondents' Web sites, and updating the postings of those that become effective on the respondents', which is 63,374 hours.

Compliance with Rule 19b–4 is mandatory. Information received in response to Rule 19b–4 shall not be kept confidential; the information collected is public information.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your comments to: Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: April 14, 2011.

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–9775 Filed 4–21–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64306; File No. 4–626]

Comment Request on Existing Private and Public Efforts To Educate Investors

AGENCY: Securities and Exchange Commission.

ACTION: Request for comment.

SUMMARY: In connection with a study regarding financial literacy among investors as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act"), the Securities and Exchange Commission is requesting public comment on the effectiveness of existing private and public efforts to educate investors.

DATES: Comments should be received on or before June 21, 2011.

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

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number 4–626 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 4–626. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Owen Donley, Chief Counsel; or Lori J. Schock, Director, Office of Investor Education and Advocacy, at (202) 551–6500, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–2551.

Discussion

Section 917 of the Dodd-Frank Act requires the Commission to conduct a study of financial literacy among investors and submit a report on the study to the Senate Committee on Banking, Housing, and Urban Affairs and the House of Representatives Committee on Financial Services no later than two years after enactment of the Dodd-Frank Act, that is, by July 21, 2012.

The study mandated by Section 917 includes a number of specific components, including that the study identify: the existing level of financial literacy among retail investors; methods to improve the timing, content, and format of disclosures to investors with respect to financial intermediaries, investment products, and investment services; and methods to increase the transparency of expenses and conflicts of interest in transactions involving investment services and products. In addition, Section 917(a)(5) requires the study to identify "the most effective existing private and public efforts to educate investors." The Office of Investor Education and Advocacy ("OIEA") is currently reviewing existing private and public investor education efforts of which it is aware. The Commission is soliciting public comment to help ensure that the study includes all relevant programs, as well as to better understand the details and effectiveness of these programs.

All interested parties, including those organizing or operating investor education programs and program attendees and participants, are invited to submit their views on one or more of the following questions:

(1) Have you attended, or does your organization operate, organize, sponsor, promote, or host, any investor education programs? Please describe the program, including its duration, target audience, and any measurable goals and objectives aimed at changing investor behavior. What specific topics are covered in its curriculum?

(2) What do you consider the most important characteristics of an effective investor education program?

(3) What programs do you view as most effective?

(4) Has your organization or an independent third party evaluated any of your organization's programs? If yes, please describe the findings of the evaluation, including any statistical evidence of how your program effectively changed one or more investor behaviors among participants.

(5) Are any of your organization's programs national in scope? If not, could any of these programs be replicated or expanded to reach a national audience?

(6) What types of investor behaviors or other topics do you think investor education programs should focus on? Why?

(7) Which best describes you or your organization?

a. Public, Federal government

b. Public, State or local government

c. Not-for-profit

d. Foundation

e. Private/business

f. Individual

g. Other (describe)

(8) Do you have any other comments regarding the effectiveness of existing private and public efforts to educate investors?

By the Commission.

Dated: April 19, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–9829 Filed 4–21–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64305; File No. SR–Phlx–2011–51]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Alpha Index Options

April 18, 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 April 14, 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 its Fee Schedule to create fees for options overlying NASDAQ OMX Alpha Indexes SM ("Alpha Indexes").[3]

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 18, 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.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Alpha Indexes measure relative total returns of one stock and one exchange-traded fund share ("ETF") underlying options which are also traded on the Exchange (each such combination of two components is referred to as an "Alpha Pair"). The first component identified in an Alpha Pair (the "Target Component") is measured against the second component identified in the Alpha Pair (the "Benchmark Component"). Alpha Index Options contracts will be exercised European-style and settled in U.S. dollars. *See* Securities Exchange Act Release No. 63860 (February 7, 2011), 76 FR 7888 (February 11, 2001) (SR–Phlx–2010–176).

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 the proposed rule change is to create new fees titled "Alpha Index Options" to support options overlying certain NASDAQ OMX Alpha Indexes™ ("Alpha Indexes") as well as offer discounted pricing to encourage members and member organizations to trade options overlying Alpha Indexes.[4]

The Alpha Indexes will trade on the Exchange as a Singly Listed Option.[5] The Exchange proposes to add these fees to Section II of the Fee Schedule titled "Singly Listed Options."[6] Specifically, the Exchange is proposing to assess the following fees on options overlying Alpha Indexes:

	Customer	Professional	Specialist, ROT, SQT and RSQT	Firm	Broker-dealer
Alpha Index Options	$0.15	$0.20	$0.00	$0.20	$0.20

The proposed fees for Alpha Indexes would apply to Alpha Pairs/Alpha Symbols which have been filed to list and trade on the Exchange.[7] In addition, Customer executions with average daily volume of 1,000 Customer contracts or more in a calendar month would be assessed $0.10 per contract. The Exchange believes that this Customer discount should encourage member organizations to offer options on Alpha Indexes to their customers.

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 18, 2011.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act[9] 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 proposed fees for Alpha Indexes are equitable, reasonable and not unfairly discriminatory because the Exchange is seeking to recoup the operational and development costs associated with the Alpha Indexes product, a proprietary product of the Exchange, while also encouraging members and member organizations to trade Alpha Indexes by assessing lower fees and offering a Customer volume discount.[10] It is also reasonable and equitable to offer Customers a volume discount on trading options overlying Alpha Indexes because Customer order flow will provide increased liquidity to the market and benefit all participants.

The Exchange has previously stated that it incurs higher costs for Singly Listed options as compared to Multiply Listed options.[11] The Chicago Board Options Exchange, Incorporated ("CBOE") noted in a comment letter dated June 21, 2010, that CBOE relies upon fees to recoup licensing costs incurred on options products that use third-party proprietary indexes as benchmarks (such as the S&P 500®), and to generate returns on its investments for its own popular proprietary products (such as The CBOE Volatility Index® ("VIX®") Options).[12] The Exchange agrees with CBOE's position and while the Exchange continues to assert that Singly Listed products incur higher costs and therefore market participants should be assessed higher fees as compared to Multiply Listed products, the Exchange is proposing to assess lower fees for the Alpha Indexes, and to offer a Customer volume discount, as a means to promote this new infant index product.[13]

The Exchange believes that the proposed fees for Alpha Indexes are equitable because all market participants would be assessed lower fees for transacting Alpha Indexes as compared to other Singly Listed indexes. Specifically, Customers would be assessed $0.15 per contract to transact Alpha Indexes as compared to $0.35 per contract for other Singly Listed index options. Professionals,[14] Firms and Broker-Dealers would be assessed $0.20 per contract as compared to $0.45 per contract for all other Singly

[4] Options on the Alpha Indexes will be available for trading on the Exchange on April 18, 2011. The Exchange will list and trade Alpha Index options only on the following Alpha Pairs: AAPL/SPY, AMZN/SPY, CSCO/SPY, F/SPY, GE/SPY, GOOG/SPY, HPQ/SPY, IBM/SPY, INTC/SPY, KO/SPY, MRK/SPY, MSFT/SPY, ORCL/SPY, PFE/SPY, RIMM/SPY, T/SPY, TGT/SPY, VZ/SPY and WMT/SPY. *See* Securities Exchange Act Release No. 63860 (February 7, 2011), 76 FR 7888 (February 11, 2001) (SR–Phlx–2010–176). The Alpha Pairs are represented by the following symbols: AVSPY, ZVSPY, CVSPY, FVSPY, LVSPY, UVSPY, HVSPY, IVSPY, JVSPY, KVSPY, NVSPY, MVSPY, OVSPY, PVSPY, RVSPY, YVSPY, XVSPY, VVSPY, WVSPY ("Alpha Symbols").

[5] A Singly Listed Option means an option that is only listed on the Exchange and is not listed by any other national securities exchange.

[6] Section III of the Fee Schedule includes options overlying currencies, equities, exchange-traded funds ("ETFs"), exchange-traded notes ("ETNs"), indexes and Holding Company Depository Receipts ("HOLDRS").

[7] All other indexes would be assessed the fees in Sections II and III, respectively, depending on whether the index is Singly Listed or Multiply Listed. For purposes of this filing, a Multiply Listed security means an option that is listed on more than one exchange.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] The Exchange incurs costs for maintaining the proprietary index as well as marketing expenses to develop this new product. Also, by way of example, in analyzing an obvious error, the Exchange would have additional data points available in establishing a theoretical price for a Multiply Listed option as compared to a Singly Listed option, which requires additional analysis and administrative time to comply with Exchange rules to resolve an obvious error.

[11] *See* Securities Exchange Release Act No. 64096 (March 18, 2011), 76 FR 16646 (March 24, 2011) (SR–Phlx–2011–34).

[12] *See* CBOE's Comment Letter dated June 21, 2010 to the Proposed Amendments to Rule 610 of Regulation NMS, File No. S7–09–10. CBOE further noted that options exchanges expend considerable resources on research and development related to new product offerings and options exchanges incur large licensing costs for many products.

[13] If the Exchange determines to increase the pricing for options overlying Alpha Indexes at a later date, the Exchange would file a proposal with the Commission.

[14] 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").

Listed index options. Specialists,[15] Registered Options Traders,[16] SQTs,[17] and RSQTs [18] (collectively "market makers") [19] would be assessed no fees for transacting Alpha Indexes as compared to the $0.35 per contract fee such market makers are assessed for all other Singly Listed index options.

The Exchange believes that it is equitable and not unfairly discriminatory to assess lower fees to Customers because all market participants benefit from Customer order flow. The Exchange also believes that offering discounted pricing to Customers for transacting 1,000 or more options overlying Alpha Indexes further provides benefits to both Customers and other market participants. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to assess a Professional, Firm and Broker-Dealer a per contract fee of $0.20 per contract for transacting Alpha Indexes because the Exchange is assessing all market participants, except Customers and market makers, the same rate to transact Alpha Indexes. The Exchange believes that the price differentiation between market makers as compared to Professionals, Firms and Broker-Dealers is justified and not unfairly discriminatory because market makers have obligations to the market, which do not apply to Firms, Professionals and Broker-Dealers.[20] Obligations, such as quoting obligations, are critical to ensure there is sufficient liquidity in new options classes.

The Exchange believes that the proposed fees are reasonable and not unfairly discriminatory because the fees are consistent with price differentiation that exists today at all option exchanges. For example, CBOE assesses different rates for certain proprietary indexes as compared to other index products transacted at CBOE. VIX options and The S&P 500® Index options ("SPX℠") are assessed different fees than other indexes.[21] In addition, the concept of offering a volume discount to incentivize order flow is not novel.[22]

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 19(b)(3)(A)(ii) of the Act.[23] 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–2011–51 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–2011–51. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–Phlx–2011–51 and should be submitted on or before May 13, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–9774 Filed 4–21–11; 8:45 am]

BILLING CODE 8011–01–P

[15] A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[16] 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).

[17] 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.

[18] A RSQT is defined 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.

[19] The Exchange market maker category includes Specialists (*see* Rule 1020) and ROTs (Rule 1014(b)(i) and (ii), which includes SQTs (*see* Rule 1014(b)(ii)(A)) and RSQTs (*see* Rule 1014(b)(ii)(B)).

[20] *See* Exchange Rule 1014 titled "Obligations and Restrictions Applicable to Specialists and Registered Options Traders."

[21] *See* CBOE's Fees Schedule.

[22] *See* CBOE's Fees Schedule. CBOE has a sliding scale for its proprietary products whereby transaction fees are reduced when a Clearing Trading Permit Holder reaches certain volume thresholds in multiply listed options on CBOE in a month.

[23] 15 U.S.C. 78s(b)(3)(A)(ii).

[24] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 7423]

60-Day Notice of Proposed Information Collection: Form DS–3083, Training Registration (For Non-U.S. Government Persons)

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Training Registration (For Non-U.S. Government Persons).
- *OMB Control Number:* 1405–0145.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Foreign Service Institute, Office of the Executive Director (FSI/EX).
- *Form Number:* DS–3083.
- *Respondents:* Business owners/persons desiring to enroll in FSI courses.
- *Estimated Number of Respondents:* 200.
- *Estimated Number of Responses:* 200.
- *Average Hours Per Response:* 0.5.
- *Total Estimated Burden:* 100.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

DATES: The Department will accept comments from the public on or before June 21, 2011.

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

- *E-mail: browncl@state.gov.*
- *Mail (paper, disk, or CD–ROM submissions):* Foreign Service Institute, Office of the Executive Director, Room F–2205, U.S. Department of State, Washington, DC 20522–4201.
- *Fax:* 703–302–7227.
- You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Coreen L. Brown, Foreign Service Institute, Office of the Executive Director, Room F–2205, U.S. Department of State, Washington, DC 20522–4201, who may be reached on 703–302–6731 or at *browncl@state.gov.*

SUPPLEMENTARY INFORMATION: *We are soliciting public comments to permit the Department to:*

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: DS–3083 was developed to collect necessary registration and payment information from any (non-government) United States person that is engaged in business abroad who is eligible, on a space available basis, for either of two courses offered annually or semi-annually by FSI for such non-government U.S. persons: "Private Sector Overseas Security Seminar" and "Study Abroad Administrators Security Overseas Seminar".

Methodology: This information will be collected in hard copy format, which is either mailed or transmitted by facsimile machine to the Foreign Service Institute.

Dated: April 7, 2011.

Catherine J. Russell,

Executive Director, Foreign Service Institute, Department of State.

[FR Doc. 2011–9857 Filed 4–21–11; 8:45 am]

BILLING CODE 4710–34–P

DEPARTMENT OF STATE

[Public Notice 7422]

Notice of Availability of the Supplemental Draft Environmental Impact Statement for the Proposed TransCanada Keystone XL Pipeline Project

AGENCY: Department of State.

ACTION: Notice of availability.

SUMMARY: Consistent with the National Environmental Policy Act (NEPA) of 1969, as amended, the Department of State (DOS) has prepared a supplemental draft environmental impact statement (SDEIS) for the proposed TransCanada Keystone Pipeline, LP (TransCanada) Keystone XL Project (Project). On September 19, 2008, TransCanada filed an application for a Presidential Permit for the construction, connection, operation, and maintenance of a pipeline and associated facilities at the border of the U.S. and Canada for the transport of crude oil across the U.S.-Canada international boundary. The Secretary of State is designated and empowered to receive all applications for Presidential Permits, as referred to in Executive Order 13337, as amended, for the construction, connection, operation, or maintenance, at the borders of the United States, of facilities for the exportation or importation of petroleum, petroleum products, coal, or other fuels to or from a foreign country. TransCanada has requested authorization to construct and operate border crossing facilities at the U.S.-Canadian border in Phillips County, near Morgan, Montana, in connection with its proposed international pipeline project (Keystone XL Project) that is designed to transport Canadian crude oil production from the Western Canadian Sedimentary Basin (WCSB) to destinations in the south central United States, including to a new tank farm in Cushing, Oklahoma, and to delivery points in the Port Arthur and East Houston areas of Texas.

SUPPLEMENTARY INFORMATION: DOS served as the lead Federal agency for the environmental review of the proposed Project consistent with NEPA, and issued a draft environmental impact statement (draft EIS) for public review on April 16, 2010. The Federal and state agencies that served as cooperating agencies in the development of the draft EIS include the U.S. Department of Agriculture—Natural Resources Conservation Service, Farm Service Agency, and Rural Utilities Service; the U.S. Army Corps of Engineers; the U.S. Department of Energy, Western Area Power Administration; the U.S. Department of the Interior—Bureau of Land Management, National Park Service, and U.S. Fish and Wildlife Service; the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety; the U.S. Environmental Protection Agency; and the Montana Department of Environmental Quality. Cooperating agencies either have jurisdiction by law or special expertise with respect to the environmental impacts assessed in connection with the proposal and are participating with DOS in analysis of those environmental impacts.

The public comment period for the draft EIS officially closed on July 2, 2010. DOS accepted written comments and verbal comments presented at over

20 public comment meetings held along the proposed pipeline route in Montana, South Dakota, Nebraska, Oklahoma, and Texas, as well as in Washington, DC. As a result, over 8,000 separate comments were received and reviewed. In an adequacy assessment of the draft EIS, DOS determined that no new issues of substance emerged from the comments received. However, after the draft EIS was issued, additional and updated information became available related to the proposed Project and its potential impacts on the environment. Although the adequacy determination for the draft EIS indicated that it would not be mandatory to issue a supplemental document to comply with NEPA, DOS decided that decision-makers and the public would benefit from additional public review of, and comment on, both the information that was not available at the time the draft EIS was issued and the portions of the EIS that were revised to address the new information and comments on the draft EIS.

The SDEIS includes revised information on the proposed Project facilities, including design, construction, and maintenance; additional regulatory requirements; and additional potential connected actions. The SDEIS includes additional information on existing groundwater conditions and potential impacts to groundwater that could result from an accidental discharge from the proposed Project, expanded information on the potential impacts of an accidental discharge from the proposed Project, additional alternatives to the proposed Project, and expanded environmental justice considerations. The SDEIS also includes additional information on the composition of crude oils that would be transported by the proposed Project in comparison to other heavy crude oils, potential refinery emissions, and greenhouse gas (GHG) and climate change considerations. Appendices to the SDEIS include copies of new reports and other documents relevant to the proposed Project, petroleum market impacts, lifecycle GHG emissions, and additional requirements for pipeline construction, operation, maintenance, and inspection.

Copies of the SDEIS have been mailed to interested Federal, state and local agencies; public interest groups; individuals and affected landowners who requested a copy of the SDEIS; libraries; newspapers; and other stakeholders. A list of public libraries to which copies of the SDEIS have been mailed is available online at *http://www.keystonepipeline-xl.state.gov*. If you would like to request that a copy be sent to a public library not already on this list or to an organization involved with the Project, please e-mail *YuanAW@state.gov*. Copies will be mailed while supplies last.

Comment Procedures: Any person wishing to comment on the SDEIS may do so. DOS requests that comments be limited to the subject matter addressed in this SDEIS. DOS will only respond to comments that directly address information provided in the SDEIS. DOS will consider only those comments received by the end of the comment period during preparation of the final EIS. To ensure consideration prior to issuance of the final EIS (a prerequisite to a DOS decision on the proposal), it is important that DOS receive your comments no later than June 6, 2011 (45 days after publication of this notice). Comments on the SDEIS can be submitted to DOS using any of the following methods:

- *DOS Keystone XL Project Web site: http://www.keystonepipeline-xl.state.gov*.
- *E-mail to: keystonexl@cardno.com*.
- *Mail to:* Keystone XL EIS Project, P.O. Box 96503–98500, Washington, DC 20090–6503.
- *Fax:* 206–269–0098.

Comments received will be included in the Administrative Record without change and may, at the sole discretion of DOS, be made available on-line at *http://www.keystonepipeline-xl.state.gov*, including any personal information provided, unless the commenter indicates that the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. If you submit an electronic comment, we recommend 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 we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

DOS will publish and distribute a final EIS that will contain responses to timely and relevant comments received on the SDEIS, as well as to the comments on the draft EIS that were previously submitted to DOS. The final EIS will also include text revised in response to comments on the draft EIS and the SDEIS. From the date of issuance of the final EIS, the public will have 30 days to comment and cooperating agencies will have 90 days to comment before DOS makes a determination under Executive Order 13337 on whether issuance of this permit is in the U.S. national interest. DOS will host a public meeting in Washington, DC following issuance of the final EIS.

Further Information: Additional information on the proposed Keystone XL Project is available for viewing and download at the DOS Keystone XL Project related Web site: *http://www.keystonepipeline-xl.state.gov*. Information on the Web site includes the Keystone application for a Presidential Permit, including associated maps and drawings; the draft EIS and the SDEIS; a 2010 report prepared by EnSys Energy and Systems, Inc. (EnSys) that was contracted by the U.S. Department of Energy, Office of Policy & International Affairs to evaluate different North American crude oil transport scenarios through 2030 to assist DOS in better understanding the potential impacts of the presence or absence of the proposed Project on U.S. refining and petroleum imports and also on international markets; a list of libraries where the draft EIS and SDEIS may be viewed; and other Project information.

Additional information on the proposed Keystone XL Project in Montana is available at: *http://svc.mt.gov/deq/wmaKeystoneXL/*.

Dated: April 15, 2011.

Willem H. Brakel,

Director, Office of Environmental Policy, Bureau of Oceans and International, Environmental and Scientific Affairs.

[FR Doc. 2011–9858 Filed 4–21–11; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35488]

Three Notch Railway, LLC—Acquisition and Operation Exemption—Three Notch Railroad Co., Inc.

Three Notch Railway, LLC (TNRW), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Three Notch Railroad Co., Inc. (TNHR) and to operate approximately 34 miles of rail line [1] extending between approximately right-of-way station 22+57 at the interchange

[1] TNRW is acquiring the line from TNHR as part of a transaction whereby newly created noncarrier subsidiaries of RailAmerica Transportation Corp., are acquiring the rail assets of certain subsidiaries of Gulf & Ohio Railways, Inc.

point with CSX Transportation, Inc., in Georgiana, Ala., and milepost 581.3 at Andalusia, Ala. Additionally, TNRW will be assigned TNHR's agreement with Andalusia & Conecuh Railroad Company, which was assigned to TNHR by the Alabama & Florida Railway Company, to lease and operate a rail line between milepost S428+4706 feet and milepost S425+5170 feet in Andalusia.

This transaction is related to 3 concurrently filed verified notices of exemption, as follows: Docket No. FD 35486, *RailAmerica, Inc., Palm Beach Holdings, Inc., RailAmerica Transportation Corp., RailTex, Inc., Fortress Investment Group, LLC, and RR Acquisition Holding, LLC—Continuance in Control Exemption—Conecuh Valley Railway, LLC, Three Notch Railway, LLC, and Wiregrass Central Railway, LLC,* in which RailAmerica and its subsidiaries seek to continue in control of TNRW, Conecuh Valley Railway, LLC, and Wiregrass Central Railway, LLC, upon those noncarriers' becoming Class III rail carriers; Docket No. FD 35487, *Conecuh Valley Railway, LLC—Acquisition and Operation Exemption—Conecuh Valley Railroad Co., Inc.,* wherein Conecuh Valley Railway, LLC seeks to acquire and operate approximately 15.04 miles of rail line between milepost 374.96 at or near Troy, and the end of the line at approximately milepost 390.00 at or near Goshen, in Pike County, Ala.; and Docket No. FD 35489, *Wiregrass Central Railway, LLC—Acquisition and Operation Exemption—Wiregrass Central Railroad Company, Inc.,* wherein Wiregrass Central Railway, LLC seeks to acquire and operate approximately 21.2 miles of rail line between milepost 800.00 at Waterford and milepost 821.2 near Newton, in Coffee and Dale Counties, Ala.

The parties intend to consummate the transaction on or after May 8, 2011.

TNRW certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than April 29, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35488, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 18, 2011.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–9785 Filed 4–21–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35489]

Wiregrass Central Railway, LLC—Acquisition and Operation Exemption—Wiregrass Central Railroad Company, Inc.

Wiregrass Central Railway, LLC (WCR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Wiregrass Central Railroad Company, Inc. (WGCR), and to operate approximately 21.2 miles of rail line between milepost 800.00 at Waterford and milepost 821.2 near Newton, in Coffee and Dale Counties, Ala.[1]

This transaction is related to 3 concurrently filed verified notices of exemption, as follows: Docket No. FD 35486, *RailAmerica, Inc., Palm Beach Holdings, Inc., RailAmerica Transportation Corp., RailTex, Inc., Fortress Investment Group, LLC, and RR Acquisition Holding, LLC—Continuance in Control Exemption—Conecuh Valley Railway, LLC, Three Notch Railway, LLC, and Wiregrass Central Railway, LLC,* in which RailAmerica and its subsidiaries seek to continue in control of WCR, Conecuh Valley Railway, LLC, and Three Notch Railway, LLC, upon the noncarriers' becoming Class III rail carriers; Docket No. FD 35487, *Conecuh Valley Railway, LLC—Acquisition and Operation Exemption—Conecuh Valley Railroad Co., Inc.*, wherein Conecuh Valley Railway, LLC seeks to acquire and operate approximately 15.04 miles of rail line between milepost 374.96 at or near Troy, and the end of the line at approximately milepost 390.00 at or near Goshen, in Pike County, Ala.; and Docket No. FD 35488, *Three Notch Railway, LLC—Acquisition and Operation Exemption—Three Notch Railroad Co., Inc.*, wherein Three Notch Railway, LLC seeks to acquire and operate approximately 34 miles of rail line extending approximately between right-of-way station 22+57 at the interchange point with CSX Transportation, Inc., in Georgiana, Ala., and milepost 581.3 at Andalusia, Ala.

The parties intend to consummate the transaction on or after May 8, 2011.

WCR certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than April 29, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35489, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 18, 2011.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–9832 Filed 4–21–11; 8:45 am]

BILLING CODE 4915–01–P

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[1] WCR is acquiring the line from WGCR as part of a transaction whereby newly created noncarrier subsidiaries of RailAmerica Transportation Corp., are acquiring the assets of certain subsidiaries of Gulf & Ohio Railways, Inc.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35487]

Conecuh Valley Railway, LLC—Acquisition and Operation Exemption—Conecuh Valley Railroad Co., Inc.

Conecuh Valley Railway, LLC (CVR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Conecuh Valley Railroad Co., Inc. (COEH), and to operate

approximately 15.04 miles of rail line between milepost 374.96 at or near Troy, and the end of the line at approximately milepost 390.00 at or near Goshen, in Pike County, Ala.[1]

This transaction is related to 3 concurrently filed verified notices of exemption, as follows: Docket No. FD 35486, *RailAmerica, Inc., Palm Beach Holdings, Inc., RailAmerica Transportation Corp., RailTex, Inc., Fortress Investment Group, LLC, and RR Acquisition Holding, LLC—Continuance in Control Exemption—Conecuh Valley Railway, LLC, Three Notch Railway, LLC, and Wiregrass Central Railway, LLC,* in which RailAmerica and its subsidiaries seek to continue in control of CVR, Three Notch Railway, LLC, and Wiregrass Central Railway, LLC, upon those noncarriers' becoming Class III rail carriers; Docket No. FD 35488, *Three Notch Railway, LLC—Acquisition and Operation Exemption—Three Notch Railroad Co., Inc.,* wherein Three Notch Railway, LLC (TNRW) seeks to acquire and operate approximately 34 miles of rail line extending between approximately right-of-way station 22+57 at the interchange point with CSX Transportation, Inc., in Georgiana, Ala., and milepost 581.3 at Andalusia, Ala.;[2] and Docket No. FD 35489, *Wiregrass Central Railway, LLC—Acquisition and Operation Exemption—Wiregrass Central Railroad Company, Inc.,* wherein Wiregrass Central Railway, LLC seeks to acquire and operate approximately 21.2 miles of rail line between milepost 800.00 at Waterford and milepost 821.2 near Newton, in Coffee and Dale Counties, Ala.

The parties intend to consummate the transaction on or after May 8, 2011.

CVR certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than April 29, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35487, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 18, 2011.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–9813 Filed 4–21–11; 8:45 am]

BILLING CODE 4915–01–P

[1] CVR is acquiring the line from COEH as part of a transaction whereby newly created noncarrier subsidiaries of RailAmerica Transportation Corp., are acquiring the rail assets of certain subsidiaries of Gulf & Ohio Railways, Inc.

[2] TNRW will also be assigned the selling carrier's agreement with the Andalusia & Conecuh Valley Railroad Company to lease and operate a rail line at Andalusia.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35486]

RailAmerica, Inc., Palm Beach Holdings, Inc., RailAmerica Transportation Corp., RailTex, Inc., Fortress Investment Group, LLC, and RR Acquisition Holding, LLC—Continuance in Control Exemption—Conecuh Valley Railway, LLC, Three Notch Railway, LLC, and Wiregrass Central Railway, LLC

RailAmerica, Inc. (RailAmerica),[1] Palm Beach Holdings, Inc. (Palm Beach), RailAmerica Transportation Corp. (RTC), RailTex, Inc. (RailTex), Fortress Investment Group, LLC (Fortress), and RR Acquisition Holding, LLC (RR Acquisition) (collectively, RailAmerica, *et al.*), have filed a verified notice of exemption to continue in control, through RTC, of Conecuh Valley Railway, LLC (CVR), Three Notch Railway, LLC (TNRW), and Wiregrass Central Railway, LLC (WCR) upon those noncarriers' becoming Class III rail carriers.[2]

This transaction is related to 3 concurrently filed verified notices of exemption, as follows: Docket No. FD 35487, *Conecuh Valley Railway, LLC—Acquisition and Operation Exemption—Conecuh Valley Railroad Co., Inc.,* wherein CVR seeks to acquire and operate approximately 15.04 miles of rail line between milepost 374.96 at or near Troy, and the end of the line at approximately milepost 390.00 at or near Goshen, in Pike County, Ala.; Docket No. FD 35488, *Three Notch Railway, LLC— Acquisition and Operation Exemption—Three Notch Railroad Co., Inc.,* wherein TNRW seeks to acquire and operate approximately 34 miles of rail line extending between approximately right-of-way station 22+57 at the interchange point with CSX Transportation, Inc. (CSXT), in Georgiana, Ala., and milepost 581.3 at Andalusia, Ala.;[3] and Docket No. FD 35489, *Wiregrass Central Railway, LLC—Acquisition and Operation Exemption—Wiregrass Central Railroad Company, Inc.,* wherein WCR seeks to acquire and operate approximately 21.2 miles of rail line between milepost 800.00 at Waterford and milepost 821.2 near Newton, in Coffee and Dale Counties, Ala.

The parties intend to consummate the transaction on or after May 8, 2011.

RailAmerica et al., entered into an Asset Purchase Agreement dated April 8, 2011, with Conecuh Valley Railroad Co., Inc. (COEH), Three Notch Railroad Co., Inc. (TNHR), Wiregrass Central Railroad Company, Inc. (WGCR), and Gulf & Ohio Railways, Inc. (G&O),[4] to acquire substantially all of the assets of COEH, TNHR, and WGCR.

Fortress's noncarrier affiliate, RR Acquisition, currently owns 55% of the publicly traded shares of, and controls, noncarrier RailAmerica. The latter directly controls noncarrier Palm Beach, which directly controls RTC. Further, Fortress, on behalf of certain other equity funds managed by it and its affiliates, directly controls noncarrier

[1] RailAmerica controls the following Class III railroads: Alabama & Gulf Coast Railway, LLC, Arizona & California Railroad Company, Bauxite & Northern Railway Company, California Northern Railroad Company, Cascade and Columbia River Railroad Company, Central Oregon & Pacific Railroad, Inc., The Central Railroad Company of Indiana, Central Railroad Company of Indianapolis, Connecticut Southern Railroad, Inc., Dallas, Garland & Northeastern Railroad, Inc., Delphos Terminal Railroad Company, Inc., Eastern Alabama Railway, LLC, Huron & Eastern Railway Company, Inc., Indiana & Ohio Railway Company, Indiana Southern Railroad, LLC, Kiamichi Railroad Company, LLC, Kyle Railroad Company, The Massena Terminal Railroad Company, Mid-Michigan Railroad, Inc., Missouri & Northern Arkansas Railroad Company, Inc., New England Central Railroad, Inc., North Carolina & Virginia Railroad Company, LLC, Otter Tail Valley Railroad Company, Inc., Point Comfort & Northern Railway Company, Puget Sound & Pacific Railroad, Rockdale, Sandow & Southern Railroad Company, San Diego & Imperial Valley Railroad Company, Inc., San Joaquin Valley Railroad Co., South Carolina Central Railroad Company, LLC, Toledo, Peoria & Western Railway Corporation, and Ventura County Railroad Corp.

[2] RailAmerica *et al.,* through RTC, owns 100 percent of CVR, TNRW, and WCR.

[3] TNRW will also be assigned the selling carrier's agreement with Andalusia & Conecuh Railroad Company to lease and operate a rail line in Andalusia.

[4] G&O is the corporate parent of COEH, TNHR, and WGCR.

FECR Rail LLC, which directly controls FEC Rail Corp. (CORP), which directly controls Florida East Coast Railway, LLC (FEC). CORP and FEC are Class II rail carriers.

The parties represent that: (1) CVR, TNRW, and WCR will not connect with any railroads in the corporate family of RailAmerica, *et al.;* (2) the transaction is not part of a series of anticipated transactions that would connect the rail lines operated by CVR, TNRW, or WCR with any railroads in the corporate family of RailAmerica, *et al.;* and (3) the transaction does not involve a Class I carrier.

Further, the parties state that: (1) The management of RailAmerica has successfully managed short line railroads for more than a decade; (2) RailAmerica intends to focus on rail operations and to use its management experience and expertise in operating short line railroads and its financial resources to provide rail freight service to communities and industries who wish to have additional transportation options; and (3) RailAmerica intends to create financially viable railroads in CVR, TNRW, and WCR.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. As a condition to the use of this exemption, any employees adversely affected by this transaction will be protected by the conditions set forth in *New York Dock Railway—Control—Brooklyn Eastern District Terminal,* 360 I.C.C. 60 (1979).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than April 29, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35486, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 18, 2011.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–9789 Filed 4–21–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35476]

Wisconsin Central Ltd.—Intra-Corporate Family Merger Exemption—Duluth, Missabe and Iron Range Railway Company and Duluth, Winnipeg and Pacific Railway Company

Wisconsin Central Ltd. (WCL), Duluth, Missabe and Iron Range Railway Company (DMIR) and Duluth, Winnipeg and Pacific Railway Company (DWP) have jointly filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for an intra-corporate family transaction. WCL is an indirect subsidiary of Grand Trunk Corporation (GTC), a holding company for the U.S. rail subsidiaries of the Canadian National Railway Company (CNR) and a direct subsidiary of CNR.[1] In *Canadian National Railway—Control—Wisconsin Central Transportation,* 5 S.T.B. 890 (2001) (*CNR/WC*), CNR and GTC acquired control of WCL and other related rail carriers.[2]

DMIR also is an indirect subsidiary of GTC. DMIR Holdings Corp. (DMIR Holdings) is the parent company of DMIR, which in turn, is owned by GTC. Applicants state that, prior to the merger transaction proposed in this notice, DMIR will be merged into DMIR Holdings, with DMIR Holdings as the surviving entity and immediately renamed as DMIR. CNR and GTC acquired control of DMIR and other related rail carriers[3] in *Canadian National Railway—Control—Duluth, Missabe and Iron Range Railway,* 7 S.T.B. 526 (2004). CNR has controlled DWP for a number of years and currently does so through GTC as well.

Applicants point out that the rail lines of WCL, DMIR and DWP connect at the Twin Ports of Duluth, Minn. and Superior, Wis., where all three rail carriers currently operate. Together, they form an important through route between the Chicago terminal and Canada.

Pursuant to an agreement and plan of merger by the applicants (consented to by GTC and WCTC), DMIR and DWP will merge with and into WCL, with WCL being the surviving corporation. According to applicants, the consolidated entity will continue all existing operations of WCL, DMIR, and DWP, but with a unified workforce, enhanced efficiencies, and elimination of interchanges in the Twin Ports.

The transaction is scheduled to be consummated no sooner than May 8, 2011, the effective date of the exemption. Applicants state that they will first negotiate or, if necessary, arbitrate implementing agreements with the operating crafts on WCL, DMIR and DWP.

The purpose of the transaction is to simplify the corporate structure and reduce overhead costs and duplication by combining the three separate rail carrier corporations. The transaction also will eliminate interchange movements in the Twin Ports area and will enhance the overall efficiency of the merged railroads.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or any change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. As a condition to the use of this exemption, any employees adversely affected by this transaction will be protected by the conditions set forth in *New York Dock Railway—Control—Brooklyn Eastern District Terminal,* 360 I.C.C. 60 (1979).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than April 29, 2011 (at

[1] Wisconsin Central Transportation Corporation (WCTC), the parent company of WCL, currently is indirectly owned by GTC.

[2] At the time of the 2001 *CNR/WC* transaction, the WCTC family of rail carriers also included Fox Valley & Western Ltd. (FVW), Sault Ste. Marie Bridge Company (SSMB) and Wisconsin Chicago Link Ltd. (WCCL). FVW has since been dissolved into WCL. *Wis. Cent. Transp., Wis. Cent. Ltd. and Fox Valley & W. Ltd.—Intracorporate Family Transaction Exemption,* FD 34296 (STB served Jan. 22, 2003). Applicants state that SSMB and WCCL remain in existence as rail carriers but are not part of this merger transaction.

[3] Bessemer and Lake Erie Railroad Company and The Pittsburgh & Conneaut Dock Company.

least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35476, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition one copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 18, 2011.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–9820 Filed 4–21–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35483]

Camden & Southern Railroad, Inc.—Lease and Operation Exemption—Camden Area Industrial Development Corporation

Camden & Southern Railroad, Inc. (C&S), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease and operate 17,837 feet of trackage owned by Camden Area Industrial Development Corporation (CAIDC), located at Zone JH482, Yard 06, opposite milepost 463 of Union Pacific Railroad Company's Gurdon Subdivision, Camden, Ouachita County, Ark. The notice was filed on March 29, 2011 and was supplemented on April 7, 2011.

This transaction is related to a verified notice of exemption filed by Arkansas Shortline Railroads, Inc. (ASR), a noncarrier and the parent of C&S, to continue in control of C&S and Class III rail carriers Dardanelle & Russellville Railroad, Inc. and Ouachita Railroad, upon C&S becoming a Class III rail carrier. *See Ark. Shortline R.R.—Continuance in Control Exemption—Dardanelle & Russellville R.R., Ouachita R.R., & Camden & S. R.R.,* FD 35484 (STB served Apr. 14, 2011); *Ark. Shortline R.R.—Continuance in Control Exemption—Dardanelle & Russellville R.R., Ouachita R.R., & Camden & S. R.R.,* 76 FR 21797–98 (Apr. 18, 2011).

The transaction is expected to be consummated on or shortly after May 7, 2011.

C&S certifies that its projected annual revenues as a result of the transaction will not result in C&S becoming a Class II or Class I rail carrier and further certifies that its projected annual revenue will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than April 29, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35483, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard H. Streeter, 5255 Partridge Lane, NW., Washington, DC 20016.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 18, 2011.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–9791 Filed 4–21–11; 8:45 am]

BILLING CODE 4915–01–P

FEDERAL REGISTER

Vol. 76 Friday,

No. 78 April 22, 2011

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1217

Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order; Referendum Procedures; Final Rule and Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1217

[Document Number AMS–FV–10–0015; FR–B]

RIN 0581–AD03

Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order; Referendum Procedures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes procedures for conducting a referendum to determine whether issuance of a proposed Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order) is favored by domestic manufacturers and importers of softwood lumber. Softwood lumber is used in products like flooring, siding and framing. The procedures will also be used for any subsequent referendum under the Order. The proposed Order is being published separately in this issue of the **Federal Register**.

DATES: *Effective Date:* April 23, 2011.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 831, Beavercreek, Oregon 97004; telephone: (503) 632–8848; facsimile (503) 632–8852; or electronic mail: *Maureen.Pello@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued pursuant to the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

As part of this rulemaking process, two proposed rules were published in the **Federal Register** on October 1, 2010. One rule pertained to the proposed Order (75 FR 61002) and a second rule pertained to proposed referendum procedures (75 FR 61025). Both rules provided for 60-day comment periods ending on November 30, 2010. No comments were received regarding the referendum procedures. Fifty-five comments were received regarding the proposed Order. Those comments are addressed in another proposed rule published in this issue of the **Federal Register**.

Executive Order 12866

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act, a person subject to an order may file a written petition with the U.S. Department of Agriculture (USDA) stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

This rule establishes procedures for conducting a referendum to determine whether domestic manufacturers and importers of softwood lumber favor issuance of a proposed softwood lumber Order. Softwood lumber is used in products like flooring, siding and framing. USDA will conduct the referendum. The program will be implemented if it is favored by a majority of domestic manufacturers and importers of softwood lumber voting in the referendum who also represent a majority of the volume of softwood lumber represented in the referendum. The procedures will also be used for any subsequent referendum under the Order. The proposed Order is being published separately in this issue of the **Federal Register**.

The 1996 Act authorizes USDA to establish agricultural commodity research and promotion orders which may include a combination of promotion, research, industry information, and consumer information activities funded by mandatory assessments. These programs are designed to maintain and expand markets and uses for agricultural commodities. As defined under section 513(1)(D) of the 1996 Act, agricultural commodities include the products of forestry, which includes softwood lumber.

The 1996 Act provides for alternatives within the terms of a variety of provisions. Paragraph (e) of section 518 of the 1996 Act provides three options for determining industry approval of a new research and promotion program: (1) By a majority of those persons voting; (2) by persons voting for approval who represent a majority of the volume of the agricultural commodity; or (3) by a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity. In addition, section 518 of the 1996 Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under an order.

USDA received a proposal for a national research and promotion program for softwood lumber from the Blue Ribbon Commission (BRC). The BRC is a committee of 21 chief executive officers and heads of businesses that domestically manufacture and import softwood lumber. Softwood lumber is used in products like flooring, siding and framing. The program would be financed by an assessment on softwood lumber domestic manufacturers and importers and would be administered by a board of industry members selected by the Secretary of Agriculture (Secretary). The initial assessment rate would be $0.35 per thousand board feet shipped within or imported to the United States and could be increased up to $0.50 per thousand board feet. Entities that domestically ship or import less than 15 million board feet would be exempt along with shipments exported outside of the United States. Assessed entities would not pay assessments on the first 15 million board feet domestically shipped or imported. The purpose of the program would be to strengthen the position of softwood lumber in the marketplace, maintain and expand markets for softwood lumber, and develop new uses for softwood lumber within the United States.

The BRC proposed that a referendum be held among eligible domestic manufacturers and importers to determine whether they favor implementation of the program prior to it going into effect. The BRC recommended that the program be implemented if it is favored by a

majority of the domestic manufacturers and importers voting in the referendum who also represent a majority of the volume of softwood lumber represented in the referendum. Domestic manufacturers and importers who domestically ship or import 15 million board feet or more of softwood lumber annually are eligible to vote in the referendum.

The term "softwood lumber" means softwood lumber and products manufactured from softwood as described in section 804(a) within Title VIII (Softwood Lumber Act of 2008 or SLA of 2008) of the Tariff Act of 1930 (19 U.S.C. 1202–1683g), as amended by section 3301 of the Food, Conservation and Energy Act of 2008 (Pub. L. 110–246, enacted June 18, 2008) and categorized in the following Harmonized Tariff Schedule of the United States (HTSUS) numbers—4407.10.01, 4409.10.05, 4409.10.10, 4409.10.20, 4409.10.90, and 4418.90.25. Domestic product that cannot be categorized in the referenced HTSUS numbers if it were an import is not covered under this Order. Further, softwood lumber originating in the United States that is exported to another country and shipped back to the United States is covered under this Order, provided it can be categorized in the referenced HTSUS numbers. Additionally, articles brought into the United States temporarily and for which an exemption is claimed under subchapter XIII of chapter 98 of the HTSUS are not covered under this Order.

The definition for softwood lumber in this final rule was modified to better state what is subject to this proposed program. Additionally, the paragraphs in § 1217.101 for softwood and softwood lumber were reversed in this rule so that the terms appear alphabetically in the referendum procedures. Thus, in § 1217.101, the definition for softwood was changed from paragraph (l) to (k), and the definition for softwood lumber was changed from paragraph (k) to (l).

Accordingly, softwood lumber and softwood lumber products described in section 804 of the SLA of 2008 and classified under subheading 4407.10.00, 4409.10.10, 4409.10.20, and 4409.10.90 of the HTSUS are covered under this Order and described in the following paragraphs: [1]

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6 millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded, or finger-jointed;

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger jointed; and

(5) Coniferous drilled and notched lumber and angle cut lumber.

In addition, any product classified under subheading 4409.10.05 of the HTSUS that is continually shaped along its end and or side edges is covered under the SLA of 2008 and would be covered under this Order. All product classified under 4418.90.25 would also be covered under this Order.

Accordingly, this rule adds subpart B to part 1217 that establishes procedures for conducting the referendum. The procedures cover definitions, voting instructions, use of subagents, ballots, the referendum report, and confidentiality of information. The procedures are applicable for the initial referendum and future referenda.

Final Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of this final rule on small entities. Accordingly, AMS has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (domestic manufacturers and importers) as those having annual receipts of no more than $7.0 million.

According to USDA's Forest Service, it is estimated that, between 2007 and 2009 (most recent data available to USDA), there were an average of 595 domestic manufacturers of softwood lumber in the United States annually.[2] Using an average price of $280 per thousand board feet, a domestic manufacturer who ships less than 25 million board feet per year would be considered a small entity. It is estimated that, between 2007 and 2009, about 498 domestic manufacturers, or about 61 percent, shipped less than 25 million board feet annually.[3]

According to Customs' data, it is estimated that, between 2007 and 2009, there were about 833 importers of softwood lumber annually. About 798 importers, or about 90 percent, imported less than $7.0 million worth of softwood lumber annually. Thus, the majority of domestic manufacturers and importers of softwood lumber would be considered small entities.

According to USDA's Forest Service, for 2007–2008 (most recent data available to USDA), total output (production) of softwood lumber by U.S. sawmills averaged about 29.5 billion board feet annually. Of the 29.5 billion board feet, 12.6 billion board feet were from the southern States, 14.4 billion board feet were from the western States, and 2.5 billion board feet were from the northeast and lake States. (Data for the western States is from the Western Wood Products Association [4] and data for the other two regions is from the U.S. Census Bureau.[5])

According to U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics data,[6] imports of softwood lumber from 2008 through 2010 averaged about 10.2 billion board feet annually. During those years, imports from Canada averaged 9.6 billion board feet annually, comprising about 94 percent of total imports; imports from western Europe averaged 224 million board feet annually, comprising about 2.2 percent of total imports; and imports from Chile averaged 174 million board feet annually, comprising about 1.8 percent of total imports. Imports from other

[1] The HTSUS numbers referred to in this discussion are as of January 1, 2008. However, HTS subheading 4407.10.00 is now HTS subheading 4407.10.01.

[2] Spelter, H., D. McKeever, D. Toth, Profile 2009: Softwood Sawmills in the United States, USDA, p. 15.

[3] Percentages were obtained from the American Lumber Standard Committee, Inc. (ALSC). The ALSC administers an accreditation program for the grademarking of lumber produced under the American Softwood Lumber Standard (Voluntary Product Standard 20).

[4] Western Wood Products Association, 2008 Statistical Yearbook, p. 32.

[5] U.S. Census Bureau, 2009, Construction, *http://www.census.gov/mcd/.*

[6] *http://www.fas.usda.gov/gats;* accessed 3/11/11.

countries accounted for the remaining 2 percent of total imports for 2008 through 2010.

This rule establishes procedures for conducting a referendum to determine whether domestic manufacturers and importers of softwood lumber favor issuance of a proposed softwood lumber Order. Softwood lumber is used in products like flooring, siding and framing. USDA will conduct the referendum. The program will be implemented if it is favored by a majority of domestic manufacturers and importers of softwood lumber voting in a referendum who also represent a majority of softwood lumber represented in the referendum. The procedures will also be used for any subsequent referendum under the Order. The procedures are authorized under paragraph (e) of section 518 the 1996 Act.

Regarding the economic impact of this rule on affected entities, eligible softwood lumber domestic manufacturers and importers will have the opportunity to participate in the referendum. The Order would exempt domestic manufacturers and importers who ship or import less than 15 million board feet annually from the payment of assessments. Exempt domestic manufacturers and importers are not eligible to participate in the referendum. Of the 595 domestic manufacturers and 883 importers, it is estimated that about 363 domestic manufacturers and 103 importers would pay assessments under the Order and thus be eligible to vote in the referendum. It is estimated that if $17.5 million were collected in assessments ($0.35 per thousand board feet assessment rate with 50 billion board feet assessed), 25 percent, or about $4 million, would be paid by importers and 75 percent, or about $13 million, would be paid by domestic manufacturers. Voting in the referendum is optional. If domestic manufacturers and importers chose to vote, the burden of voting would be offset by the benefits of having the opportunity to vote on whether or not they want to be covered by the program.

Regarding alternatives, USDA considered requiring eligible voters to vote in person at various USDA offices across the country. USDA also considered electronic voting, but the use of computers is not universal. Conducting the referendum from one central location by mail ballot will be more cost effective and reliable. USDA will provide easy access to information for potential voters through a toll free telephone line.

This action imposes an additional reporting burden on eligible domestic manufacturers and importers of softwood lumber. Eligible domestic manufacturers and importers will have the opportunity to complete and submit a ballot to USDA indicating whether or not they favor implementation of the proposed Order. The specific burden for the ballot is detailed later in this document in the section titled Paperwork Reduction Act. As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

Regarding outreach efforts, USDA will keep these individuals informed throughout the program implementation and referendum process to ensure that they are aware of and are able to participate in the program implementation process. USDA will also publicize information regarding the referendum process so that trade associations and related industry media can be kept informed.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the referendum ballot, which represents the information collection and recordkeeping requirements that may be imposed by this rule, has been submitted to OMB for approval and approved under OMB Number 0581–NEW.

Title: Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order.

OMB Number: 0581–NEW.

Expiration Date of Approval: 3 years from OMB date of approval.

Type of Request: New information collection for research and promotion programs.

Abstract: The information collection requirements in the request are essential to carry out the intent of the 1996 Act. The information collection concerns a proposal received by USDA for a national research and promotion program for softwood lumber. The program would be financed by an assessment on softwood lumber domestic manufacturers and importers and would be administered by a board of industry members selected by the Secretary. The program would provide for an exemption for the first 15 million board feet of lumber shipped by domestic manufacturers within the United States or imported into the United States during the year. Exports of softwood lumber from the United States would also be exempt from assessments. A referendum will be held among eligible domestic manufacturers and importers to determine whether they favor implementation of the program prior to it going into effect. The purpose of the program would be to help build the market for softwood lumber.

The information collection requirements in this rule concern the referendum that will be held to determine whether the program is favored by the industry. Domestic manufacturers and importers of 15 million or more board feet annually are eligible to vote in the referendum. The ballot will be completed by eligible domestic manufacturers and importers who want to indicate whether or not they support implementation of the program.

Referendum Ballot

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Domestic manufacturers and importers.

Estimated Number of Respondents: 464 (363 domestic manufacturers and 103 importers).

Estimated Number of Responses per Respondent: 1 every 5 years (0.2).

Estimated Total Annual Burden on Respondents: 23.20 hours.

The ballot will be added to the other information collections approved under OMB No. 0581–NEW.

An estimated 464 respondents will provide information to USDA (363 domestic manufacturers and 103 importers). The estimated cost of providing the information to USDA by respondents is $765.60. This total has been estimated by multiplying 23.20 total hours required for reporting and recordkeeping by $33, the average mean hourly earnings of various occupations involved in keeping this information. Data for computation of this hourly rate was obtained from the U.S. Department of Labor Statistics.

The proposed Order's provisions have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize information already submitted under other programs administered by USDA and other State programs.

A proposed rule regarding the referendum procedures was published

in the **Federal Register** on October 1, 2010 (75 FR 61025). Copies of the rule were made available by USDA through the Office of the Federal Register and were also made available via the Internet at *http://www.regulations.gov.* That rule provided for a 60-day comment period. No comments were received.

In the October 1, 2010, proposed rule, comments were also invited on the information collection requirements prescribed in the Paperwork Reduction Act section of this rule. Specifically, comments were solicited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the proposed Order and USDA's oversight of the proposed Order, including whether the information would have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) the accuracy of USDA's estimate of the principal manufacturing areas in the United States for softwood lumber; (d) the accuracy of USDA's estimate of the number of domestic manufacturers and importers of softwood lumber that would be covered under the program; (e) ways to enhance the quality, utility, and clarity of the information to be collected; and (f) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. No comments were received regarding information collection.

Pursuant to 5 U.S.C. 553, it is found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because this rule needs to be in effect prior to USDA conducting a referendum which is scheduled for May 2011. Further, a 60-day comment period was provided for in the proposed rule regarding referendum procedures, and no comments were received.

List of Subjects in 7 CFR Part 1217

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Softwood lumber, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 7, Chapter XI of the Code of Federal Regulations, is amended by adding part 1217 to read as follows:

PART 1217—SOFTWOOD LUMBER RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

Subpart A—[Reserved]

Subpart B—Referendum Procedures

Sec.
1217.100 General.
1217.101 Definitions.
1217.102 Voting.
1217.103 Instructions.
1217.104 Subagents.
1217.105 Ballots.
1217.106 Referendum report.
1217.107 Confidential information.
1217.108 OMB Control number.

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

Subpart A—[Reserved]

Subpart B—Referendum Procedures

§ 1217.100 General.

Referenda to determine whether eligible domestic manufacturers and importers favor the issuance, continuance, amendment, suspension, or termination of the Softwood Lumber Research, Promotion, Consumer Education, and Industry Information Order shall be conducted in accordance with this subpart.

§ 1217.101 Definitions.

For the purposes of this subpart:

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to delegate, or any officer or employee of the U.S. Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Customs or CPB* means Customs and Border Protection, an agency of the United States Department of Homeland Security.

(c) *Department* or *USDA* means the U.S. Department of Agriculture or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

(d) *Eligible domestic manufacturer* means any person who manufactured and shipped 15 million board feet or more of softwood lumber in the United States during the representative period.

(e) *Eligible importer* means any person who imported 15 million board feet or more of softwood lumber into the United States during the representative period as a principal or as an agent, broker, or consignee of any person who manufactured softwood lumber outside of the United States for sale in the United States, and who is listed as the importer of record for such softwood lumber. Importation occurs when softwood lumber manufactured outside of the United States is released from custody by Customs and introduced into the stream of commerce in the United States. Included are persons who hold title to foreign-manufactured softwood lumber immediately upon release by Customs, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of softwood lumber from Customs when such softwood lumber is entered or withdrawn for use in the United States.

(f) *Manufacture* means the process of transforming softwood logs into softwood lumber.

(g) *Order* means the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order.

(h) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term "partnership" includes, but is not limited to:

(1) A husband and a wife who have title to, or leasehold interest in, a softwood lumber manufacturing entity as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property; and

(2) So called "joint ventures" wherein one or more parties to an agreement, informal or otherwise, contributed land, facilities, capital, labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the domestic manufacturing or importation of softwood lumber and the authority to transfer title to the softwood lumber so manufactured or imported.

(i) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(j) *Representative period* means the period designated by the Department.

(k) *Softwood* means one of the botanical groups of trees that have needle-like or scale-like leaves, the conifers.

(l) *Softwood lumber* means and includes softwood lumber and products manufactured from softwood as described in section 804(a) within Title VIII (Softwood Lumber Act of 2008 or SLA of 2008) of the Tariff Act of 1930 (19 U.S.C. 1202–1683g), as amended by section 3301 of the Food, Conservation and Energy Act of 2008 (Pub. L. 110–246, enacted June 18, 2008) and categorized in the following Harmonized Tariff Schedule of the United States (HTSUS) numbers—

4407.10.01, 4409.10.05, 4409.10.10, 4409.10.20, 4409.10.90, and 4418.90.25. Domestic product that cannot be categorized in the referenced HTSUS numbers if it were an import is not covered under this order. Further, softwood lumber originating in the United States that is exported to another country and shipped back to the United States is also covered under this Order, provided it can be categorized in the referenced HTSUS numbers. Additionally, articles brought into the United States temporarily and for which an exemption is claimed under subchapter XIII of chapter 98 of the HTSUS are exempted from the SLA of 2008 and are not covered under this Order.

(m) *United States* means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 1217.102 Voting.

(a) Each eligible domestic manufacturer and importer of softwood lumber shall be entitled to cast only one ballot in the referendum. However, each domestic manufacturer in a landlord/tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to manufacture softwood lumber, in which more than one of the parties is a domestic manufacturer or importer, shall be entitled to cast one ballot in the referendum covering only such domestic manufacturer or importer's share of ownership.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate domestic manufacturer or importer, or an administrator, executor, or trustee of an eligible entity may cast a ballot on behalf of such entity. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible entity, or an administrator, executive, or trustee of an eligible entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) A single entity who domestically manufactures and imports softwood lumber may cast one vote in the referendum.

(d) All ballots are to be cast by mail or other means, as instructed by the Department.

§ 1217.103 Instructions.

The referendum agent shall conduct the referendum, in the manner provided in this subpart, under the supervision of the Administrator. The Administrator may prescribe additional instructions, consistent with the provisions of this subpart, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast;

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter;

(c) Give reasonable public notice of the referendum:

(1) By using available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as the agent may deem advisable.

(d) Mail to eligible domestic manufacturers and importers whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the proposed Order. No person who claims to be eligible to vote shall be refused a ballot;

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process;

(f) Prepare a report on the referendum; and

(g) Announce the results to the public.

§ 1217.104 Subagents.

The referendum agent may appoint any individual or individuals necessary or desirable to assist the agent in performing such agent's functions of this subpart. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1217.105 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

§ 1217.106 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to the analysis of the referendum and its results.

§ 1217.107 Confidential information.

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Order and the voter list shall be strictly confidential and shall not be disclosed.

§ 1217.108 OMB control number.

The control number assigned to the information collection requirement in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. is OMB control number 0581–NEW.

Dated: April 13, 2011.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2011–9394 Filed 4–21–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1217

[Document Number AMS–FV–10–0015; PR–A2]

RIN 0581–AD03

Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This rule proposes a Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order). Softwood lumber is used in products like flooring, siding and framing. The program would be financed by an assessment on softwood lumber domestic manufacturers and importers and would be administered by a board of industry members selected by the Secretary of Agriculture (Secretary). The initial assessment rate would be $0.35 per thousand board feet of softwood lumber shipped within or imported to the United States. The purpose of the program would be to strengthen the position of softwood lumber in the marketplace, maintain and expand markets for softwood lumber, and develop new uses for softwood lumber within the United States. This rule also announces that the U.S. Department of Agriculture (USDA) is conducting a referendum among eligible domestic softwood lumber manufacturers and importers to determine whether they favor implementation of the program. The program would be implemented if it is favored by a majority of those voting in the referendum who also represent a majority of the volume of softwood lumber represented in the referendum. A separate final rule on referendum procedures is being published in this issue of the **Federal Register**.

DATES: The voting period is May 23 through June 10, 2011. To be eligible to vote, softwood lumber domestic manufacturers and importers must have domestically manufactured and/or imported 15 million board feet or more of softwood lumber during the representative period from January 1 through December 31, 2010. Ballots will be mailed to all known domestic manufacturers and importers of softwood lumber on or before May 16, 2011. Ballots must be received by the referendum agents no later than the close of business 4:30 p.m. (Eastern Standard Time) on June 10, 2011.

ADDRESSES: Copies of the proposed Order may be obtained from the Referendum Agent, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Room 0632–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915 or (888) 720–9917 (toll free); or facsimile: (202) 205–2800; or can be viewed at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 831, Beavercreek, Oregon 97004; telephone: (503) 632–8848; facsimile (503) 632–8852; or electronic mail: *Maureen.Pello@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued pursuant to the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

As part of this rulemaking process, a proposed rule was published in the **Federal Register** on October 1, 2010 (75 FR 61002). That rule provided for a 60-day comment period which ended on November 30, 2010. Fifty-five comments were received. The comments are addressed later in this document.

Executive Order 12866

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act, a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Background

This rule proposes an industry-funded research, promotion, and information program for softwood lumber. Softwood lumber is used in products like flooring, siding and framing. The program would be financed by an assessment on softwood lumber domestic manufacturers and importers and would be administered by a board of industry members selected by the Secretary. The initial assessment rate would be $0.35 per thousand board feet of softwood lumber shipped within or imported to the United States. Entities that domestically ship or import less than 15 million board feet per fiscal year would be exempt from the payment of assessments. Additionally, assessed entities would not pay assessments on the first 15 million board feet of softwood lumber shipped domestically or imported during the year. Exports from the United States would also be exempt from assessments. The purpose of the program would be to strengthen the position of softwood lumber in the marketplace, maintain and expand markets for softwood lumber, and develop new uses for softwood lumber within the United States. The proposal was submitted to USDA by the Blue Ribbon Commission (BRC), a committee of 21 chief executive officers and heads of businesses that domestically manufacture and import softwood lumber.

This rule also announces that USDA is conducting a referendum among eligible domestic manufacturers and importers to determine whether they favor implementation of the program. The program would be implemented if it is favored by a majority of those voting in the referendum who also represent a majority of the volume of softwood lumber represented in the referendum.

Authority in 1996 Act

The proposed Order is authorized under the 1996 Act which authorizes USDA to establish agricultural commodity research and promotion orders which may include a combination of promotion, research, industry information, and consumer

information activities funded by mandatory assessments. These programs are designed to maintain and expand markets and uses for agricultural commodities. As defined under section 513(1)(D) of the 1996 Act, agricultural commodities include the products of forestry, which includes softwood lumber.

The 1996 Act provides for a number of optional provisions that allow the tailoring of orders for different commodities. Section 516 of the 1996 Act provides permissive terms for orders, and other sections provide for alternatives. For example, section 514 of the 1996 Act provides for orders applicable to (1) producers, (2) first handlers and others in the marketing chain as appropriate, and (3) importers (if imports are subject to assessments). Section 516 states that an order may include an exemption of de minimis quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports.

In addition, section 518 of the 1996 Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under the order. An order also may provide for its approval in a referendum based upon different voting patterns. Section 515 provides for establishment of a board or council from among producers, first handlers and others in the marketing chain as appropriate, and importers, if imports are subject to assessment.

Industry Background

The softwood lumber industry is comprised of sawmills that make products from softwood trees. Softwoods include the botanical group of trees that have needle-like or scale-like leaves, or conifers. Softwood lumber includes certain products manufactured from softwoods (or coniferous trees). Softwood lumber is used in products like flooring, siding, and framing.

Softwood lumber sizes are identified by the thickness and width of the board when it is first cut from the log. This is known as "rough cut" when the wood is still green and wet. Once the wood dries, it shrinks. After the wood dries, the surface of the board is smoothed to make the wood a uniform size. This is known as "planing" the wood. Once planed, the wood is considered finished. In the industry, the term nominal is used to describe the size of the rough cut board, prior to finishing. For example, a 2 x 4 board is a nominal size. The actual size of a 2 x 4 board is 1.5 inches in thickness by 3.5 inches in width. The length of the board is typically the actual length. Usually there is a ½ inch difference in measurements over 2 inches and ¼ inch difference in measurements less than 2 inches. For purposes of the proposed Order and the tables in this rule, nominal sizes are used. One nominal board foot is a unit of measurement of softwood lumber represented by a board 12-inches long, 12-inches wide, and 1-inch thick or its cubic equivalent. A board foot calculation for softwood lumber 1 inch or more in thickness is based on its nominal thickness and width by the actual length. Softwood lumber with a nominal thickness of less than 1 inch is calculated as 1 inch.

Regional U.S. Timber Production [1]

According to USDA's Forest Service, the main species of softwoods in the southern United States are pines that grow fast and can be sold for lumber in 25 to 30 years. Southern pines are often treated with preservatives. About a third of the region's lumber is sold to treaters for further processing (*i.e.,* apply preservatives).[2]

Most of the northern U.S. softwood lumber industry is in Maine where the predominant species are white spruce and balsam fir. These trees are typically used for light framing such as wall studs. Second growths of red pine planted in the 1930s and later have been harvested by a few firms in the lake states. Red pine is also easy to treat and much of it is processed. White pine trees are also prevalent in the northern United States. They are used for paneling, millwork, and joinery. Millwork includes woodwork that has been made at a mill, and joinery is the trade of constructing articles by joining together pieces of wood.

The bulk of timber production in the western United States is on the coast of the Pacific Northwest. Douglas fir and hemlock trees dominate while farther south in northern California, redwood trees, suitable for outdoor structures like fences, siding and decks, are common. East of these regions, ponderosa pine dominates and is used for millwork and joinery. Northern Idaho and Montana contain lodgepole pine and other species suitable for light framing.

U.S. Softwood Lumber Output by Region [3]

According to USDA's Forest Service, for 2007–2008 (most recent data available to USDA), total output (production) of softwood lumber by U.S. sawmills averaged about 29.5 billion board feet annually. Of the 29.5 billion board feet, 12.6 billion board feet were from the U.S. South, 14.4 billion board feet were from the U.S. West, and 2.5 billion board feet were from the Northeast and Lake States. Data for the western states is from the Western Wood Products Association [4] and data for the other two regions is from the U.S. Census Bureau.[5]

Softwood Lumber Markets [6]

The residential market is the largest consumer of softwood lumber in the United States. This includes single and multifamily homes, mobile homes, and remodeling. The residential market accounted for 75 percent of the total U.S. softwood lumber market in 2006 and 63 percent of the market in 2009. Table 1 below shows this data from 2003 through 2009.

TABLE 1—U.S. SOFTWOOD LUMBER MARKETS FROM 2003–2009

	Single family homes	Multi-family homes	Mobile homes	Residential remodeling	Non-residential, buildings	Non-residential, other	Industrial and other	Total U.S.
	Volume (billion board feet)							
2003	20.2	1.7	1.1	19.3	3.6	0.6	10.2	56.7

[1] Spelter, H., D. McKeever, D. Toth, Profile 2009: Softwood Sawmills in the United States, USDA, p. 7.

[2] Micklewright, J.T., Wood preservation statistics, American Wood Preservers Assocation, p. 25.

[3] Spelter, McKeever and Toth, Profile 2009, p. 15.

[4] Western Wood Products Association, 2008 Statistical Yearbook, p. 32.

[5] U.S. Census Bureau, 2009, Construction, *http://www.census.gov/mcd/.*

[6] Spelter, McKeever and Toth, Profile 2009, p. 2–5.

TABLE 1—U.S. SOFTWOOD LUMBER MARKETS FROM 2003–2009—Continued

	Single family homes	Multi-family homes	Mobile homes	Residential remodeling	Non-residential, buildings	Non-residential, other	Industrial and other	Total U.S.
2004	22.2	1.8	1.1	20.3	3.9	0.5	11.1	60.8
2005	24.5	1.9	1.2	20.9	3.8	0.6	11.7	64.6
2006	21.3	1.9	0.9	21.4	3.6	0.6	11.3	61.0
2007	14.9	1.7	0.8	19.7	4.0	0.6	11.4	53.1
2008	8.4	1.4	0.6	17.5	3.9	0.6	9.6	42.0
2009	5.3	0.7	0.4	14.2	3.6	0.6	7.8	32.6
Shares (percent)								
2003	36	3	2	34	6	1	18	.....
2004	36	3	2	33	6	1	18	.....
2005	38	3	2	32	6	1	18	.....
2006	35	3	2	35	6	1	18	.....
2007	28	3	1	37	8	1	21	.....
2008	20	3	1	42	9	1	23	.....
2009	16	2	1	44	11	2	24	.....

During normal economic conditions, single family homes comprise the largest share of the softwood lumber market in the United States. Single family home use rose from 20.2 billion board feet in 2003 to 24.5 billion board feet in 2005 and fell to 5.3 billion board feet in 2009. Single family homes comprised 38 percent of the market for softwood lumber in 2005 and 16 percent of the market by 2009.

Home building is cyclical in nature (follows a pattern of highs and lows) as compared to other end uses for softwood lumber. Residential remodeling and other uses experienced downturns between 2006 and 2009, but less severe than the market for single family homes. Softwood lumber used for residential remodeling fell from 21.4 billion board feet in 2006 to 14.2 billion board feet in 2009. As a percentage of softwood lumber market share, residential remodeling rose from 35 percent in 2006 to 44 percent in 2009.

Export Markets [7]

Export markets are another outlet for softwood lumber. Two decades ago, U.S. exports were about seven times greater than they were in recent years, but a strong U.S. dollar from the mid-1990s onward helped to reduce exports. Additionally, different size and grade standards for softwood lumber in export markets complicate production when log sizes have to be converted from imperial units (feet) to metric (meters). Most manufacturers have thus focused on North American sales. However, in slow periods such as in recent years, efforts have been made to supply export markets to the extent possible.

Competition [8]

Softwood lumber competes with several alternative products. Steel and concrete dominate larger residential and nonresidential projects. Brick, concrete, and vinyl are often used in low-rise residential and nonresidential buildings. Within the last decade, wood-plastic composite lumber has become popular for outdoor decking, railing, trim, and fencing. Other wood-based products such as laminated veneer are becoming more popular in place of softwood lumber.

Imports

According to U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics data (Census),[9] imports of softwood lumber from 2008 through 2010 averaged about 10.2 billion board feet annually. During those years, imports from Canada averaged 9.6 billion board feet annually, comprising about 94 percent of total imports; imports from western Europe averaged 224 million board feet annually, comprising about 2.2 percent of total imports; and imports from Chile averaged 174 million board feet annually, comprising about 1.8 percent of total imports. Imports from other countries accounted for the remaining 2 percent of total imports for 2008 through 2010.

Price and Cost Trends [10]

Prices in the lumber industry can change rapidly in response to shifts in demand or supply. Prices are set competitively with many buyers and sellers bidding in a business that tends to be cyclical in nature. As shown in Table 2 below, revenue for the State of Oregon per thousand board feet was about $309 in 2003, rose to $420 in 2004, and fell to $219 in 2008. In comparison, revenue for the State of Georgia per thousand board feet was about $323 in 2003, rose to $418 in 2005, and fell to $262 in 2008.

TABLE 2—TYPICAL SAWMILL OPERATING COSTS 2003–2008

	Oregon		Georgia	
	Costs ($ per thousand board feet)	Revenue ($ per thousand board feet)	Costs ($ per thousand board feet)	Revenue ($ per thousand board feet)
2003	295	309	311	323
2004	330	420	335	378
2005	349	370	349	418
2006	335	316	349	330
2007	297	260	300	269

[7] Spelter, McKeever and Toth, Profile 2009, p. 15.

[8] Ibid.

[9] *http://www.fas.usda.gov/gats*; accessed 3/12/11.

[10] Spelter, McKeever and Toth, Profile 2009, p. 5–6.

TABLE 2—TYPICAL SAWMILL OPERATING COSTS 2003–2008—Continued

	Oregon		Georgia	
	Costs ($ per thousand board feet)	Revenue ($ per thousand board feet)	Costs ($ per thousand board feet)	Revenue ($ per thousand board feet)
2008	238	219	328	262

Several factors contributed to the revenue changes shown in Table 2. Some mills in the interior western United States were forced to close because of constraints on the availability of timber. A dispute with Canada over lumber imports that resulted in a 15 percent export levy for some U.S.-bound shipments and quotas on others after October 2006 impacted supply.

Wood, labor, and operating costs also impact revenue. The cost of wood in the United States is negotiated between buyers and sellers. Companies often enter into long-term supply contracts with timber owners where the price is negotiated quarterly based on sales and market conditions. Labor is the second biggest component of lumber costs. According to the U.S. Department of Labor, U.S. wages have increased about 3 percent per year during this decade.[11] At the same time, labor productivity in sawmilling has increased by a like amount leaving unit labor costs flat. The other main cost for sawmills is energy, but most mills use their own residues to generate heat for their drying needs. This has lessened the impact of rising energy prices on sawmills. As shown in Table 2, total operating costs in Oregon per thousand board feet averaged $295 in 2003, rose to $349 in 2005, and fell to $238 in 2008. In comparison, total operating costs in Georgia per thousand board feet averaged $311 in 2003, rose to $349 in 2005 and 2006, and fell to $328 in 2008.

Need for a Program

The softwood lumber industry is experiencing one of the worst markets in history. The collapse of the housing market caused prices to fall from $404 per thousand board feet in 2004 to $222 per thousand board feet in 2009. Prices rose slightly in 2010 to $284 per thousand board feet.[12] Competition from other building products like cement and vinyl has also helped to reduce demand for softwood lumber.

Additionally, at the request of the U.S. and Canadian governments, the U.S. Endowment for Forestry and Communities (Endowment) and the Binational Softwood Lumber Council (BSLC) were formed in 2006 in accordance with the 2006 Softwood Lumber Agreement. The Endowment is a non-profit organization that works with public and private sectors to advance the interests of the forestry community. The Endowment conducted a study to assess the feasibility of a softwood lumber research and promotion program. In the past, the industry attempted voluntary efforts to promote forest products, but they were sporadic, underfunded, and narrowly targeted. These campaigns did not last long enough to succeed. The Endowment recommended to the industry that Canadian and U.S. companies pursue a shared vision and achieve broad agreement on creating a unified softwood lumber research and promotion program. In 2008, the Endowment held an industry meeting in Seattle, Washington, to discuss the merits of such a program and obtain industry feedback.

As a result of the Endowment's efforts, the BRC was subsequently formed to pursue an industry research and promotion program. The BRC is comprised of 21 members representing the United States and Canada. Funding and support for the BRC's efforts come from the BSLC, a non-profit organization whose mission is to promote increased cooperation between the U.S. and Canadian softwood lumber industries and to strengthen and expand markets for softwood lumber products in both countries. The BRC submitted an initial proposal for a program to USDA in February 2010.

The BRC proposed a program that would be financed by an assessment on softwood lumber domestic manufacturers and importers and administered by a board of industry members selected by the Secretary. The initial assessment rate would be $0.35 per thousand board feet shipped within or imported to the United States and could be increased up to a maximum of $0.50 per thousand board feet. Entities that domestically ship or import less than 15 million board feet would be exempt along with shipments exported outside of the United States. Assessed entities would not pay assessments on the first 15 million board feet shipped or imported. The purpose of the program would be to strengthen the position of softwood lumber in the marketplace, maintain and expand markets for softwood lumber, and develop new uses for softwood lumber within the United States. A referendum will be held among eligible domestic manufacturers and importers to determine whether they favor implementation of the program prior to it going into effect. A majority of domestic manufacturers and importers by both number and volume represented in the referendum must support the program for it to be implemented. The specific provisions of the program are discussed below.

Provisions of Proposed Program

Definitions

Pursuant to section 513 of the 1996 Act, §§ 1217.1 through 1217.30 of the proposed Order define certain terms that would be used throughout the Order. Several of the terms are common to all research and promotion programs authorized under the 1996 Act while other terms are specific to the proposed softwood lumber Order.

Section 1217.1 would define the term "Act" to mean the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425), and any amendments thereto.

Section 1217.2 would define the term "Blue Ribbon Commission" to mean the 21-member committee representing businesses that manufacture softwood lumber in the United States or import softwood lumber to the United States formed to pursue an industry research, promotion, and information program. As specified in proposed § 1217.41, the BRC would conduct the initial nominations for the Softwood Lumber Board and submit them to the Secretary.

[11] U.S. Department of Labor, Bureau of Labor Statistics, 2009, Employment cost index, Washington, DC, *http://data.bls.gov/PDQ/outside.jsp?survey=ci*. accessed 3/27/09.

[12] Price data was obtained from Random Lengths Publications, Inc., and is a framing composite price that is designed as a broad measure of price movement in the lumber market (*http://www.randomlengths.com*).

This would be the only role of the BRC under the program.

Section 1217.3 would define the term "Board" or "Softwood Lumber Board" to mean the administrative body established pursuant to § 1217.40, or such other name as recommended by the Board and approved by the Secretary.

Section 1217.4 would define the term "board foot" or "BF" to mean a unit of measurement of softwood lumber represented by a board 12-inches long, 12-inches wide, and 1-inch thick or its cubic equivalent. A board foot calculation for softwood lumber 1 inch or more in thickness is based on its nominal thickness and width by the actual length. Softwood lumber with a nominal thickness of less than 1 inch is calculated as 1 inch.

The term "nominal" means the size by which softwood lumber is known and sold in the marketplace. As previously mentioned, it differs from the actual size and is based on the thickness and width of a board when it is first cut from a log, or rough cut, prior to drying and planing. Nominal size would be defined in § 1217.16 of the Order. The term "planing" means the act of smoothing the surface of a board to make the wood a uniform size and would be defined in § 1217.20 of the Order.

Section 1217.6 would define the term "Customs" to mean Customs and Border Protection or CBP, an agency of the United States Department of Homeland Security.

Section 1217.8 would define the term "domestic manufacturer" to mean any person who is a first handler and is engaged in the manufacturing, sale and shipment of softwood lumber in the United States during a fiscal period and who owns, or shares in the ownership and risk of loss of manufacturing of softwood lumber or a person who is engaged in the business of manufacturing, or causes to be manufactured, sold and shipped such softwood lumber in the United States beyond personal use. The term would not include any person who re-manufactures softwood lumber that had already been subject to assessment under the Order.

Section 1217.9 would define the term "export" to mean to manufacture and ship softwood lumber from within the United States to locations outside of the United States.

Section 1217.10 would define the term "fiscal period" or "fiscal year" to mean a calendar year from January 1 through December 31, or other period as recommended by the Board and approved by the Secretary.

Section 1217.12 would define the term "information" to mean activities or programs designed to disseminate the results of research, new and existing marketing programs, new and existing marketing strategies, new and existing uses and applications, and to enhance the image of softwood lumber and the forests from which it comes. This would include consumer education, which would mean any action taken to provide information to, and broaden the understanding of, the general public regarding softwood lumber. This would also include industry information, which would mean information and programs that would enhance the image of the softwood lumber industry.

Section 1217.13 would define the term "manufacture" to mean the process of transforming softwood logs into softwood lumber.

Section 1217.14 would define the term "manufacturer for the U.S. market" to mean domestic manufacturers and importers of softwood lumber. Such importers may not have manufactured the softwood lumber, but would be importing softwood lumber that had been manufactured from softwood logs. This definition is intended to provide a common term for the domestic and importing members of the softwood lumber industry.

Section 1217.15 would define the term "marketing" to mean the sale or other disposition of softwood lumber in interstate, foreign, or intrastate commerce. The sale or disposition of softwood lumber within a state would constitute marketing.

Section 1217.18 would define the terms "part" and "subpart." The term "part" would mean the Softwood Lumber Research, Promotion, Consumer Education, and Industry Information Order and all rules, regulations, and supplemental orders issued pursuant to the Act and the Order. The Order would be a "subpart" of the part.

Section 1217.21 would define the terms programs, plans and projects to mean research, promotion and information programs, plans, or projects established under the Order.

Section 1217.22 would define the term "promotion" to mean any action taken, including paid advertising, public relations and other communications, and promoting the results of research, that presents a favorable image of softwood lumber and the forests from which it comes to the public and to any and all consumers and those who influence consumption of softwood lumber with the intent of improving the perception, markets and competitive position of softwood lumber and stimulating sales of softwood lumber.

Section 1217.23 would define the term "research" to mean any activity that advances the position of softwood lumber in the marketplace that includes any type of test, study, or analysis designed to advance the image, desirability, use, marketability, sales, product development, or quality of softwood lumber; new applications; improving softwood lumber's position in building and fire codes; softwood lumber product testing and safety; and evaluating the effectiveness of market development and promotion efforts including life cycle studies, forestry, sustainable forest management, environmental preferability, competitiveness, efficiency, pest and disease control, water quality and other management aspects of forestry and the forests from which softwood lumber originates.

Sections 1217.25 and 1217.26 would define the terms softwood and softwood lumber, respectively. It is noted that these section numbers are reversed in this proposed rule so that the terms appear alphabetically in the Order. Thus, the definition for softwood was renumbered from § 1217.26 to § 1217.25, and the definition for softwood lumber was renumbered from § 1217.25 to § 1217.26.

Section 1217.25 would then define the term "softwood" to mean one of the botanical groups of trees that have needle-like or scale-like leaves, or conifers.

Section 1217.26 would define the term "softwood lumber" to mean softwood lumber and products manufactured from softwood as described in section 804(a) within Title VIII (Softwood Lumber Act of 2008 or SLA of 2008) of the Tariff Act of 1930 (19 U.S.C. 1202–1683g), as amended by section 3301 of the Food, Conservation and Energy Act of 2008 (Pub. L. 110–246, enacted June 18, 2008), and as assessed under § 1217.52 of this Order.

The definition for softwood lumber in this proposed rule was modified to better state what is subject to this proposed program and to make clear what softwood lumber is subject to assessment. Further, modifications were made to § 1217.52 regarding the collection of assessments in this proposed rule.

Accordingly, softwood lumber and softwood lumber products described in section 804 of the SLA of 2008 and classified under subheading 4407.10.00, 4409.10.10, 4409.10.20, and 4409.10.90 of the HTSUS and would be covered

under this Order is described in the following paragraphs: [13]

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6 millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded, or finger-jointed;

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger jointed; and

(5) Coniferous drilled and notched lumber and angle cut lumber.

In addition, any product classified under subheading 4409.10.05 of the HTSUS that is continually shaped along its end and or side edges is covered under the SLA of 2008 and would be covered under this Order. All product classified under 4418.90.25 would also be covered under this Order.

Sections 1217.5, 1217.7, 1217.11, 1217.17, 1217.19, 1217.24, 1217.27, 1217.28, 1217.29, and 1217.30 would define the terms "conflict of interest," "Department or USDA," "importer," "Order," "person," "Secretary," "State," "suspend," "terminate," and "United States," respectively. The definitions are the same as those specified in section 513 of the 1996 Act.

Establishment of the Board

Pursuant to section 515 of the 1996 Act, §§ 1217.40 through 1217.47 of the proposed Order would detail the establishment and membership of the proposed Softwood Lumber Board, nominations and appointments, the term of office, removal and vacancies, procedure, reimbursement and attendance, powers and duties, and prohibited activities.

Section 1217.40 would specify the Board establishment and membership. The Board would be composed of manufacturers for the U.S. market who manufacture and domestically ship or import 15 million board feet or more of softwood lumber in the United States during a fiscal period. Seats on the Board would be apportioned based on the volume of softwood lumber manufactured and shipped within the United States by domestic manufacturers and the volume of softwood lumber imported into the United States.

The Board would be composed of 18 or 19 members, depending upon whether it is appropriate to appoint an additional importer member to the Board. Twelve members would be domestic manufacturers and would be allocated to three regions in the United States based on the volume of softwood lumber manufactured in and shipped from the respective region. Of the 12 members, 6 would be from the U.S. South Region, 5 would be from the U.S. West Region, and 1 member would be from the Northeast and Lake States Region and any other part of the United States not included in the southern and western regions. Specific areas within each domestic region would be specified in § 1217.40(b)(1) of the proposed Order.

Six members would be importers who import the majority of their softwood lumber from two regions in Canada and would be allocated based on the volume of softwood lumber imported from those two respective regions. Of the six Canadian importers, four would represent the Canadian West Region and two would represent the Canadian East Region. Specific areas within each Canadian region would be specified in § 1217.40(b)(2) of the proposed Order. An additional member would represent a region representing all countries except Canada and the United States, if appropriate.

The volume of softwood lumber imported from other countries besides Canada is relatively low, averaging about 6 percent of total imports from 2008 through 2010. Thus, the BRC recommended that, if the Secretary, at the request of the Board or on his or her own, determines that it would be consistent with the provisions of the Act, the Secretary could appoint an additional importer to the Board to represent the region outside of the regions specified for Canada. Nominees would be solicited as prescribed for other regions, and all the names of eligible candidates would be submitted to the Secretary for consideration. Such nominees would have to certify that the majority of their softwood lumber is imported from the region (which would include imports from all countries except Canada).

The BRC also opted to have no alternate Board members. It wants to ensure that industry members who seek representation and serve on the Board are committed to their service and participate in all Board meetings.

Every 5 years, but no more often than once every 3 years, the Board must review, based on a 3-year average, the geographical distribution of the volume of softwood lumber manufactured and shipped within the United States by domestic manufacturers and the volume of softwood lumber imported into the United States. If warranted, the Board would recommend to the Secretary that the Board membership be reapportioned appropriately to reflect such changes. The distribution of volumes between regions also shall be considered (domestic versus importer regions and within domestic and importing regions). The number of Board members may also be changed. Any changes in Board composition would be implemented by the Secretary through rulemaking.

Section 1217.41 of the proposed Order would specify Board nominations and appointments. The initial nominations would be submitted to the Secretary by the BRC. The BRC would publicize the nomination process, using trade press or other means it deems appropriate, and outreach to all manufacturers for the U.S. market who domestically ship and/or import 15 million board feet or more of softwood lumber per fiscal year. The BRC would use regional caucuses, mail or other methods to solicit potential nominees and would work with USDA to help ensure that all interested persons are apprised of the nomination process. The BRC would submit the nominations to the Secretary and recommend two nominees for each Board position. The Secretary would select the members of the Board from the nominations submitted by the BRC.

Regarding subsequent nominations, the Board would solicit nominations as described in the preceding paragraph. Nominees would have the opportunity to provide the Board a short background statement outlining their qualifications and desire to serve on the Board. They must domestically ship and/or import 15 million board feet or more of softwood lumber per fiscal year. Entities that are both a domestic manufacturer and an importer could seek nomination to the Board and vote in the nomination process described below depending on whether the majority of their business is domestic manufacturing or imports. Such nominees who domestically manufacture the majority of their

[13] The HTSUS numbers referred to in this discussion are as of January 1, 2008. However, HTS subheading 4407.10.00 is now HTS subheading 4407.10.01.

softwood lumber could seek nomination and vote as a domestic manufacturer, and such nominees who import the majority of their softwood lumber could seek nomination and vote as an importer.

Domestic manufacturers who manufacture softwood lumber in more than one region could seek nomination in only the region in which they manufacture the majority of their softwood lumber. The names of domestic manufacturer nominees would be placed on a ballot by region. The ballots along with the background statements would be mailed to domestic manufacturers in each respective region for a vote. Domestic manufacturers who manufacture softwood lumber in more than one region could only vote in the region in which they manufacture the majority of their softwood lumber. The votes would be tabulated for each region with the nominee receiving the highest number of votes at the top of the list in descending order by vote. The top two candidates for each position would be submitted to the Secretary.

Importer nominees would certify that the majority of their softwood lumber was imported from the respective region for which they were seeking representation on the Board. They would provide documentation to verify this if requested by the Board. The names of importer nominees would then be placed on a ballot by region. The ballots along with the background statements would be mailed to importers in each respective region for a vote. Importers who import softwood lumber from more than one region could only vote in the region from which they import the majority of their softwood lumber. The votes would be tabulated for each region with the nominee receiving the highest number of votes at the top of the list in descending order by vote. The top two candidates for each position would then be submitted to the Secretary.

The Board would submit nominations to the Secretary at least 6 months before the new Board term begins. The Secretary would select the members of the Board from the nominations submitted by the Board.

The BRC also recommended that no two Board members be employed by a single corporation, company, partnership, or any other legal entity. This is to ensure that no one entity has control on the Board.

In order to provide the Board flexibility, the Board could recommend to the Secretary modifications to its nomination procedures. Any such modifications would be implemented through rulemaking by the Secretary.

Section 1217.42 of the proposed Order would specify the term of office for Board members. With the exception of the initial Board, each Board member would serve a three-year term or until the Secretary selected his or her successor. Each term of office would begin on January 1 and end on December 31. No member could serve more than two consecutive terms, excluding any term of office less than three years. For the initial Board, the terms of office for Board members would be staggered for two, three, and four years and would be recommended to the Secretary by the BRC.

Section 1217.43 of the proposed Order would specify criteria for the removal of members and for filling vacancies. If a Board member ceased to work for or be affiliated with a domestic manufacturer or importer or ceased to do business in the region he or she represented, such position would become vacant. Additionally, the Board could recommend to the Secretary that a member be removed from office if the member consistently refused to perform his or her duties or engaged in dishonest acts or willful misconduct. The Secretary could remove the member if he or she finds that the Board's recommendation shows adequate cause. If a position became vacant, nominations to fill the vacancy would be conducted using the nominations process for subsequent nominations as proposed in § 1217.41 of the Order. A vacancy would not be required to be filled if the unexpired term is less than six months.

Section 1217.44 of the proposed Order would specify procedures of the Board. A majority of the Board members (10) would constitute a quorum, provided that at least three of the members present were importers and six were domestic manufacturers. If participation by telephone or other means were permitted, members participating by such means would count towards the quorum requirements or other voting requirements as authorized under the Order. Proxy voting would not be permitted. A motion would carry if supported by 10 Board members, except for recommendations to change the assessment rate or to adopt a budget, both of which would require affirmation by at least two-thirds of the Board members (12 members for an 18 member Board and 13 members for a 19 member Board). If a Board has vacant positions, recommendations to change the assessment rate or to adopt a budget would have to pass by an affirmative vote of two-thirds of the Board members, exclusive of the vacant seats.

For example, if a 19 member Board had a vacancy, there would be 18 Board members, and thus 10 members would constitute a quorum and the majority needed to carry a motion except for changes to the assessment rate and the adoption of the budget where 12 members must agree.

The proposed Order would also provide for the Board to take action by mail, telephone, electronic mail, facsimile, or any other electronic means when the chairperson believes it is necessary. Actions taken under these procedures would be valid only if all members and the Secretary were notified of the meeting and all members were provided the opportunity to vote and at least 10 Board members voted in favor of the action (unless two-thirds vote were required under the Order). Additionally, all votes would have to be confirmed in writing and recorded in Board minutes.

The proposed Order would specify that Board members would serve without compensation. However, Board members would be reimbursed for reasonable travel expenses, as approved by the Board, incurred when performing Board business.

Section 1217.46 of the proposed Order would specify powers and duties of the Board. These are similar to powers and duties of boards in other promotion programs authorized under the 1996 Act. They include, among other things, to administer the Order and collect assessments; to develop bylaws and recommend regulations necessary to administer the Order; to select a chairperson and other Board officers; to create an executive committee and form other committees and subcommittees as necessary; to hire staff or contractors; to provide appropriate notice of meetings to the industry and USDA and keep minutes of such meetings; to develop programs and enter into contracts to implement programs; to submit a budget to USDA for approval 60 calendar days prior to the start of the fiscal year; to borrow funds necessary to cover startup costs of the Order; to invest Board funds appropriately; to recommend changes in the assessment rate as appropriate and within the limits of the Order; to have its books audited by an outside certified public accountant at the end of each fiscal period and at other times as requested by the Secretary; to report its activities to manufacturers for the U.S. market; to make public an accounting of funds received and expended; to receive, investigate and report to the Secretary complaints of violations of the Order; and to recommend amendments to the Order as appropriate.

Section 1217.47 of the proposed Order would specify prohibited activities that are common to all promotion programs authorized under the 1996 Act. In summary, the Board nor its employees and agents could engage in actions that would be a conflict of interest; use Board funds to lobby (influencing legislation or governmental action or policy, by local, state, national, and foreign governments or subdivision thereof, other than recommending to the Secretary amendments to the Order); and engage in any advertising or activities that may be false, misleading or disparaging to another agricultural commodity.

As an example, § 1217.60 of the proposed Order provides authority for the Board to conduct research as defined in § 1217.23 that includes projects to improve softwood lumber's position in building and fire codes. While the Board may conduct such research, it could not engage in efforts to influence government officials to modify building and fire codes or establish new codes.

Expenses and Assessments

Pursuant to sections 516 and 517 of the 1996 Act, §§ 1217.50 through 1217.53 of the proposed Order detail requirements regarding the Board's budget and expenses, financial statements, assessments, and exemption from assessments. At least 60 calendar days before the start of the fiscal period, and as necessary during the year, the Board would submit a budget to USDA covering its projected expenses. The budget must include a summary of anticipated revenue and expenses for each program along with a breakdown of staff and administrative expenses. Except for the initial budget, the Board's budgets should include comparative data for at least one preceding fiscal period.

Each budget must provide for adequate funds to cover the Board's anticipated expenses. Any amendment or addition to an approved budget must be approved by USDA, including shifting of funds from one program, plan or project to another. Shifts of funds that do not result in an increase in the Board's approved budget would not have to have prior approval from USDA. For example, if the Board's approved budget provided for $1 million in consumer advertising and $500,000 in research projects, a shift of $50,000 from consumer advertising to research would require USDA approval. However, a shift within the $1 million consumer advertising line item would not require prior USDA approval.

The Board would be authorized to incur reasonable expenses for its maintenance and functioning. During its first year of operation, the Board could borrow funds for startup costs and capital outlay. Any borrowed funds would be subject to the same fiscal, budget and audit controls as other funds of the Board.

The Board could also accept voluntary contributions. Any contributions received by the Board would be free from encumbrances by the donor and the Board would retain control over use of the funds. For example, the Board could receive Federal grant funds, subject to approval by the Secretary, for a specific research project. The Board would also be required to reimburse USDA for costs incurred by USDA in overseeing the Order's operations, including all costs associated with referenda.

The Board would be limited to spending no more than 8 percent of its available funds for administration, maintenance, and the functioning of the Board. This limitation would begin two fiscal years after the Board's first meeting. Reimbursements to USDA would not be considered administrative costs. As an example, if the Board received $15 million in assessments during fiscal year 5, and had available $1 million in reserve funds, the Board's available funds would be $16 million. In this scenario, the Board would be limited to spending no more than $1.28 million (.08 × $16 million) on administrative costs. While section 515 of the 1996 Act limits such spending to 15 percent of a board's budget, the BRC believes that 8 percent is appropriate.

The Board could also maintain a monetary reserve and carry over excess funds from one fiscal period to the next. However, such reserve funds could not exceed one fiscal year's budgeted expenses. For example, if the Board's budgeted expenses for a fiscal year were $15 million, it could carry over no more than $15 million in reserve. With approval of the Secretary, reserve funds could be used to pay expenses.

The Board could invest its revenue collected under the Order in the following: (1) Obligations of the United States or any agency of the United States; (2) General obligations of any State or any political subdivision of a State; (3) Interest bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve; and (4) Obligations fully guaranteed as to principal interest by the United States.

The Board would be required to submit to USDA financial statements on a quarterly basis, or at any other time as requested by the Secretary. Financial statements should include, at a minimum, a balance sheet, an income statement, and an expense budget.

Assessments

The Board's programs and expenses would be funded through assessments on manufacturers for the U.S. market, other income, and other funds available to the Board. The Order would provide for an initial assessment rate of $0.35 per thousand board feet. Domestic manufacturers would pay assessments based on the volume of softwood lumber shipped within the United States and importers would pay assessments based on the volume of softwood lumber imported to the United States.

Two years after the Order becomes effective and periodically thereafter, the Board would review the assessment rate and, if appropriate, recommend a change in the rate. At least two-thirds of the Board members would have to favor a change in the assessment rate. The assessment rate could be no less than $0.35 per thousand board feet and no more than $0.50 per thousand board feet. Any change in the assessment rate within this range would be subject to rulemaking by the Secretary. Anticipated income generated within the assessment range is addressed in the section titled Regulatory Flexibility Act Analysis.

Domestic manufacturers would be required to pay their assessments owed to the Board by the 30th calendar day of the month following the end of the quarter in which the softwood lumber was shipped. Thus, the January to December fiscal year would have four quarters ending the last day of March, June, September, and December, respectively. Assessments would be due April 30th, July 30th, October 30th, and January 30th. As an example, assessments for lumber shipped in January would be due to the Board by April 30th.

Additionally, domestic product that could not be categorized in the HTSUS numbers listed in § 1217.52(h) if it were an import would not be covered under the Order. Further, softwood lumber originating in the United States that is shipped to locations outside of the United States and then shipped back to the United States would be covered under the Order, provided it could be categorized in the HTSUS numbers listed in § 1217.52(h).

Importer assessments would be collected through Customs. If Customs did not collect the assessment from an importer, then the importer would be responsible for paying the assessment

directly to the Board by the 30th calendar day of the month following the end of the quarter in which the softwood lumber was imported.

Imported softwood lumber that would be covered under the program would have a quantity associated with it in cubic meters. To compute the assessments owed, USDA converted the quantity of softwood lumber in cubic meters to the thousand board feet equivalent, and then that number was multiplied by the applicable assessment rate. One cubic meter is equal to 423.776001 board feet. The factor used to convert one cubic meter to one thousand board feet is 423.776001 divided by 1,000, or 0.423776001. For example, if 500,000 cubic meters of softwood lumber covered under the program is imported, and the assessment rate is $0.35 per thousand board feet, the assessments owed would be $74,160.80 (500,000 × 0.423776001 × $.35).

Section 1217.52(h) of the Order would prescribe the HTSUS categories covered under the program. In the event an HTSUS number subject to assessment changed and the change is merely a replacement of a previous number and has no impact on the description of the softwood lumber involved, assessments would continue to be collected based on the new number.

Articles brought into the United States temporarily and for which an exemption is claimed under subchapter XIII of chapter 98 of the HTSUS would not be covered under this Order. If assessments are collected by Customs for these products, the importer may apply to the Board for a refund of assessments.

The Order would provide authority for the Board to impose a late payment charge and interest for assessments overdue to the Board by 60 calendar days. The late payment charge and rate of interest would be prescribed in the Order's regulations issued by the Secretary.

As previously mentioned, § 1217.52 regarding the collection of assessments has been modified in this proposed rule to make clear what softwood lumber is subject to assessment. Additionally, § 1217.52 was modified to link assessable imported product directly to HTSUS codes.

Further, all imported softwood lumber covered under the Order would have a quantity associated with it in cubic meters or an equivalent measure. Thus, the factor listed in the first proposed rule used to convert value in dollars to a quantity has been removed because it is no longer necessary.

Exemptions

The Order would provide for four exemptions. First, manufacturers for the U.S. market who domestically ship or import less than 15 million board feet during a fiscal year would be exempt from paying assessments. Domestic manufacturers and importers would apply to the Board for an exemption prior to the start of the fiscal year. This would be an annual exemption; entities would have to reapply each year. They would have to certify that they expect to domestically ship or import less than 15 million board feet for the applicable fiscal year. The Board could request past shipment or import data to support the exemption request. The Board would then issue, if deemed appropriate, a certificate of exemption to the eligible manufacturer for the U.S. market.

Once approved, domestic manufacturers would not have to pay assessments to the Board for the applicable fiscal year. Approved importers would present a copy of the certificate to Customs. If accepted by Customs, such imported softwood lumber would not be subject to assessments. If Customs collects the assessment, the Board would refund such importers their assessments no later than 60 calendar days after receipt of such assessments by the Board. No interest would be paid on the assessments collected by Customs.

Manufacturers for the U.S market who did not apply to the Board for an exemption and domestically shipped or imported less than 15 million board of softwood lumber during the fiscal year would receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year. Board staff would determine the assessments paid and refund the domestic manufacturer accordingly. On the other hand, manufacturers for the U.S. market who receive an exemption certificate but domestically ship or import more than 15 million board feet of softwood lumber during the fiscal year would have to pay the Board the applicable assessments owed within 30 calendar days after the end of the fiscal year and submit any necessary reports to the Board.

If an entity is a domestic manufacturer and importer of softwood lumber, such entity's domestic shipments and imports together would count towards the 15 million board foot-exemption. For example, if an entity domestically ships 12 million board feet and imports 10 million board feet during a fiscal year, the entity would pay assessments on 7 million board feet of softwood lumber.

The Board could recommend additional procedures to administer the exemption as appropriate. Any procedures would be implemented through rulemaking by the Secretary.

The second exemption under the proposed Order would be for manufacturers for the U.S. market who domestically ship or import more than 15 million board feet of softwood lumber annually. Domestic manufacturers would not pay assessments on their first 15 million board feet of softwood lumber shipped during the applicable fiscal year. Importers would receive a refund from the Board for the applicable assessments collected by Customs no later than 60 calendar days after receipt of such assessments by the Board.

The third exemption under the proposed Order would be for exports. The Board would develop procedures for approval by USDA for refunding assessments that may be inadvertently paid on such shipments and establish any necessary safeguards as appropriate. Safeguard procedures would be implemented by the Secretary through rulemaking.

If the Board determined that exports should be assessed, it would make that recommendation to the Secretary. Any such action would be implemented by USDA through rulemaking.

As previously mentioned, softwood lumber manufactured in the United States that is shipped to locations outside of the United States for minor processing and then shipped back to the United States would be subject to assessment.

The fourth exemption under the proposed Order would be for organic lumber. A domestic manufacturer who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan, only manufactures and ships softwood lumber that is eligible to be labeled as 100 percent organic under the NOP and is not a split operation would be exempt from payment of assessments. Likewise, an importer who imports only softwood lumber that is eligible to be labeled as 100 percent organic under the NOP and is not a split operation would be exempt from the payment of assessments.

Promotion, Research and Information

Pursuant to section 516 of the 1996 Act, §§ 1217.60 through 1217.62 of the proposed Order would detail requirements regarding promotion, research and information programs, plans and projects authorized under the Order. The Board would develop and submit to the Secretary for approval programs, plans and projects regarding

promotion, research, education, and other activities, including consumer and industry information and advertising designed to, among other things, build markets for softwood lumber, enhance the image and reputation of softwood lumber and the forests from which it comes, and develop new applications for softwood lumber. The Board would be required to evaluate each plan and program to ensure that it contributes to an effective promotion program. Softwood lumber of all origins would have to be treated equally by the Board, and no program, plan, or project could be false, misleading, or disparage against another agricultural commodity.

The Order would also require that, at least once every five years, the Board fund an independent evaluation of the effectiveness of the Order and programs conducted by the Board. Finally, the Order would specify that any patents, copyrights, trademarks, inventions, product formulations and publications developed through the use of funds received by the Board would be the property of the U.S. Government, as represented by the Board. These along with any rents, royalties and the like from their use would be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board, and could be licensed with approval of the Secretary.

Reports, Books and Records

Pursuant to section 515 of the 1996 Act, §§ 1217.70 through 1217.72 specify the reporting and recordkeeping requirements under the proposed Order as well as requirements regarding confidentiality of information.

Manufacturers for the U.S. market would be required to submit periodically to the Board certain information as the Board may request. Specifically, domestic manufacturers would submit a report to the Board that would include, but not be limited to, the manufacturer's name, address, and telephone number; the board feet of softwood lumber shipped within the United States; the board feet of softwood lumber for which assessments were paid; and the board feet of softwood lumber that was exported. Manufacturers would submit this report at the same time they remit their assessments to the Board. Domestic manufacturers who received a certificate of exemption from the Board would not have to submit such a report to the Board. However, exempt domestic manufacturers who shipped over the exemption threshold of 15 million board feet during the fiscal year would have to submit such reports to the Board with the payment of assessments on a quarterly basis as specified in § 1217.53.

Likewise, importers who pay their assessments directly to the Board would be required to submit a report to the Board that would include, but not be limited to, the importer's name, address, and telephone number; the board feet of softwood lumber imported to the United States; the board feet of softwood lumber for which assessments were paid; and country of export for such softwood lumber. Importers would submit this report at the same time they remit their assessments to the Board. Importers who paid their assessments through Customs would not have to submit such reports to the Board because Customs would collect this information upon entry.

Additionally, manufacturers for the U.S. market, including those who were exempt, would be required to maintain books and records needed to verify any required reports. Such books and records must be made available during normal business hours for inspection by the Board's or USDA's employees or agents. Manufacturers for the U.S. market would be required to maintain such books and records for two years beyond the applicable fiscal period.

The Order would also require that all information obtained from persons subject to the Order as a result of proposed recordkeeping and reporting requirements would be kept confidential by all officers, employees, and agents of the Board and USDA. Such information could only be disclosed if the Secretary considered it relevant, and the information were revealed in a judicial proceeding or administrative hearing brought at the direction or at the request of the Secretary or to which the Secretary or any officer of USDA were a party. Other exceptions for disclosure of confidential information would include the issuance of general statements based on reports or on information relating to a number of persons subject to the Order, if the statements did not identify the information furnished by any person, or the publication, by direction of the Secretary, of the name of any person violating the Order and a statement of the particular provisions of the Order violated.

Miscellaneous Provisions

Referenda

Pursuant to section 518 of the 1996 Act, § 1217.81(a) of the proposed Order specifies that the program would not go into effect unless it is approved by a majority of domestic manufacturers and importers voting in a referendum who also represent a majority of the volume of softwood lumber represented in the referendum who, during a representative period determined by the Secretary, were engaged in the domestic manufacturing or importation of softwood lumber into the United States. For example, if 500 domestic manufacturers and importers representing 100 million board feet of softwood lumber voted in a referendum, 251 domestic manufacturers and importers representing over 50 million board feet would have to vote in favor of the Order for it to pass in the referendum.

Section 1217.81(b) of the proposed Order specifies criteria for subsequent referenda. Under the Order, a referendum would be held to ascertain whether the program should continue, be amended, or be terminated. This section specifies that a referendum would be held 5 years after the Order becomes effective, and every 5 years thereafter, to determine whether domestic manufacturers and importers favor continuation of the Order. The Order would continue if favored by a majority of domestic manufacturers and importers voting in the referendum that also represented a majority of the volume of softwood lumber represented in the referendum.

Additionally, a referendum could be conducted at the request of the Board. A referendum could also be conducted at the request of 10 percent or more of the number of persons eligible to vote in a referendum under the Order. Finally, a referendum could be conducted at any time as determined by the Secretary.

Other Miscellaneous Provisions

Sections 1217.80 and §§ 1217.82 through 1217.88 describe the rights of the Secretary; authorize the Secretary to suspend or terminate the Order when deemed appropriate; prescribe proceedings after termination; address personal liability, separability, and amendments; and provide OMB control numbers. These provisions are common to all research and promotion programs authorized under the 1996 Act.

Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of the proposed rule on small entities. Accordingly, AMS has prepared this regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small

Business Administration defines, in 13 CFR Part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (domestic manufacturers and importers) as those having annual receipts of no more than $7.0 million.

According to USDA's Forest Service, it is estimated that, between 2007 and 2009 (most recent data available to USDA), there were an average of 595 domestic manufacturers of softwood lumber in the United States annually.[14] This number represents separate business entities; one business entity may include multiple sawmills. Using an average price of $280 per thousand board feet, a domestic manufacturer who ships less than 25 million board feet per year would be considered a small entity. It is estimated that, between 2007 and 2009, about 363 domestic manufacturers, or about 61 percent,[15] shipped less than 25 million board feet annually.

Likewise, according to Customs data, it is estimated that, between 2007 and 2009, there were about 883 importers of softwood lumber annually. About 798 importers, or about 90 percent, imported less than $7.0 million worth of softwood lumber annually. Thus, the majority of domestic manufacturers and importers of softwood lumber would be considered small entities.

Regarding value of the commodity, with domestic production averaging 29.5 billion board feet (2007 and 2008), and using an average price for those years of $268 per thousand board feet,[16] the average annual value for softwood lumber is about $7.9 billion. According to Customs data, the average annual value for softwood lumber imports for 2007 and 2008 is about $4.7 billion.

This rule proposes an industry-funded research, promotion, and information program for softwood lumber. Softwood lumber is used in products like flooring, siding and framing. The program would be financed by an assessment on softwood lumber domestic manufacturers and importers and would be administered by a board of industry members selected by the Secretary. The initial assessment rate would be $0.35 per thousand board feet shipped within or imported to the United States and could be increased to $0.50 per thousand board feet. Entities that ship or import less than 15 million board feet would be exempt along with shipments exported outside of the United States. No entity would pay assessments on the first 15 million board feet shipped or imported. The purpose of the program would be to strengthen the position of softwood lumber in the marketplace, maintain and expand markets for softwood lumber, and develop new uses for softwood lumber within the United States. A referendum will be held among eligible domestic manufacturers and importers to determine whether they favor implementation of the program prior to it going into effect. A majority of entities by both number and volume would have to support the program for it to be implemented. The program is authorized under the 1996 Act.

Regarding the economic impact of the proposed Order on affected entities, softwood lumber domestic manufacturers and importers would be required to pay assessments to the Board. As previously mentioned, the initial assessment rate would be $0.35 per thousand board feet shipped within or imported to the United States and could be increased to no more than $0.50 per thousand board feet.

The Order would provide for an exemption for domestic manufacturers and importers who ship or import less than 15 million board feet annually. Of the 595 domestic manufacturers, it is estimated that about 232, or 39 percent, ship less than 15 million board feet per year and would thus be exempt from paying assessments under the proposed Order. Of the 883 importers, it is estimated that about 780, or 88 percent, import less than 15 million board feet per year and would also be exempt from paying assessments. Thus, about 363 domestic manufacturers and 103 importers would pay assessments under the Order. It is estimated that if $17.5 million were collected in assessments ($0.35 per thousand board feet assessment rate with 50 billion board feet assessed), 25 percent, or about $4 million, would be paid by importers and 75 percent, or about $13 million, would be paid by domestic manufacturers.

Regarding the impact on the industry as a whole, the proposed program is expected to grow markets for softwood lumber by stopping the erosion of market share in single family residential market, increasing the market share in multi-family residential construction, significantly increasing the use of softwood lumber in non-residential markets, and rebuilding softwood lumber's share in the outdoor living market. The BRC estimates the long-term market growth opportunity in the non-residential market and the raised wood segment of the residential market is between 10 and 12 billion board feet. USDA's Forest Service in a 2007 study estimated a more conservative potential growth at around 8 billion board feet.[17] While the benefits of the proposed program are difficult to quantify, the benefits are expected to outweigh the program's costs.

Regarding alternatives, the BRC considered various options to the proposed range in assessment rates and options to the proposed exemption. The BRC believes that $20 million in assessment income is an ideal threshold for an effective program that could help to improve the market for softwood lumber. Table 3 below shows the range in assessments projected at various industry shipment levels per year.

TABLE 3—PROJECTED INCOME GENERATED AT VARIOUS ASSESSMENT RATES AND SHIPMENT LEVELS [1]

Assessment options (per thousand board feet)	Annual shipment levels (billion board feet)		
	40	50	60
$0.25	$10 million	$12.5 million	$15 million.
$0.35	$14 million	$17.5 million	$21 million.
$0.50	$20 million	$25 million	$30 million.

[1] Assumes no exemption.

[14] Spelter, McKeever and Toth, Profile 2009, p. 15.

[15] Percentages were obtained from the American Lumber Standard Committee, Inc. (ALSC). The ALSC administers an accreditation program for the grademarking of lumber produced under the American Softwood Lumber Standard (Voluntary Product Standard 20).

[16] Spelter, McKeever and Toth, Profile 2009, p. 2–5.

[17] Spelter, H.D. McKeever, M. Alderman, Profile 2007: Softwood Sawmills in the United States and Canada, USDA, p. 10.

Regarding exemption levels, the BRC explored projected assessment income at exemption levels of 15, 20, and 30 million board feet. With a 15 million board foot exemption, the BRC projected a deduction of 11.3 percent in assessment income.

Table 4 below shows the BRC's projected income levels at various assessment options in light of the proposed 15 million board foot exemption.

TABLE 4—PROJECTED INCOME GENERATED AT VARIOUS ASSESSMENT RATES AND SHIPMENT LEVELS [1]

Assessment options (per thousand board feet)	Annual shipment levels (billion board feet)		
	40	50	60
$0.25	$8.9 million	$11.1 million	$13.3 million.
$0.35	$12.4 million	$15.5 million	$18.9 million.
$0.50	$17.7 million	$22.2 million	$26.6 million.

[1] Assumes 15 million board foot exemption.

Ultimately the BRC concluded that an assessment rate range of $0.35 to a maximum of $0.50 per thousand board feet with an exemption threshold of 15 million board feet was appropriate and would generate sufficient income to support an effective promotion program for softwood lumber. At an initial assessment rate of $0.35 per thousand board feet, the BRC projects assessment income between $12.4 million and almost $19 million with shipment levels ranging from 40 to 60 billion board feet, respectively.

The industry explored the merits of a voluntary promotion program. Over the years, the industry organized various public outreach, education and promotion campaigns funded through voluntary assessments. Although some were partially effective, none fully accomplished their objectives and the gains either disappeared quickly or eroded over time.

This action would impose additional reporting and recordkeeping burden on domestic manufacturer and importers of softwood lumber. Domestic manufacturers and importers interested in serving on the Board would be asked to submit a nomination form to the Board indicating their desire to serve or nominating another industry member to serve on the Board. Interested persons could also submit a background statement outlining their qualifications to serve on the Board. Except for the initial Board nominations, domestic manufacturers and importers would have the opportunity to cast a ballot and vote for candidates to serve on the Board. Domestic manufacturer and importer nominees to the Board would have to submit a background form to the Secretary to ensure they are qualified to serve on the Board.

Additionally, domestic manufacturers and importers who ship or import less than 15 million board feet annually could submit a request to the Board for an exemption from paying assessments on this volume. Domestic manufacturers and importers would also be asked to submit a report regarding their shipments/imports that would accompany their assessments paid to the Board. Domestic manufacturers and importers who would qualify as 100 percent organic under the NOP and are not a split operation could submit a request to the Board for an exemption from assessments. Importers could also request a refund of any assessments paid to Customs.

Finally, domestic manufacturers and importer who wanted to participate in a referendum to vote on whether the Order should become effective would have to complete a ballot for submission to the Secretary. These forms have been submitted to the OMB for approval under OMB Control No. 0581–NEW. Specific burdens for the forms are detailed later in this document in the section titled Paperwork Reduction Act. As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

Regarding outreach efforts, as previously mentioned, the Endowment conducted a study to assess the feasibility of a softwood lumber research and promotion program. According to the BRC, at the beginning of the study (early 2008), in-depth interviews were conducted among North American softwood lumber industry leaders to explore the level of interest in a generic promotion program to help grow the market for softwood lumber. The Endowment interviewed 35 companies, which included a cross section of various levels of size and ownership types within the softwood lumber industry. Of the 35 companies surveyed, 86 percent by number representing 54 percent of the volume favored exploring a mandatory promotion program for softwood lumber.

In early 2009, the BRC was formed and began a comprehensive process to develop a program. According to the BRC, its membership is diverse and represents 44 percent of softwood lumber shipments within the U.S. market. Efforts were made to inform various associations throughout the country through presentations at their meetings. Articles and notices were also published in various newspapers and newsletters about the proposed program.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS has requested approval of a new information collection and recordkeeping requirements for the proposed lumber program.

Title: Advisory Committee or Research and Promotion Background Information.

OMB Number for background form AD–755: (Approved under OMB No. 0505–0001).

Expiration Date of Approval: July 31, 2012.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0581–NEW.

Expiration Date of Approval: 3 years from approval date.

Type of Request: New information collection for research and promotion programs.

Abstract: The information collection requirements in the request are essential to carry out the intent of the 1996 Act.

The information collection concerns a proposal received by USDA for a national research and promotion program for the softwood lumber industry. The program would be financed by an assessment on softwood lumber domestic manufacturers and importers and would be administered by a board of industry members selected by the Secretary. The program would provide for an exemption for the first 15 million board feet of softwood lumber shipped by domestic manufacturers within the United States or imported into the United States during the year. A referendum will be held among eligible domestic manufacturers and importers to determine whether they favor implementation of the program prior to it going into effect. The purpose of the program would be to help build the market for softwood lumber.

In summary, the information collection requirements under the program concern Board nominations, the collection of assessments, and referenda. For Board nominations, domestic manufacturers and importers interested in serving on the Board would be asked to submit a "Nomination Form" to the Board indicating their desire to serve or to nominate another industry member to serve on the Board. Interested persons could also submit a background statement outlining qualifications to serve on the Board. Except for the initial Board nominations, domestic manufacturers and importers would have the opportunity to submit a "Nomination Ballot" to the Board where they would vote for candidates to serve on the Board. Nominees would also have to submit a background information form, "AD–755," to the Secretary to ensure they are qualified to serve on the Board.

Regarding assessments, domestic manufacturers and importers who ship or import less than 15 million board feet annually could submit a request, "Application for Exemption from Assessments," to the Board for an exemption from paying assessments. Domestic manufacturers and importers would be asked to submit a "Shipment/Import Report" that would accompany their assessments paid to the Board and report the quantity of softwood lumber shipped domestically or imported during the applicable period, the quantity exported from the United States, the quantity for which assessments were paid, and the country of export (for imports). Domestic manufacturers who ship less than 15 million board feet annually and are exempt from paying assessments would not be required to submit this report. Additionally, only importers who pay their assessments directly to the Board would be required to submit this report. As previously mentioned, the majority of importer assessments would be collected by Customs. Customs would remit the funds to the Board and the other information would be available from Customs (*i.e.,* country of export, quantity of softwood lumber imported). Finally, domestic manufacturers and importers who would qualify as 100 percent organic under the NOP and are not a split operation could submit an "Organic Exemption Form" to the Board and request an exemption from assessments. Importers could also request a refund of any assessments paid to Customs.

There would also be an additional burden on domestic manufacturers and importers voting in referenda. The referendum ballot, which represents the information collection requirement relating to referenda, is addressed in a final rule on referendum procedures which is published separately in this issue of the **Federal Register**.

Information collection requirements that are included in this proposal include:

(1) NOMINATION FORM

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Domestic manufacturers and importers.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12.5 hours.

(2) BACKGROUND STATEMENT

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Domestic manufacturers and importers.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12.5 hours.

(3) NOMINATION BALLOT

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Domestic manufacturers and importers.

Estimated Number of Respondents: 300.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 75 hours.

(4) BACKGROUND INFORMATION FORM AD–755 (OMB Form No. 0505–0001)

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hour per response for each Board nominee.

Respondents: Domestic manufacturers and importers.

Estimated Number of Respondents: 13 (38 for initial nominations to the Board, 0 for the second year, and up to 13 annually thereafter).

Estimated Number of Responses per Respondent: 1 every 3 years. (0.3)

Estimated Total Annual Burden on Respondents: 19 hours for the initial nominations to the Board, 0 hours for the second year of operation, and up to 6.5 hours annually thereafter.

(5) APPLICATION FOR EXEMPTION FROM ASSESSMENTS

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hour per domestic manufacturer or importer reporting on softwood lumber shipped domestically or imported. Upon approval of an application, domestic manufacturers and importers would receive exemption certification.

Respondents: Domestic manufacturers (232) and importers (780) who ship domestically or import less than 15 million board feet of softwood lumber annually.

Estimated Number of Respondents: 1,012.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 253 hours.

(6) SHIPMENT/IMPORT REPORT

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hour per domestic manufacturer or importer.

Respondents: Domestic manufacturers who ship 15 million board feet or more annually (363) and importers who remit their assessments directly to the Board (assume 5 percent of 103 importers, or 5).

Estimated Number of Respondents: 368.

Estimated Number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 736 hours.

(7) ORGANIC EXEMPTION FORM

Estimate of Burden: Public recordkeeping burden for this collection

of information is estimated to average 0.5 hours per exemption form.

Respondents: Organic domestic manufacturers and importers.

Estimated Number of Respondents: 1.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 0.5 hour.

(8) REFUND OF ASSESSMENTS PAID ON ORGANIC SOFTWOOD LUMBER

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hour.

Respondents: Organic importers.

Estimated Number of Respondents: 1.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 0.25 hour.

(9) A REQUIREMENT TO MAINTAIN RECORDS SUFFICIENT TO VERIFY REPORTS SUBMITTED UNDER THE ORDER

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average 0.5 hours per record keeper maintaining such records.

Recordkeepers: Domestic manufacturers (595) and importers (883).

Estimated number of recordkeepers: 1,478.

Estimated total recordkeeping hours: 739 hours.

As noted above, under the proposed program, domestic manufacturers and importers would be required to pay assessments and file reports with and submit assessments to the Board (importers through Customs). While the proposed Order would impose certain recordkeeping requirements on domestic manufacturers and importers, information required under the proposed Order could be compiled from records currently maintained. Such records shall be retained for at least two years beyond the fiscal year of their applicability.

An estimated 1,478 respondents would provide information to the Board (595 domestic manufacturers and 883 importers). The estimated cost of providing the information to the Board by respondents would be $24,387. This total has been estimated by multiplying 739 total hours required for reporting and recordkeeping by $33, the average mean hourly earnings of various occupations involved in keeping this information. Data for computation of this hourly rate was obtained from the U.S. Department of Labor Statistics.

The proposed Order's provisions have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize information already submitted under other programs administered by USDA and other state programs.

The proposed forms would require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the 1996 Act. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out reports and remitting assessments to the Board. The forms would be simple, easy to understand, and place as small a burden as possible on the person required to file the information.

Collecting information quarterly would coincide with normal industry business practices. The timing and frequency of collecting information are intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required reports. The requirement to keep records for two years is consistent with normal industry practices. In addition, the information to be included on these forms is not available from other sources because such information relates specifically to individual domestic manufacturers and importers who are subject to the provisions of the 1996 Act. Therefore, there is no practical method for collecting the required information without the use of these forms.

Analysis of Comments

The previously proposed rule concerning this action published in the **Federal Register** on October 1, 2010, provided a 60-day comment period ending November 30, 2010. Fifty-five comments were received. Of the 55 comments, 3 were duplicates. Of the remaining 52 comments, 41 supported the proposed Order, 7 were opposed, 3 commented without taking a position on the program and 1 comment was not related to this rulemaking action. Of the 41 comments in support, 27 supported the rule with no changes and 14 recommended changes. The comments are addressed in the following paragraphs.

Comments in Full Support

The 27 comments which supported the proposed Order with no changes noted the difficult economic conditions that the softwood lumber industry is experiencing. They stated that marketing campaigns from competing products have contributed to softwood lumber's loss of market share. Several commenters mentioned the need to promote the environmental benefits of wood and how this would likely result in a greater acceptance of lumber for residential, commercial, and outdoor construction in the United States. Several commenters also stated that a program to promote the benefits of softwood lumber and stimulate demand would benefit rural communities where many softwood lumber mills are located.

Comments in Support, with Modification

Fourteen comments which supported the proposed Order reiterated the comments in full support, but also suggested some changes. Four comments raised concerns regarding the definition of domestic manufacturer in § 1217.8 and the definition of softwood lumber in § 1217.26 and which products would be assessed. One commenter stated that domestic manufacturers do not include entities that remanufacture softwood lumber that has already been assessed, but the definition of softwood lumber includes things like coniferous wood siding and wood flooring which are remanufactured products that would likely be assessed when originally shipped from a sawmill. The commenter stated that such products should not be assessed again. The commenter also believes there is a difference in the way domestic and imported fence pickets and cedar fencing would be treated under the program, stating that imported fence pickets and cedar fencing would be exempt from assessment and that such domestically manufactured products should also be exempt. The commenter recommended that the proposed Order be clarified accordingly.

The commenter is correct in that under § 1217.8 of the proposed Order, the term domestic manufacturer would not include any person who remanufactures softwood lumber that has already been subject to assessment. Pursuant to § 1217.8, domestic manufacturers are first handlers, and a first handler is defined in the 1996 Act as the first person who buys or takes possession of an agricultural commodity like softwood lumber directly from a producer (*i.e.,* tree farmer) for marketing. Thus, softwood lumber that is manufactured domestically, sold, and shipped within the United States to another manufacturer who makes another softwood lumber product would only be assessed once. For example, if domestic manufacturer A (a first handler) manufactures softwood lumber, pays an assessment, and ships

the lumber to domestic manufacturer B who remanufactures the lumber into a product such as coniferous wood siding or wood flooring that is covered under the definition of softwood lumber in § 1217.26, such product(s) would not be subject to another assessment.

Additionally, if the first domestic manufacturer (first handler) manufactures softwood lumber and makes a product that would not be covered under the softwood lumber definition if it were an import, such product would not be assessed. For example, if domestic manufacturer A manufactures softwood lumber and makes cedar fence pickets or cedar fencing, such products would be exempt from assessment. However, if domestic manufacturer A manufactures softwood lumber, sells and ships the lumber to manufacturer B who makes fence pickets or cedar fencing, manufacturer A would pay assessments.

As previously mentioned, USDA has modified § 1217.26 regarding the definition of softwood lumber and § 1217.52 regarding the collection of assessments on imports. While modifications have been made to the proposed rule to facilitate program administration, no changes have been made to the proposed Order based on this comment.

Two comments raised concern that softwood lumber produced domestically that is exported for minor processing and subsequently re-imported would be exempt from assessment. The commenters expressed concern that softwood lumber manufactured in the United States for U.S. consumption would avoid assessment. USDA concurs with the comment. Accordingly, § 1217.52 has been modified to specify that softwood lumber that originates in the United States, is shipped to locations outside of the United States, and is then shipped back to the United States would be covered under the proposed Order and subject to assessments, provided it could be categorized in the HTSUS numbers listed in § 1217.52(h).

Three comments in support of the program made suggestions regarding the composition of the Board. One commenter stated that the Canadian east includes three production areas that supply the U.S. market—Ontario, Quebec, and four maritime provinces and that the Board member seats representing the Canadian East Region should be increased from two to three.

Section 1217.40(b) of the proposed Order provides that on the 18 or 19 member Board, 4 members shall import softwood lumber from the Canadian West Region, which consists of British Columbia and Alberta, and 2 members shall import softwood lumber from the Canadian East Region, which consists of the Canadian territories and all other Canadian provinces other than British Columbia and Alberta. According to Customs data, imports of softwood lumber from the proposed Canadian East Region comprised one-third or less of the total Canadian softwood lumber imports from 2008 through 2010. The proposed Order provides that 2 of the 6 Canadian importers on the Board, or one-third, shall be from the Canadian East Region. Thus, the allocation of membership reflects the current distribution of the volume softwood lumber imports between the eastern and western regions of Canada. Should this distribution change, § 1217.40(c)(2) of the proposed Order provides authority for reapportionment of the Board membership through rulemaking by the Secretary. The proposed Order requires the Board to review in each 5-year period, based on a 3-year average, the geographical distribution of the volume of softwood lumber manufactured and shipped within the United States and the volume of softwood lumber imported into the United States. The destination of volumes between regions must also be considered. Thus, no changes have been made to the proposed Order based on this comment.

One comment also recommended that members of the Board be allowed to designate an alternate with participation and voting rights in case the member is unable to participate in a meeting. The BRC recommended that the Board have no alternates. It wants to ensure that industry members who seek representation and serve on the Board are committed to their service and participate in all Board meetings. Further, the 1996 Act does not require alternates. Additionally, the proposed Order provides flexibility for the Board to permit participation in meetings by telephone or other means. Specifically, § 1217.44(a) states that, if participation by telephone or other means is permitted, members participating by such means would count as present in determining quorum or other applicable voting requirements. No changes have been made to the proposed Order based on this comment.

One comment in support of the proposed Order recommended that the lumber retail and distribution sector be represented on the Board. The commenter cited section 515 of the 1996 Act that authorizes the Secretary to appoint members and alternates to a board from among producers and first handlers and others in the marketing chain as appropriate. The commenter is correct regarding the authority in the 1996 Act. However, the BRC recommended that the Board be composed of domestic manufacturers and importers only. If at a future time the Board determined that representation from other industry sectors was warranted, the Board could make a recommendation to the Secretary. Such a change would require rulemaking by the Secretary. If other industry sectors were to also pay assessments, the Secretary would conduct a referendum among those new sectors, domestic manufacturers and importers to determine if the change was supported by the industry. Additionally, the Order provides that Board committees and subcommittees could include individuals other than Board members. Representatives from other industry sectors could serve on these committee and subcommittees. No changes have been made to the proposed Order based on this comment.

One comment in support of the program suggested several changes to various sections of the proposed Order. First, in § 1217.47(b) regarding prohibited activities, the commenter suggested adding the phrase "other than recommending to the Secretary amendments to this Order." However, § 1217.47(b) currently reads that the Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in: "* * * (b) Using funds collected by the Board under the Order to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, State, national, and foreign governments or subdivision thereof, other than recommending to the Secretary amendments to the Order * * *" Thus, the language suggested by the commenter is already in proposed § 1217.47(b). Thus, no change has been made to the proposed Order based on this comment.

In § 1217.47(c), the commenter suggested adding the word "geographic" before the word "origins" so the paragraph would read as follows: "No program, plan or project including advertising shall be false or misleading or disparaging to another agricultural commodity. Softwood lumber of all geographic origins shall be treated equally." The commenter believes this would clarify that origins refers to regions and not species. USDA concurs with the comment and has modified paragraph (c) of § 1217.47 accordingly.

Eight comments in support of the program made recommendations regarding assessments and program coverage. One comment suggested reducing the assessment rate and

expanding program coverage to other wood products like wood panel products and engineered wood products. The proposal and supporting data submitted by proponent BRC pertained to softwood lumber. USDA does not have sufficient data to warrant expanding program coverage. Regarding the assessment rate, the BRC reviewed various options in assessment rates and exemption levels and concluded that $20 million in assessment income is an ideal threshold for an effective program that could help to improve the market for softwood lumber. Ultimately the BRC determined that an assessment range of $0.35 to a maximum of $0.50 per thousand board feet with an exemption threshold of 15 million board feet would generate sufficient income to support an effective promotion program for softwood lumber. A lower assessment rate would not generate sufficient funds to meet the goals of this program. No change has been made to the proposed Order based on this comment.

One comment recommended that assessments be based on the ability of the residential market to support an increase in the cost of softwood lumber. The commenter also opined that the Order should not establish marketing, research, or promotion programs that require assessments greater than the current residential market can support. The Board may consider such information when it formulates its budget each year. The proposed Order provides for a range in the assessment rate from $0.35 to $0.50 per thousand board feet. The range is intended to provide the Board flexibility to respond to such economic conditions. Thus, there is already a mechanism in place for the Board to consider market conditions. No change has been made to the proposed Order based on this comment.

Six comments requested that the collection of assessments be delayed until January 2012 due to the economic hardship that the softwood lumber industry is currently facing. Allowing for the assessment rate to start in January 2012 would provide the industry with additional time to prepare for the program. Accordingly, assessments would be collected under the program no earlier than January 2012.

Two comments suggested making a change to § 1217.50(f) by adding the phrase "that are inconsistent with the goals of the Order" after the phrase "free from any encumbrances" so the section would read as follows: "The Board may accept voluntary contributions, and is encouraged to seek other appropriate funding sources to carry out activities authorized by the Order. Such contributions shall be free from any encumbrances that are inconsistent with the goals of this Order by the donor and the Board shall retain complete control of their use * * *" USDA has determined that this addition is not necessary because USDA would not permit any action that was inconsistent with the Order. No change has been made to the proposed Order based on this comment.

Two comments suggested that the proposed Order be revised so that the Board had the option to pursue international markets with assessment funds or in conjunction with Foreign Agricultural Service (FAS) funds. Under the proposed Order, § 1217.53(c) would exempt exports of softwood lumber from the United States from assessment. Thus, since exports would not be assessed, assessment funds could not be used to promote exports. However, this section also provides authority for the Board to recommend to the Secretary that exports be assessed if deemed appropriate. Should exports ever be assessed and covered under the program, assessment funds could then be used for international promotion. Additionally, § 1217.50(f) specifies that the Board may receive funds from outside sources, including FAS, with approval of the Secretary, for specific authorized projects. Thus, the Order as proposed has a mechanism in place to conduct international promotion in the future. No change to the proposed Order has been made based on this comment.

Four comments in support of the program expressed concern regarding the minimum quantity exemption under the proposed Order. One comment recommended lowering the exemption level of 15 million board feet to reduce the unit cost incurred by those paying into the program. The commenter referenced the term de minimis as it is used in the North American Free Trade Agreement and the World Trade Organization glossary. One commenter requested that exemption procedures be developed so that entities exempt under the Order would not pay assessments and then have their funds later refunded back. The commenter opined that this would place a heavy burden on smaller importers because Customs would collect the assessment and the funds would be tied up for about 90 days until refunded by the Board.

Finally, two comments requested assurance that companies who import and domestically manufacture softwood lumber receive only one 15 million board foot exemption.

Section 516(a)(1) of the 1996 Act provides authority for the Secretary to exempt from an order any de minimis quantity of an agricultural commodity otherwise covered by the order. However, the 1996 Act does not define the term de minimis and USDA is not limited to using the definition of de minimis as specified in another law or agreement. The de minimis quantity is defined for a particular program and industry. The BRC reviewed various options for the exemption and determined that 15 million board feet would be appropriate because such a level would still provide the Board with resources to have a program that could be successful. USDA concurs with this exemption level because this level would exempt small operations that would otherwise be burdened by the assessment.

In response to the commenters' request for assurance that a company who imports and domestically manufactures softwood lumber would only be eligible for one 15 million board foot exemption, USDA confirms that limitation. For example, if company A imports 20 million board feet of softwood lumber and domestically manufactures and ships within the United States 40 million board feet of softwood lumber during a fiscal year, company A's exemption would be limited to one 15 million board feet exemption on the total 60 million board feet assessable under this proposed program. No changes to the proposed Order have been made based on these comments.

In response to the comment about exemption procedures, USDA is working to develop a process whereby an importer could provide Customs a copy of the exemption certificate issued by the Board. However, the only available alternative at this time is for Customs to collect the assessment, and the Board to refund such importers their assessments no later than 60 calendar days after receipt of by the Board. Section 1217.53(a) has been revised accordingly.

Three comments in support of the program expressed concern with the exemption for organic softwood lumber. Two commenters were concerned with a potential loophole. One commenter requested that the exemption be removed from the proposed Order. Specifically, the commenter argued that softwood lumber cannot be labeled or marketed as organic product under the Organic Food Production Act of 1990 because it is not marketed for human or livestock consumption. The commenter referenced the cotton promotion program and exemption for organic

cotton, but added that cottonseed oil is used in a number of food products (*i.e.,* cottonseed oil for humans and cottonseed meal for livestock and poultry).

The reference to the term consumption under the Organic Food Production Act of 1990 includes the consumption of non-food products. For example, under the cotton research and promotion program, organic cotton products are exempt from assessment, including non-food products. Thus, organic softwood lumber would be exempt from assessment under the proposed Order. Regarding the concern about a loophole, domestic manufacturers and importers would have to provide sufficient information to the Board to warrant an organic exemption. No changes have been made to the proposed Order based on these comments.

Three comments in support of the program expressed concern with the section of the proposed Order on programs, plans, and projects. One commenter wants to ensure that the Board has the flexibility to use the Forest Products Laboratory in Wisconsin for research projects and would not be limited to certain USDA laboratories. Section 1217.60 of the proposed order provides that the Board would have such flexibility. Another comment opined that an appropriate amount of funds raised should be reinvested in marketing, research, and promotion towards the use of softwood lumber in construction, renovation and repair of residential and light commercial structures. Under proposed § 1217.60, the Board would have the flexibility to conduct such research projects as it determines are appropriate and within the scope of the Order. Another commenter argued that the proposed rule was unclear as to what programs and/or organizations would be eligible to receive Board funds. As an example, the commenter asked whether existing codes and standards activities would be eligible expenses under the program. Pursuant to § 1217.60, the Board, with approval of the Secretary, could fund projects for purposes authorized under the Order. The Board could not fund programs to influence government action such as the development of codes and standards or lobbying for changes in codes and standards. No changes have been made to the proposed Order based on these comments.

Comments Opposed

Seven comments received were opposed to the proposed program. One commenter argued that there was no need for the program to spend American tax dollars and that another Federal bureaucracy is unnecessary. The proposed program would be paid for by the softwood lumber industry through assessments on domestic manufacturers and importers of 15 million board feet or more annually. Research and promotion programs overseen by USDA are self-help programs funded by their respective industry and do not receive taxpayer funds.

One commenter opined that, with the economy today now is not the time to assess lumber companies an extra $0.35 per thousand board feet. Another commenter opined that the economic downturn in the softwood lumber industry was not due to the lack of advertising dollars spent promoting softwood lumber but is more directly related to the housing crisis in the United States. As previously discussed, the economic downturn has had an adverse effect on the softwood lumber industry. USDA also recognizes the impact of the housing crisis on the softwood lumber industry. However, USDA has received sufficient justification to warrant proceeding to a referendum so that industry members may vote as to whether a softwood lumber research and promotion program should be implemented. Additionally, as previously mentioned, USDA received several comments that referenced the state of the economy and requested that assessments be collected no earlier than January 2012. Allowing for the assessment rate to start in January 2012 would provide the industry with additional time to prepare for the program. USDA has accepted those comments and ensures that, if the program passes in referendum, assessments would be collected no earlier than January 2012.

One commenter asked why all forest product industry segments would not participate in the assessment since assessment funds would be used to promote the use of forest products. The proposed program and justification that USDA received from the BRC was for softwood lumber only and is consistent with the enabling statute. It is AMS' understanding that other forest product industry segments discussed the possibility of joining with softwood lumber segments but the decision was made to pursue promotion efforts separately.

Two commenters opined that softwood lumber is different from beef and milk (that have active promotion programs) in that the softwood lumber industry encompasses many different factions, species, and sources. They argued that it would be difficult to see a singular promotion campaign for softwood lumber (like "Got Milk?"). Other similar promotion programs administered by USDA cover commodities that are from various sources and made into multiple products. Potatoes are produced in the U.S. and imported from Canada and other places and made into French fries, potato chips, and also used in many recipes. Generic promotion programs increase the total market for a product to the benefit of an industry, even when the commodity may be made into various products.

One commenter opined that it was difficult to support an unknown program with unknown financial costs and details. The program as proposed would provide for an initial assessment rate of $0.35 per thousand board feet. The assessment rate could be raised through rulemaking by the Secretary up to a maximum of $0.50 per thousand board feet. With the 15 million board foot exemption and the initial $0.35 per thousand board foot assessment rate, it is estimated that between $12.4 and almost $19 million would be raised annually with shipment levels ranging from 40 to 60 billion board feet, respectively. While the benefits of the program are difficult to quantify prior to it going into effect, § 1217.61 of the proposed Order would require the Board to conduct at least once every 5 years an independent evaluation of the effectiveness of the Order and the programs conducted. Thus, the proposed Order would include a mechanism whereby its effectiveness would be periodically evaluated. Similar evaluations are required of other research and promotion programs overseen by USDA and can be viewed at *http://www.ams.usda.gov/FVPromotion*.

Two commenters stated that most of their product line is sold in a niche market and that they would not benefit from the program. They are concerned that, if they are forced to sponsor efforts in other markets, they could not survive in their own market niche. Another commenter wants to continue to have freedom of choice as to where they decide to put their funds. One commenter expressed concern that the program would favor large mills producing into the commodity markets.

Generic promotion, research, and information activities for agricultural commodities play a unique role in advancing the demand for such commodities, since such activities increase the total market for a product to the benefit of consumers and all producers. These generic activities are of particular benefit to small producers

who lack the resources or market power to advertise on their own. As contemplated by the 1996 Act, generic activities increase the general market demand for an agricultural commodity. The Board, with the approval of the Secretary, would decide how the funds are used and all sectors of the industry would be encouraged to participate in the deliberations.

One commenter stated that softwood lumber does not compete with other construction material like concrete and steel, which is the primary target of the program. The commenter stated further that the domestic industry does compete with imported softwood lumber, primarily from Europe and South Africa. According to USDA's Forest Service, softwood lumber competes with numerous alternatives in domestic end uses, including steel, concrete, brick, concrete block, poured concrete, vinyl, wood-plastic composite lumber, and laminated veneer.[18] Additionally, according to Census data, the major source of imported softwood lumber is from Canada. As previously mentioned, from 2007 through 2009, imports from Canada comprised about 92 percent of the total softwood lumber imports into the United States. The purpose of research and promotion programs is to maintain and expand the market for the respective commodity. If the market for softwood lumber in the United States is expanded, both domestic and imported softwood lumber would benefit.

No changes have been made to the proposed Order based on these seven opposing comments.

Additional Comments

Three comments were received that neither supported nor opposed the program, but raised concerns or made recommendations. One comment recommended that USDA first seek funds from the BSCL to jump start the program because it already has funds from the United States and Canada. However, the 1996 Act requires promotion programs to be funded by the industry itself. Specifically, section 517 of the 1996 Act provides that while an order issued under the 1996 Act is in effect, assessment shall be paid by first handlers (domestic manufacturers) with respect to the agricultural commodity produced and marketed and by importers with respect to the agricultural commodity imported into the United States, if the imported agricultural commodity is covered by the order. Further, the Board could accept donations to conduct its programs. Thus, no change has been made to the proposed Order based on this comment.

The commenter also recommended collecting $20 million in assessments as a start-up, and then after 2 years, have an informed vote, adding that a proper assessment rate could then be justified. While the 1996 Act allows for a referendum to be conducted not later than 3 years after assessments first begin under an order, the BRC recommended that an initial referendum be conducted prior to the order going into effect. The BRC also recommended that a referendum be conducted every 5 years thereafter to determine whether the program should continue. The BRC's proposal is consistent with the 1996 Act and an initial referendum will be conducted prior to program implementation. No change has been made to the proposed Order based on this comment.

One comment raised concerns regarding imports. The commenter expressed concern with § 1217.52(g) in the proposed rule which stated that if Customs does not collect an assessment from the importer, the importer must pay the assessment directly to the Board within 30 calendar days after importation. The commenter noted that domestic manufacturers would pay assessments to the Board no later than the 30th calendar day of the month following the end of the quarter in which the softwood lumber was shipped. Given this difference in payment times between domestic manufacturers and importers who pay assessments directly to the Board, USDA revised the proposed Order to require importers who submit their assessments to the Board to pay such assessments no later than the 30th calendar day of the month following the end of the quarter in which the softwood lumber was imported. This would bring the payment time frame for import assessments paid directly to the Board in line with the domestic industry. Section 1217.52(g) has been renumbered as § 1217.52(j) and revised accordingly.

The commenter expressed concern with assessing the importer of record. The commenter stated that imported volume would incur additional Customs brokerage and other related charges that would disproportionately impact the importer of record. The commenter also was concerned that one company could use multiple entities for importation and circumvent the assessment by importing less than the 15 million board foot exemption threshold through each entity. The commenter is also concerned that smaller Canadian companies who ship to the United States through larger wholesalers and brokers may not receive the benefit of an exemption for their first 15 million board feet of softwood lumber imported. The commenter stated further that smaller Canadian softwood lumber producers are generally not the importer of record but are represented by brokers and wholesalers who take ownership of the product and import it into the United States. The commenter is concerned that the larger entities could pass the assessment on to the smaller Canadian producer for 100 percent of the product although the first 15 million board feet should be exempt. The commenter suggested that, while the SLA is in effect, the assessment could be applied to those Canadian producers accessing the U.S. market according to the applicable Export Import Control Bureau Number that has been assigned to Canadian companies who produce softwood lumber destined for the United States.

Section 517(a)(2) of the 1996 Act provides authority to assess importers under an order, and section 513(6) defines the term importer to mean any person who imports an agricultural commodity from outside of the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person. The 1996 Act provides no authority to assess foreign producers. Transactions between foreign producers and brokers/wholesalers are outside the scope of an order. Additionally, each importer assessed under the program must be a separate entity with a separate tax identification number. Otherwise, all entities under the same tax identification number would be considered one entity subject to the Order. This information would be reviewed periodically by the Board during audits to check compliance with the program. Thus, no change has been made to the proposed Order based on this comment.

One commenter suggested that the exemption level of 15 million board feet be raised to 100 million board feet and/or that the exemption be made available to qualified Small Business Administration companies. As previously mentioned, the BRC reviewed various options for the exemption and determined that 15 million board feet would be appropriate. This level, based on the data reviewed, is not unreasonable. Furthermore, raising the exemption to 100 million board feet or another level would not generate sufficient income to fund the program. Thus, no change has been made to the proposed Order based on this comment.

One commenter suggested that USDA be more proactive to directly inform

[18] Spelter, McKeever and Toth, Profile 2009, p. 2.

every affected manufacturer of the impending vote. The commenter did not believe that publication of the proposed rule in the **Federal Register** and receiving information through various industry association networks was sufficient. In order to provide additional outreach to those who USDA believes would be regulated under the proposed rule, USDA is mailing a copy of this rule to all known potentially affected industry members and will do a subsequent mailing of ballots, instructions and a summary of the program to all industry members.

In the October 1, 2010, proposed rule, comments were also invited on the information collection requirements prescribed in the Paperwork Reduction Act section of this rule. Specifically, comments were solicited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the proposed Order and USDA's oversight of the proposed Order, including whether the information would have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) the accuracy of USDA's estimate of the principal manufacturing areas in the United States for softwood lumber; (d) the accuracy of USDA's estimate of the number of domestic manufacturers and importers of softwood lumber that would be covered under the program; (e) ways to enhance the quality, utility, and clarity of the information to be collected; and (f) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. No comments were received regarding information collection.

While the proposal set forth below has not received the approval of USDA, it is determined that this proposed Order is consistent with and would effectuate the purposes of the 1996 Act.

As previously mentioned, for the proposed Order to become effective, it must be approved by a majority of domestic manufacturers and importers voting for approval in a referendum who also represent a majority of the volume of softwood lumber represented in the referendum. Referendum procedures will be published separately in this issue of the **Federal Register**.

Referendum Order

Pursuant to the 1996 Act, a referendum will be conducted to determine whether eligible domestic manufacturers and importers favor issuance of the proposed Order. Section 518 of the 1996 Act authorizes USDA to conduct a referendum prior to the Order going into effect.

The representative period for establishing voter eligibility for the referendum shall be the period from January 1 through December 31, 2010. Domestic manufacturers must have manufactured and shipped 15 million or more board feet of softwood lumber within the United States and importers must have imported 15 million board feet or more of softwood lumber to the United States during the representative period to be eligible to vote. The Order shall become effective if it is approved by a majority of those eligible persons voting in the referendum who also represent a majority of the volume of softwood lumber represented in the referendum.

The referendum procedures that were issued pursuant to the 1996 Act shall be used to conduct the referendum (7 CFR 1217.100 through 1217.108). The referendum shall be conducted by mail from May 23 through June 10, 2011. Ballots must be received by the referendum agents no later than the close of business, 4:30 p.m. (Eastern Standard Time) on June 10, 2011, to be counted.

Maureen T. Pello of the USDA, AMS, Research and Promotion Branch is designated as the referendum agent to conduct the referendum. Prior to the first day of the voting period, the referendum agents will mail the ballots to be cast in the referendum and voting instructions to all eligible voters. Any domestic manufacturer or imporer who does not receive a ballot should contact the referendum agent cited in the **FOR FURTHER INFORMATION CONTACT** section no later than one week before the end of the voting period.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the referendum ballot was submitted to the OMB and approved under OMB Control No. 0581–NEW.

List of Subjects in 7 CFR Part 1217

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Softwood lumber promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that Title 7, Chapter XI of the Code of Federal Regulations be amended by adding part 1217 to read as follows:

PART 1217—SOFTWOOD LUMBER RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

Subpart A—Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order

Definitions

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1217.3 Board or Softwood Lumber Board.
1217.4 Board foot.
1217.5 Conflict of interest.
1217.6 Customs or CBP.
1217.7 Department or USDA.
1217.8 Domestic manufacturer.
1217.9 Export.
1217.10 Fiscal period or year.
1217.11 Importer.
1217.12 Information.
1217.13 Manufacture.
1217.14 Manufacturer for the U.S. market.
1217.15 Marketing.
1217.16 Nominal size.
1217.17 Order.
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1217.19 Person.
1217.20 Planing.
1217.21 Programs, plans and projects.
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1217.24 Secretary.
1217.25 Softwood.
1217.26 Softwood lumber.
1217.27 State.
1217.28 Suspend.
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Softwood Lumber Board

1217.40 Establishment and membership.
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Expenses and Assessments

1217.50 Budget and expenses.
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Promotion, Research and Information

1217.60 Programs, plans and projects.
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Reports, Books, and Records

1217.70 Reports.
1217.71 Books and records.
1217.72 Confidential treatment.

Miscellaneous

1217.80 Right of the Secretary.
1217.81 Referenda.
1217.82 Suspension or termination.
1217.83 Proceedings after termination.
1217.84 Effect of termination or amendment.
1217.85 Personal liability.

1217.86 Separability.
1217.87 Amendments.
1217.88 OMB control numbers.

Subpart B—[Reserved]

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

Subpart A—Softwood Lumber Research, Promotion, Consumer Education, and Industry Information Order Definitions

§ 1217.1 Act.

Act means the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425), and any amendments thereto.

§ 1217.2 Blue Ribbon Commission or BRC.

Blue Ribbon Commission or *BRC* means the 21-member committee representing businesses that manufacture softwood lumber in the United States or import softwood lumber to the United States formed to pursue an industry research, promotion, and information program.

§ 1217.3 Board or Softwood Lumber Board.

Board or *Softwood Lumber Board* means the administrative body established pursuant to § 1217.40, or such other name as recommended by the Board and approved by the Department.

§ 1217.4 Board foot.

Board foot or *BF* means a unit of measurement of softwood lumber represented by a board 12-inches long, 12-inches wide, and 1-inch thick or its cubic equivalent. A board foot calculation for softwood lumber 1 inch or more in thickness is based on its nominal thickness and width and the actual length. Softwood lumber with a nominal thickness of less than 1 inch is calculated as 1 inch.

§ 1217.5 Conflict of interest.

Conflict of interest means a situation in which a member or employee of the Board has a direct or indirect financial interest in a person who performs a service for, or enters into a contract with, the Board for anything of economic value.

§ 1217.6 Customs or CBP.

Customs or CBP means Customs and Border Protection, an agency of the United States Department of Homeland Security.

§ 1217.7 Department or USDA.

Department or USDA means the U.S. Department of Agriculture, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1217.8 Domestic manufacturer.

Domestic manufacturer means any person who is a first handler and is engaged in the manufacturing, sale and shipment of softwood lumber in the United States during a fiscal period and who owns, or shares in the ownership and risk of loss of manufacturing of softwood lumber or a person who is engaged in the business of manufacturing, or causes to be manufactured, sold and shipped such softwood lumber in the United States beyond personal use. This term does not include any person who re-manufactures softwood lumber that has already been subject to assessment under this Order.

§ 1217.9 Export.

Export means to manufacture and ship softwood lumber from within the United States to locations outside of the United States.

§ 1217.10 Fiscal period or year.

Fiscal period or year means a calendar year from January 1 through December 31, or such other period as recommended by the Board and approved by the Secretary.

§ 1217.11 Importer.

Importer means any person who imports softwood lumber from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person who manufactures softwood lumber outside the United States for sale in the United States, and who is listed in the import records as the importer of record for such softwood lumber.

§ 1217.12 Information.

Information means activities or programs designed to disseminate the results of research, new and existing marketing programs, new and existing marketing strategies, new and existing uses and applications, and to enhance the image of softwood lumber and the forests from which it comes. These include:

(a) Consumer education, which means any action taken to provide information to, and broaden the understanding of, the general public regarding softwood lumber; and

(b) Industry information, which means information and programs that would enhance the image of the softwood lumber industry.

§ 1217.13 Manufacture.

Manufacture means the process of transforming softwood logs into softwood lumber.

§ 1217.14 Manufacturer for the U.S. market.

Manufacturer for the U.S. market means domestic manufacturers and importers of softwood lumber as defined in this Order.

§ 1217.15 Marketing.

Marketing means the sale or other disposition of softwood lumber in interstate, foreign, or intrastate commerce.

§ 1217.16 Nominal size.

Nominal size means the size by which softwood lumber is known and sold in the marketplace that differs from actual size and is based on the thickness and width of a board when it is first cut from a log, or rough cut, prior to drying and planing.

§ 1217.17 Order.

Order means an order issued by the Secretary under section 514 of the Act that provides for a program of generic promotion, research, and information regarding agricultural commodities authorized under the Act.

§ 1217.18 Part and subpart.

Part means the Softwood Lumber Research, Promotion, Consumer Education, and Industry Information Order and all rules, regulations, and supplemental orders issued pursuant to the Act and the Order. The Order shall be a *subpart* of such part.

§ 1217.19 Person.

Person means any individual, group of individuals, partnership, company, corporation, association, affiliate, cooperative, or any other legal entity.

§ 1217.20 Planing.

Planing means the act of smoothing the surface of a board to make the wood a uniform size.

§ 1217.21 Programs, plans and projects.

Programs, plans and projects mean those research, promotion and information programs, plans, or projects established pursuant to this Order.

§ 1217.22 Promotion.

Promotion means any action taken, including paid advertising, public relations and other communications, and promoting the results of research, that presents a favorable image of softwood lumber to the public and to any and all consumers and those who influence consumption of softwood

lumber with the intent of improving the perception, markets and competitive position of softwood lumber and stimulating sales of softwood lumber.

§ 1217.23 Research.

Research means any activity that advances the position of softwood lumber in the marketplace that includes any type of test, study, or analysis designed to advance the image, desirability, use, marketability, sales, product development, or quality of softwood lumber; new applications; improving softwood lumber's position in building and fire codes; softwood lumber product testing and safety; and evaluating the effectiveness of market development and promotion efforts including life cycle studies, forestry, sustainable forest management, environmental preferrability, competitiveness, efficiency, pest and disease control, water quality and other management aspects of forestry and the forests from which softwood lumber originates.

§ 1217.24 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any other officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1217.25 Softwood.

Softwood means one of the botanical groups of trees that have needle-like or scale-like leaves, or conifers.

§ 1217.26 Softwood lumber.

Softwood lumber means and includes softwood lumber and products manufactured from softwood as described in section 804(a) of Title VIII of the Tariff Act of 1930, as amended (19 U.S.C. 1202–1683g), and as assessed under § 1217.52.

§ 1217.27 State.

State means any of the several 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 1217.28 Suspend.

Suspend means to issue a rule under section 553 of title 5 U.S.C. to temporarily prevent the operation of an order or part thereof during a particular period of time specified in the rule.

§ 1217.29 Terminate.

Terminate means to issue a rule under section 553 of title 5 U.S.C. to cancel permanently the operation of an order or part thereof beginning on a date certain specified in the rule.

§ 1217.30 United States.

United States means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

Softwood Lumber Board

§ 1217.40 Establishment and membership.

(a) *Establishment of the Board.* There is hereby established a Softwood Lumber Board to administer the terms and provisions of this Order and promote the use of softwood lumber. The Board shall be composed of manufacturers for the U.S. market who manufacture and domestically ship or import 15 million board feet or more of softwood lumber in the United States during a fiscal period. Seats on the Board shall be apportioned based on the volume of softwood lumber manufactured and shipped within the United States by domestic manufacturers and the volume of softwood lumber imported into the United States.

(b) The Board shall be composed of 18 or 19 members, depending upon whether an additional importer member is appointed to the Board, pursuant to paragraph (b)(2)(iii) of this section. The Board shall be established as follows:

(1) *Domestic manufacturers.* Twelve members shall be domestic manufacturers from the following three regions:

(i) Six members shall be from the U.S. South Region, which consists of the states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas;

(ii) Five members shall be from the U.S. West Region, which consists of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; and

(iii) One member shall be from the Northeast and lake States Region, which consists of the states of Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, Wisconsin, and all other parts of the United States not listed in paragraphs (b)(1)(i), (b)(1)(ii), or (b)(1)(iii) of this section.

(2) *Importers.* Six members shall be importers who represent the following regions and import the majority of their softwood lumber from the respective region:

(i) Four members shall import softwood lumber from the Canadian West Region, which consists of the provinces of British Columbia and Alberta; and

(ii) Two members shall import softwood lumber from the Canadian East Region, which consists of the Canadian territories and all other Canadian provinces not listed in paragraph (b)(2)(i) of this section that import softwood lumber into the United States.

(iii) If the Secretary, at the request of the Board or on his or her own, determines that it would be consistent with the provisions of the Act, the Secretary may appoint an additional importer to the Board to represent a region not otherwise specified in paragraphs (b)(2)(i) and (b)(2)(ii) of this section. Nominees would be solicited as prescribed in paragraph (b) of § 1217.41, or in the case of the Secretary acting on his or her own will be handled by the Secretary, and all the names of eligible candidates would be submitted to the Secretary for consideration. Such nominees must certify that the majority of their softwood lumber is imported from such region. In addition, representation for the region not otherwise specified in paragraphs (b)(2)(i) and (ii) of this section would be subject to the Board review and reapportionment provided for in paragraph (c) of this section.

(c) In each five-year period, but not more frequently than once in each three-year period, the Board shall:

(1) Review, based on a three-year average, the geographical distribution of the volume of softwood lumber manufactured and shipped within the United States by domestic manufacturers and the volume of softwood lumber imported into the United States; and

(2) If warranted, recommend to the Secretary the reapportionment of the Board membership to reflect changes in the geographical distribution of the volume of softwood lumber manufactured and shipped within the United States by domestic manufacturers and the volume of softwood lumber imported into the United States. The destination of volumes between regions also shall be considered. The number of Board members may also be changed. Any changes in Board composition shall be implemented by the Secretary through rulemaking.

§ 1217.41 Nominations and appointments.

(a) Initial nominations will be submitted to the Secretary by the Blue Ribbon Commission. Before considering any nominations, the BRC shall publicize the nomination process, using trade press or other means it deems appropriate, and shall outreach to all known manufacturers for the U.S. market who domestically manufacture and/or import 15 million board feet or more of softwood lumber per fiscal year in order to generate nominees that reflect the different operations within the softwood lumber industry. The BRC may use regional caucuses, mail or other methods to elicit potential nominees. The BRC shall submit the nominations to the Secretary and recommend two nominees for each Board position specified in paragraphs (b)(1), (b)(2)(i) and (b)(2)(ii) of § 1217.40. All nominees solicited pursuant to § 1217.40(b)(2)(iii) shall be submitted to the Secretary through the BRC. From the nominations submitted by the BRC, the Secretary shall select the members of the Board.

(b) Subsequent nominations shall be conducted as follows:

(1) The Board shall outreach to all segments of the softwood lumber industry. Softwood lumber domestic manufacturers and importers may submit nominations to the Board. Subsequent nominees must domestically manufacture and/or import 15 million board feet or more of softwood lumber per fiscal year;

(2) Domestic manufacturers and importer nominees may provide the Board a short background statement outlining their qualifications to serve on the Board;

(3) Nominees that are both a domestic manufacturer and an importer may seek nomination to the Board and vote in the nomination process as either a domestic manufacturer or an importer, but not both: *Provided,* That, such nominees who domestically manufacture the majority of their softwood lumber may seek nomination and vote as a domestic manufacturer, and such nominees who import the majority of their softwood lumber may seek nomination and vote as an importer. Such nominees must domestically manufacture and import 15 million board feet or more of softwood lumber per fiscal year;

(4) Domestic manufacturers who manufacture softwood lumber in more than one region may seek nomination only in the region in which they manufacture the majority of their softwood lumber. The names of domestic manufacturer nominees shall be placed on a ballot by region. The ballots along with the background statements shall be mailed to domestic manufacturers in each respective region for a vote. Domestic manufacturers who manufacture softwood lumber in more than one region may only vote in the region in which they manufacture the majority of their softwood lumber. The votes shall be tabulated for each region with the nominee receiving the highest number of votes at the top of the list in descending order by vote. The top two candidates for each position shall be submitted to the Secretary;

(5) Importer nominees shall certify that the majority of their softwood lumber is imported from the respective region for which they are seeking to represent on the Board and shall provide documentation to verify this if requested by the Board. The names of importer nominees shall be placed on a ballot by region. The ballots along with the background statements shall be mailed to importers in each respective region for a vote. Importers who import softwood lumber from more than one region may only vote in the region from which they import the majority of their softwood lumber. The votes shall be tabulated for each region with the nominee receiving the highest number of votes at the top of the list in descending order by vote. The top two candidates for each position shall be submitted to the Secretary.

(6) The Board must submit nominations to the Secretary at least six months before the new Board term begins. From the nominations submitted by the Board, the Secretary shall select the members of the Board;

(7) No two members shall be employed by a single corporation, company, partnership, or any other legal entity; and

(8) The Board may recommend to the Secretary modifications to its nomination procedures as it deems appropriate. Any such modifications shall be implemented through rulemaking by the Secretary.

§ 1217.42 Term of office.

(a) With the exception of the initial Board, each Board member will serve a three-year term or until the Secretary selects his or her successor. Each term of office shall begin on January 1 and end on December 31. No member may serve more than two consecutive terms, excluding any term of office less than three years.

(b) For the initial board, the terms of Board members shall be staggered for two, three, and four years. Determination of which of the initial members shall serve a term of two, three, or four years shall be recommended to the Secretary by the Blue Ribbon Commission.

§ 1217.43 Removal and vacancies.

(a) In the event that any member of the Board ceases to work for or be affiliated with a domestic manufacturer or importer or ceases to do business in the region he or she represents, such position shall become vacant.

(b) The Board may recommend to the Secretary that a member be removed from office if the member consistently refuses to perform his or her duties or engages in dishonest acts or willful misconduct. The Secretary may remove the member if he or she finds that the Board's recommendation shows adequate cause. Further, without recommendation of the Board, a member may be removed by the Secretary upon showing of adequate cause, including the failure by a member to submit reports or remit assessments required under this part, if the Secretary determines that such member's continued service would be detrimental to the achievement of the purposes of the Act.

(c) If a position becomes vacant, nominations to fill the vacancy will be conducted using the nominations process set forth in this Order. A vacancy will not be required to be filled if the unexpired term is less than six months.

§ 1217.44 Procedure.

(a) A majority of the Board members (10) will constitute a quorum so long as at least three of the members present are importer members and six of the members present are domestic manufacturers. If participation by telephone or other means is permitted, members participating by such means shall count as present in determining quorum or other voting requirements set forth in this section.

(b) All votes at meetings of the Board and executive committee will be cast in person or by electronic voting or other means as the Board and Secretary deem appropriate to allow members participating by telephone or other electronic means to cast votes. Voting by proxy will not be allowed.

(c) Each member of the Board will be entitled to one vote on any matter put to the Board and the motion will carry if supported by 10 Board members, except for recommendations to change the assessment rate or to adopt a budget, both of which require affirmation by at least two-thirds (12 members for an 18 member Board and 13 members for a 19 member Board) of the Board members. If a Board has vacant positions, recommendations to change the assessment rate or to adopt a budget must pass by an affirmative vote of at

least two-thirds of the Board members, exclusive of the vacant seats.

(d) The Board must give members and the Secretary timely notice of all Board, executive and committee meetings.

(e) In lieu of voting at a properly convened meeting, and when, in the opinion of the Board's chairperson, such action is considered necessary, the Board may take action by mail, telephone, electronic mail, facsimile, or any other means of communication. Any action taken under this procedure is valid only if:

(1) All members and the Secretary are notified and the members are provided the opportunity to vote;

(2) Ten (10) Board members vote in favor of the action (unless two-thirds vote of the Board members is required under the Order); and

(3) All votes are promptly confirmed in writing and recorded in the Board minutes.

§ 1217.45 Reimbursement and attendance.

Board members will serve without compensation. Board members will be reimbursed for reasonable travel expenses, as approved by the Board, which they incur when performing Board business.

§ 1217.46 Powers and duties.

The Board shall have the following powers and duties:

(a) To administer this Order in accordance with its terms and conditions and to collect assessments;

(b) To develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the Board and such rules, regulations as may be necessary to administer the Order, including activities authorized to be carried out under the Order;

(c) To meet, organize, and select from among its members a chairperson and, such other officers as may be necessary;

(d) To create an executive committee of five members of the Board comprised of the chairperson and four other members elected by the Board. The duties of the executive committee shall be specified in bylaws that are recommended by the Board and approved by the Secretary;

(e) To create other committees or subcommittees, which may include individuals other than Board members, as the Board deems necessary from its membership and other representatives it deems appropriate;

(f) To employ or contract with such persons, other than the members, as it may deem necessary to assist the Board in carrying out its duties, and to determine the compensation and define the duties of each;

(g) To notify manufacturers for the U.S. market of all Board meetings through press releases or other means and to give the Secretary the same notice of Board meetings, executive committee, and subcommittee meetings that is given to members in order that the Secretary's representative(s) may attend such meetings, and to keep and report minutes of each meeting to the Secretary;

(h) To develop and administer programs, plans, and projects and enter into contracts or agreements, which must be approved by the Secretary before becoming effective, for promotion, research, and information, including consumer and industry information, research and advertising designed to strengthen the softwood lumber industry's position in the marketplace and to maintain, develop, and expand markets for softwood lumber. The payment of costs for such activities shall be with funds collected pursuant to the Order, including funds collected pursuant to § 1217.50(f). Each contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Board a program, plan, or project together with a budget that specifies the cost to be incurred to carry out the activity;

(2) The contractor or agreeing party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted, submit accounting for funds received and expended, and make such other reports as the Secretary or Board may require;

(3) The Secretary may audit the records of the contracting or agreeing party periodically; and

(4) Any subcontractor who enters into a contract with a Board contractor and who receives or otherwise uses funds allocated by the Board shall be subject to the same provisions as the contractor.

(i) To prepare and submit to the Secretary for approval 60 calendar days in advance of the beginning of a fiscal period, rates of assessment and a budget of the anticipated expenses to be incurred in the administration of the Order, including the probable cost of each promotion, research, and information activity proposed to be developed or carried out by the Board;

(j) To borrow funds necessary for startup expenses of the Order;

(k) To invest assessments collected and other funds received pursuant to the Order and use earnings from invested assessments to pay for activities carried out pursuant to the Order;

(l) To recommend changes to the assessment rates as provided in this part;

(m) To cause its books to be audited by a certified public accountant at the end of each fiscal period and at such other times as the Secretary may request, and to submit a report of each audit directly to the Secretary;

(n) To periodically prepare and make public and to make available to manufacturers for the U.S. market reports of its activities and, at least once each fiscal period, to make public an accounting of funds received and expended;

(o) To maintain minutes, books, and records and prepare and submit to the Secretary such reports from time to time as may be required for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it, and to submit to the Secretary such information pertaining to this part or subpart as he or she may request;

(p) To act as an intermediary between the Secretary and any manufacturer for the U.S. market;

(q) To receive, investigate and report to the Secretary complaints of violations of the Order; and

(r) To develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of plans or activities to effectuate the purposes of the Act.

§ 1217.47 Prohibited activities.

The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in:

(a) Any action that would be a conflict of interest;

(b) Using g funds collected by the Board under the Order to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, state, national, and foreign governments or subdivision thereof, other than recommending to the Secretary amendments to the Order; and

(c) No program, plan or project including advertising shall be false or misleading or disparaging to another agricultural commodity. Softwood lumber of all geographic origins shall be treated equally.

Expenses and Assessments

§ 1217.50 Budget and expenses.

(a) At least 60 calendar days prior to the beginning of each fiscal period, and as may be necessary thereafter, the Board shall prepare and submit to the Department a budget for the fiscal period covering its anticipated expenses and disbursements in administering this part. The budget for research, promotion

or information may not be implemented prior to approval by the Secretary. Each such budget shall include:

(1) A statement of objectives and strategy for each program, plan, or project;

(2) A summary of anticipated revenue, with comparative data for at least one preceding fiscal year, except for the initial budget;

(3) A summary of proposed expenditures for each program, plan, or project; and

(4) Staff and administrative expense breakdowns, with comparative data for at least one preceding fiscal year, except for the initial budget.

(b) Each budget shall provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in this Order.

(c) Subject to this section, any amendment or addition to an approved budget must be approved by the Department, including shifting funds from one program, plan, or project to another.

(d) The Board is authorized to incur such expenses, including provision for a reserve, as the Secretary finds reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Board.

(e) With approval of the Department, the Board may borrow money for the payment of startup expenses subject to the same fiscal, budget, and audit controls as other funds of the Board. Any funds borrowed shall be expended only for startup costs and capital outlays and are limited to the first year of operation by the Board.

(f) The Board may accept voluntary contributions, and is encouraged to seek other appropriate funding sources to carry out activities authorized by the Order. Such contributions shall be free from any encumbrances by the donor and the Board shall retain complete control of their use. The Board may receive funds from outside sources (*i.e.,* Federal or State grants, Foreign Agricultural Service funds), with approval of the Secretary, for specific authorized projects.

(g) The Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration, enforcement and supervision of the Order, including all referendum costs in connection with the Order.

(h) For fiscal years beginning two years after the date the of the first Board meeting, the Board may not expend for administration, maintenance, and the functioning of the Board an amount that is greater than 8 percent of the assessment and other income received by and available to the Board for the fiscal year. For purposes of this limitation, reimbursements to the Secretary shall not be considered administrative costs.

(i) The Board may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in any reserve so established: *Provided,* That, the funds in the reserve do not exceed one fiscal period's budget of expenses. Subject to approval by the Secretary, such reserve funds may be used to defray any expenses authorized under this subpart.

(j) Pending disbursement of assessments and all other revenue under a budget approved by the Secretary, the Board may invest assessments and all other revenues collected under this part in:

(1) Obligations of the United States or any agency of the United States;

(2) General obligations of any State or any political subdivision of a State;

(3) Interest bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System;

(4) Obligations fully guaranteed as to principal interest by the United States; or

(5) Other investments as authorized by the Secretary.

§ 1217.51 Financial statements.

(a) The Board shall prepare and submit financial statements to the Department on a quarterly basis, or at any other time as requested by the Secretary. Each such financial statement shall include, but not be limited to, a balance sheet, income statement, and expense budget. The expense budget shall show expenditures during the time period covered by the report, year-to-date expenditures, and the unexpended budget.

(b) Each financial statement shall be submitted to the Department within 30 calendar days after the end of the time period to which it applies.

(c) The Board shall submit to the Department an annual financial statement within 90 calendar days after the end of the fiscal year to which it applies.

§ 1217.52 Assessments.

(a) The Board's programs and expenses shall be paid by assessments on manufacturers for the U.S. market, other income of the Board, and other funds available to the Board.

(b) Subject to the exemptions specified in § 1217.53, each manufacturer for the U.S. market shall pay an assessment to the Board at the rate of $0.35 per thousand board feet of softwood lumber except that no person shall pay an assessment on the first 15 million board feet of softwood lumber otherwise subject to assessment in a fiscal year. Domestic manufacturers shall pay assessments based on the volume of softwood lumber shipped within the United States and importers shall pay assessments based on the volume of softwood lumber imported to the United States.

(c) At least 24 months after the Order becomes effective and periodically thereafter, the Board shall review and may recommend to the Secretary, upon an affirmative vote by at least two-thirds of the Board members, a change in the assessment rate. In no event may the rate be less than $0.35 per thousand board feet nor more than $0.50 per thousand board feet. A change in the assessment rate is subject to rulemaking by the Secretary.

(d) Domestic manufacturers shall remit to the Board the amount due no later than the 30th calendar day of the month following the end of the quarter in which the softwood lumber was shipped.

(e) Domestic product that cannot be categorized in the Harmomized Tariff Schedule of the United States (HTSUS) numbers listed in paragraph (h) of this section if it were an import is not covered under this Order.

(f) Softwood lumber originating in the United States that is exported to another country and shipped back to the United States is covered under this Order, provided that it can be categorized in the HTSUS numbers listed in paragraph (h) of this section.

(g) Each importer of softwood lumber shall pay through Customs to the Board an assessment on softwood lumber imported into the United States as described in section 804(a) of Title VIII of the Tariff Act of 1930, as amended (19 U.S.C. 1202–1683g), provided that it can be categorized in the HTSUS numbers listed in paragraph (h) of this section.

(h) The HTSUS categories and assessment rates on imported softwood lumber are listed in the table below. A factor shall be used to determine the equivalent volume of softwood lumber in thousand board feet. The factor used to convert one cubic meter to one thousand board feet is 0.423776001. Accordingly, the assessment rate per cubic meter is as follows.

Softwood lumber	Assessment $/cubic meter
4407.10.01	$0.1483
4409.10.05	0.1483
4409.10.10	0.1483
4409.10.20	0.1483
4409.10.90	0.1483
4418.90.25	0.1483

(i) In the event that any HTSUS number subject to assessment is changed and such change is merely a replacement of a previous number and has no impact on the description of the softwood lumber involved, assessments will continue to be collected based on the new number.

(j) If Customs does not collect an assessment from an importer, the importer is responsible for paying the assessment directly to the Board no later than the 30th calendar day of the month following the end of the quarter in which the softwood lumber was imported.

(k) Articles brought into the United States temporarily and for which an exemption is claimed under subchapter XIII of chapter 98 of the HTSUS are not covered under this Order. If assessments are collected by Customs for these products, the importer may apply to the Board for a refund of assessments.

(l) When a domestic manufacturer or importer fails to pay the assessment within 60 calendar days of the date it is due, the Board may impose a late payment charge and interest. The late payment charge and rate of interest shall be prescribed in regulations issued by the Secretary. All late assessments shall be subject to the specified late payment charge and interest. Persons failing to remit total assessments due in a timely manner may also be subject to actions under Federal debt collection procedures.

(m) The Board may accept advance payment of assessments from any manufacturer for the U.S. market that will be credited toward any amount for which that person may become liable. The Board may not pay interest on any advance payment.

(n) If the Board is not in place by the date the first assessments are to be collected, the Secretary shall receive assessments and shall pay such assessments and any interest earned to the Board when it is formed.

§ 1217.53 Exemption from assessment.

(a) *Manufacturers for the U.S. market who domestically ship and/or import less than 15 million board feet annually.*

(1) Domestic manufacturers who ship less than 15 million board feet of softwood lumber within the United States in a fiscal year are exempt from paying assessments. Such manufacturers must apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the fiscal year. This is an annual exemption and domestic manufacturers must reapply each year. Such manufacturers shall certify that they will ship less than 15 million board feet of softwood lumber during the fiscal year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption may be granted. The Board may request past shipment data to support the exemption request. The Board will then issue, if deemed appropriate, a certificate of exemption to the eligible domestic manufacturer. It is the responsibility of the domestic manufacturer to retain a copy of the certificate of exemption.

(2) Importers who import into the United States less than 15 million board feet of softwood lumber in a fiscal year are exempt from paying assessments. Such importers must apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the fiscal year. This is an annual exemption and importers must reapply each year. Such importers shall certify that they will import less than 15 million board feet of softwood lumber during the fiscal year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption is granted. The Board may request past import data to support the exemption request. The Board will then issue, if deemed appropriate, a certificate of exemption to the eligible importer. It is the responsibility of the importer to retain a copy of the certificate of exemption. The importer shall present a copy of the certificate to Customs. If accepted by Customs, such imported softwood lumber shall not be subject to assessments. If Customs collects the assessment, the Board shall refund such importers their assessments no later than 60 calendar days after receipt of such assessments by the Board. No interest shall be paid on the assessments collected by Customs.

(3) Domestic manufacturers who did not apply to the Board for an exemption and shipped less than 15 million board feet of softwood lumber within the United States during the fiscal year shall receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year. Board staff shall determine the assessments paid and refund the amount due to the domestic manufacturer accordingly.

(4) Importers who did not apply to the Board for an exemption and imported less than 15 million board feet of softwood lumber during the fiscal year shall receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year.

(5) If an entity is both a domestic manufacturer and an importer, the sum of such entity's domestic shipments and imports during a fiscal year shall count towards the 15 million board feet exemption.

(6) Domestic manufacturers and importers who received an exemption certificate from the Board but shipped or imported 15 million board feet or more of softwood lumber during the fiscal year shall pay the Board the applicable assessments owed on the domestic shipments or imports over the 15 million board foot-exemption threshold within 30 calendar days after the end of the fiscal year and submit any necessary reports to the Board pursuant to § 1217.70.

(7) The Board may develop additional procedures to administer this exemption as appropriate. Such procedures shall be implemented through rulemaking by the Secretary.

(b) *Manufacturers for the U.S. market who domestically ship and/or import 15 million board feet or more annually.*

(1) Domestic manufacturers who domestically ship 15 million board feet or more per fiscal year shall not pay assessments on their first 15 million board feet of softwood lumber shipped during the applicable fiscal year.

(2) Importers who import 15 million board feet or more per fiscal year shall be exempt from paying assessments on their first 15 million board feet of softwood lumber imported during the applicable fiscal year. Such importers shall receive a refund from the Board for the applicable assessments collected by Customs. The Board shall refund such importers their assessments no later than 60 calendar days after receipt by the Board.

(c) *Export.* Shipments of softwood lumber by domestic manufacturers to locations outside of the United States are exempt from assessment. The Board shall establish procedures for approval by the Secretary for refunding assessments that may be paid on such shipments and establish any necessary safeguards as deemed appropriate. Safeguard procedures would be implemented by the Secretary through rulemaking. The Board may also recommend to the Secretary that such shipments be assessed if it deems appropriate. Such action shall be

implemented by the Secretary through rulemaking.

(d) *Organic.* (1) Organic Act means section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6501–6522).

(2) A domestic manufacturer who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan, only manufactures and ships softwood lumber that is eligible to be labeled as 100 percent organic under the NOP and is not a split operation shall be exempt from payment of assessments. To obtain an organic exemption, an eligible domestic manufacturer shall submit a request for exemption to the Board, on a form provided by the Board, at any time initially and annually thereafter on or before the start of the fiscal year as long as such manufacturer continues to be eligible for the exemption. The request shall include the following: The manufacturer's name and address; a copy of the organic operation certificate provided by a USDA-accredited certifying agent as defined in the Organic Act, a signed certification that the applicant meets all of the requirements specified for an assessment exemption, and such other information as may be required by the Board and with the approval of the Secretary. The Board shall have 30 calendar days to approve the exemption request. If the exemption is not granted, the Board will notify the applicant and provide reasons for the denial within the same time frame.

(3) An importer who imports only softwood lumber that is eligible to be labeled as 100 percent organic under the NOP and is not a split operation shall be exempt from the payment of assessments. To obtain an organic exemption, an eligible importer must submit documentation to the Board and request an exemption from assessment on 100 percent of organic softwood lumber, on a form provided by the Board, at any time initially and annually thereafter on or before the beginning of the fiscal year as long as the importer continues to be eligible for the exemption. This documentation shall include the same information as required by domestic manufacturers in paragraph (d)(2) of this section. If the importer complies with the requirements of this section, the Board will grant the exemption and issue a Certificate of Exemption to the importer. The Board will also issue the importer a 9-digit alphanumeric Harmonized Tariff Schedule of the United States (HTSUS) classification valid for 1 year from the date of issue. This HTSUS classification should be entered by the importer on the Customs entry documentation. Any line item entry of 100 percent organic softwood lumber bearing this HTSUS classification assigned by the Board will not be subject to assessments.

(4) Importers who are exempt from assessment in paragraph (d)(3) of this section shall also be eligible for reimbursement of assessments collected by Customs and may apply to the Board for a reimbursement. The importer would be required to submit satisfactory proof to the Board that the importer paid the assessment on exempt organic products.

(5) The exemption will apply immediately following the issuance of the exemption certificate.

Promotion, Research and Information

§ 1217.60 Programs, plans and projects.

(a) The Board shall develop and submit to the Secretary for approval programs, plans and projects authorized by this subpart. Such programs, plans and projects shall provide for promotion, research, education and other activities including consumer and industry information and advertising designed to:

(1) Maintain, develop, expand and grow markets for softwood lumber;

(2) Enhance and strengthen the image, reputation and public acceptance of softwood lumber and the forests from which it comes;

(3) Develop new markets and marketing strategies for softwood lumber;

(4) Expand the knowledge and understanding of the strength, safety and technical applications and encourage innovation in the use of softwood lumber;

(5) Transfer and disseminate the knowledge and understanding of the strength, safety, environmental and sustainable benefits and technical applications of softwood lumber; and

(6) Develop, expand and grow existing and new opportunities and applications for softwood lumber.

(b) No program, plan, or project shall be implemented prior to its approval by the Secretary. Once a program, plan, or project is so approved, the Board shall take appropriate steps to implement it.

(c) The Board must evaluate each program, plan and project authorized under this subpart to ensure that it contributes to an effective and coordinated program of research, promotion and information. The Board must submit the evaluations to the Secretary. If the Board finds that a program, plan or project does not contribute to an effective program of promotion, research, or information, then the Board shall terminate such plan or program.

§ 1217.61 Independent evaluation.

At least once every five years, the Board shall authorize and fund from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and the programs conducted by the Board pursuant to the Act. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

§ 1217.62 Patents, copyrights, trademarks, inventions, product formulations, and publications.

Any patents, copyrights, trademarks, inventions, product formulations, and publications developed through the use of funds received by the Board under this subpart shall be the property of the U.S. Government, as represented by the Board, and shall along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, inventions, publications, or product formulations, inure to the benefit of the Board, shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board, and may be licensed subject to approval by the Secretary. Upon termination of this subpart, § 1217.83 shall apply to determine disposition of all such property.

Reports, Books, and Records

§ 1217.70 Reports.

(a) Each manufacturer for the U.S. market will be required to provide periodically to the Board such information as the Board, with the approval of the Secretary, may require. Such information may include, but not be limited to:

(1) For domestic manufacturers:

(i) The name, address and telephone number of the domestic manufacturer;

(ii) The board feet of softwood lumber shipped within the United States;

(iii) The board feet of softwood lumber for which assessments were paid; and

(iv) The board feet of softwood lumber that was exported.

(2) For importers:

(i) The name, address and telephone number of the importer;

(ii) The board feet of softwood lumber imported;

(iii) The board feet of softwood lumber for which assessments were paid; and

(iv) The country of export.

(b) For domestic manufacturers, such information shall accompany the collected payment of assessments on a quarterly basis specified in § 1217.52. For importers who pay their assessments directly to the Board, such information shall accompany the payment of collected assessments within 30 calendar days after importation specified in § 1217.52.

§ 1217.71 Books and records.

Each manufacturer for the U.S. market, including those exempt under § 1217.53, shall maintain any books and records necessary to carry out the provisions of this subpart and regulations issued thereunder, including such records as are necessary to verify any required reports. Domestic manufacturers who only export softwood lumber shall also retain such books and records. Such books and records must be made available during normal business hours for inspection by the Board's or Secretary's employees or agents. A manufacturer for the U.S. market must maintain the books and records for two years beyond the fiscal period to which they apply.

§ 1217.72 Confidential treatment.

All information obtained from books, records, or reports under the Act, this subpart and the regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Board, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members or other manufacturers for the U.S. market. Only those persons having a specific need for such information solely to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed by them, and then only in a judicial proceeding or administrative hearing brought at the direction, or at the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(b) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this part, together with a statement of the particular provisions of this part violated by such person.

Miscellaneous

§ 1217.80 Right of the Secretary.

All fiscal matters, programs or projects, contracts, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1217.81 Referenda.

(a) *Initial referendum.* The Order shall not become effective unless the Order is approved by a majority of domestic manufacturers and importers voting in the referendum who also represent a majority of the volume of softwood lumber represented in the referendum who, during a representative period determined by the Secretary, have been engaged in the domestic manufacturing or importation of softwood lumber. A single entity who domestically manufactures and imports softwood lumber may cast one vote in the referendum.

(b) *Subsequent referenda.* The Secretary shall conduct subsequent referenda:

(1) For the purpose of ascertaining whether manufacturers for the U.S. market favor the amendment, continuation, suspension, or termination of the Order;

(2) Five years after this Order becomes effective and every five years thereafter, to determine whether softwood lumber manufacturers for the U.S. market favor the continuation of the Order. The Order shall continue if it is favored by a majority of domestic manufacturers and importers voting in the referendum who also represent a majority of the volume of softwood lumber represented in the referendum who, during a representative period determined by the Secretary, have been engaged in the domestic manufacturing or importation of softwood lumber;

(3) At the request of the Board established in this Order;

(4) At the request of 10 percent or more of the number of persons eligible to vote in a referendum as set forth under the Order; or

(5) At any time as determined by the Secretary.

§ 1217.82 Suspension or termination.

(a) The Secretary shall suspend or terminate this part or subpart or a provision thereof, if the Secretary finds that this part or subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Secretary determines that this subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Act.

(b) The Secretary shall suspend or terminate this subpart at the end of the fiscal period whenever the Secretary determines that its suspension or termination is favored by a majority of domestic manufacturers and importers voting in the referendum who also represent a majority of the volume represented in the referendum who, during a representative period determined by the Secretary, have been engaged in the domestic manufacturing or importation of softwood lumber.

(c) If, as a result of a referendum the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than one hundred and eighty (180) calendar days after making the determination, suspend or terminate, as the case may be, the collection of assessments under this subpart.

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

§ 1217.83 Proceedings after termination.

(a) Upon termination of this subpart, the Board shall recommend to the Secretary up to nine of its members, representing all regions specified in § 1217.40(b), three of whom shall be importers and six of whom shall be domestic manufacturers, to serve as trustees for the purpose of liquidating the Board's affairs. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered, or any other existing claim at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into pursuant to the Order;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and trustees, to such person or persons as the Secretary directs; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such persons title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to the Order.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to the Order shall be subject to the same obligations imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be disposed of, to the extent practical, to one or more softwood lumber industry organizations in the United States whose mission is generic softwood lumber promotion, research, and information programs.

§ 1217.84 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary or of any other persons, with respect to any such violation.

§ 1217.85 Personal liability.

No member or employee of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty or willful misconduct.

§ 1217.86 Separability.

If any provision of this subpart is declared invalid or the applicability of it to any person or circumstances is held invalid, the validity of the remainder of this subpart, or the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1217.87 Amendments.

Amendments to this subpart may be proposed from time to time by the Board or any interested person affected by the provisions of the Act, including the Secretary.

§ 1217.88 OMB control numbers.

The control numbers assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, are OMB control number 0505–0001 (Board nominee background statement) and OMB control number 0581–NEW.

Subpart B—[Reserved]

Dated: April 13, 2011.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2011–9397 Filed 4–21–11; 8:45 am]

BILLING CODE 3410–02–P

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