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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 953

**[Doc. No. AMS–FV–11–0027; FV11–953–1 IR]**

## Irish Potatoes Grown in Southeastern States; Suspension of Marketing Order Provisions

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This rule suspends the marketing order for Irish potatoes grown in Southeastern states (order), and the rules and regulations implemented thereunder, through March 1, 2014. The order regulates the handling of Irish potatoes grown in Southeastern states and is administered locally by the Southeastern Potato Committee (Committee). The Committee believes advances in farming technology and production quality have reduced the need for the order. When considering the costs associated with continuing the order, the Committee unanimously recommended that the order be suspended.

**DATES:** Effective June 13, 2011 through March 1, 2014; comments received by August 9, 2011 will be considered prior to adoption as a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Dawana J. Clark, Marketing Specialist, or Kenneth G. Johnson, Regional Manager, DC Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (301) 734–5243, Fax: (301) 734–5275, or E-mail: *Dawana.Clark@ams.usda.gov* or *Kenneth.Johnson@ams.usda.gov.*

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

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 104 and Marketing Order No. 953, both as amended (7 CFR part 953), regulating the handling of Irish potatoes grown in Southeastern states, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

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

This rule suspends the order and all provisions prescribed thereunder through March 1, 2014. The suspension includes, but is not limited to, grade, size, quality, assessment, reporting, and inspection requirements. The Committee believes advances in farming technology and production quality have reduced the need for the order. When considering the costs associated with continuing the order, the Committee agreed that the order should be suspended. The Committee met on February 17, 2011, and unanimously recommended suspending the order for three years, through to March 1, 2014.

The order was promulgated in 1948, and regulates the handling of Irish potatoes grown in designated counties of Virginia and North Carolina. The order has been used to provide the industry with grade, size, quality, and inspection requirements. The order also authorizes reporting and recordkeeping functions required for the operation of the order. The program is funded by assessments imposed on handlers.

Over the past several years, the Southeastern potato industry has been in decline, with acreage and production trending downward. Production has fallen from an estimated 1,600,000 hundredweight for the 1996–97 season, to a current estimate of 600,000 hundredweight for the 2010–11 season. In 1996, there were approximately 150 growers and 60 handlers in the production area. Currently, there are approximately 20 growers and 10 handlers covered in the production area.

The Committee met February 17, 2011, to discuss the continued need for the order. During the discussion, several members mentioned that the order was promulgated at a time when the industry was having an issue with the quality of potatoes being produced. The purpose of the order was to establish standards to improve the quality of marketed product.

Since the implementation of the order, the quality of Southeastern potatoes has greatly improved. Advances in farm machinery and improvements in the grading process have helped to ensure that only quality product is being shipped to buyers. Concerns the industry previously had prior to implementation of the order are no longer an issue, and for the past several years, some industry members have started questioning the continued need for the order and its associated costs.

At the meeting, members were informed that to maintain the order, the Committee would have to incur some additional administrative expenses. To cover these costs, the Committee would need to increase the assessment rate. Committee members agreed that the industry would not support an assessment increase.

In addition to the assessment costs, comments were also made regarding the cost of inspection required under the order. It was stated that some industry members see the cost of mandatory inspection as an unnecessary burden. Other Committee members expressed concern over whether inspection would still be available if the order was suspended. This issue was resolved when members were assured that inspection would still be available for those who request it, regardless of the status of the order.

Based on discussion at the meeting, and on letters from growers who were not able to attend, changes in the industry and industry practices have diminished the need for the order. Further, there are concerns regarding the costs associated with maintaining the order, and no industry support for raising assessments to cover increasing administrative costs. Therefore, the Committee unanimously recommended suspending the order for three years, through to March 1, 2014.

The Committee recommended suspension of the order, not termination, to allow the industry an opportunity to review the effectiveness of operating without order requirements. If problems develop, Committee members wanted the industry to have the alternative of reactivating the order. During the suspension period, the industry will be able to monitor the Southeastern potato industry to determine if quality issues reoccur. A meeting will be held prior to March 1, 2014, to review the state of the industry and determine whether to continue the suspension, or to reactivate or terminate the order.

It is hereby determined that Federal Marketing Order No. 953, and the rules and regulations issued thereunder, do not tend to effectuate the declared policy of the Act. This action suspends, through March 1, 2014, the provisions of Federal Marketing Order No. 953, and the rules and regulations issued thereunder, including but not limited to: Provisions of the order dealing with the establishment and the responsibilities of the Committee; provisions of the order dealing with expenses and the collection of assessments; all rules and regulations; and, all information collection and reporting requirements.

**Initial Regulatory Flexibility Analysis**

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

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

There are approximately 10 handlers of Irish potatoes grown in Southeastern states who are subject to regulation under the order and approximately 20 potato producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Using AMS Market News Service reported prices, the average f.o.b. price for Southeastern potatoes for the 2010 marketing season was around $20 per hundredweight. The Committee estimated production for the 2010–11 season at approximately 600,000 hundredweight of potatoes. Based on this information, average annual receipts for handlers would be less than $7,000,000. Information provided by the National Agricultural Statistics Service indicates that the average producer price for Irish potatoes grown in North Carolina and Virginia in 2010 was approximately $11.63 per hundredweight. Considering estimated production, average producer revenue would be about $350,000 for the 2010–11 season. Therefore, the majority of Southeastern potato handlers and producers may be classified as small entities.

This rule suspends the order and the rules and regulations implemented thereunder through March 1, 2014. The Committee believes advances in farming technology and production quality have reduced the need for the order. When considering the costs associated with continuing the order, the Committee unanimously recommended that the order be suspended. The Committee made this recommendation on February 17, 2011. Authority for this action is provided in section 8c(16)(A) of the Act.

Suspension of the order and its corresponding regulations relieves handlers of quality, inspection, and assessment burdens during the suspension period. Also, handler reports will not be required. Additionally, growers may be relieved of some costs, such as assessment expenses, which are often passed onto them by handlers. Suspension of the order is therefore expected to reduce the regulatory burden on handlers and growers of all sizes.

The Committee considered alternatives to this rule, including maintaining the order or terminating it rather than suspending. Support was not shown for either of these options. Therefore these alternatives were rejected.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large Southeastern potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, 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.

Further, the Committee's meeting was widely publicized throughout the Southeastern potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the February 17, 2011 meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

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

This rule invites comments on the suspension of all provisions prescribed under the marketing order for Irish potatoes grown in Southeastern states. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that the order suspended by this interim rule, as hereinafter set forth, does not tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This action suspends the order and the rules and regulations thereunder; (2) this change will help the Committee and industry avoid any additional costs associated with the order; (3) handlers are aware of this action, which was unanimously recommended at a public meeting, and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

### List of Subjects in 7 CFR Part 953

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

## PART 953—[SUSPENDED]

■ For the reasons set forth in the preamble, under the authority of 7 U.S.C. 601–674, 7 CFR part 953 is suspended effective June 13, 2011 through March 1, 2014.

Dated: June 6, 2011.

**Ellen King,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–14431 Filed 6–9–11; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 985

**[Docket Nos. AMS–FV–09–0082; FV10–985–1A FIR]**

## Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 2010–2011 Marketing Year

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that revised the quantity of Class 3 (Native) spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2010–2011 marketing year. The interim rule increased the Native spearmint oil salable quantity from 980,220 pounds to 1,118,639 pounds, and the allotment percentage from 43 percent to 50 percent. This change is expected to balance the supply of Native spearmint oil produced in the Far West with market needs and to promote market stability.

**DATES:** Effective June 13, 2011.

**FOR FURTHER INFORMATION CONTACT:** Barry Broadbent, Marketing Specialist or Gary Olson, Regional Manager, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; *Telephone:* (503) 326–2724, *Fax:* (503) 326–7440, or *E-mail: Barry.Broadbent@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide;* or by contacting Laurel May, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; *Telephone:* (202) 720–2491, *Fax:* (202) 720–8938, or *E-mail: Laurel.May@ams.usda.gov.*

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 985 (7 CFR part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

USDA is issuing this rule in conformance with Executive Order 12866.

Salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2010–2011 marketing year were established in a final rule published in the **Federal Register** on May 18, 2010 (75 FR 27631). The rule set salable quantities of 566,962 pounds and 980,265 pounds, and allotment percentages of 28 percent and 43 percent, respectively, for Scotch and Native spearmint oil. The salable quantities and allotment percentages were established prior to the start of the marketing year and were based on the Committee's projection of the supply and demand for spearmint oil for the forthcoming year.

Early in the 2010–2011 marketing year, however, the spearmint industry reported to the Committee that the real demand for Native spearmint oil was greater than the level that was initially projected. The Committee subsequently recommended revising the salable quantity and allotment percentage for Native spearmint to allow the market to satisfy the increased demand.

In an interim rule published in the **Federal Register** on January 25, 2011, and effective June 1, 2010, through May 31, 2011, (76 FR 4204, Doc. No. AMS–FV–09–0082, FV10–985–1A IR), the salable quantity and allotment percentage for Class 3 (Native) spearmint oil for the 2010–2011 marketing year was increased 138,419 pounds and 7 percent, respectively. The aforementioned rule contains an extensive discussion of the volume regulation process.

This final rule continues in effect the action that revised the quantity of Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2010–2011 marketing year, which ends on May 31, 2011. Therefore, the Native spearmint oil salable quantity of 1,118,639 pounds and the allotment percentage of 50 percent remains in effect through the end of the 2010–2011 marketing year.

### Final Regulatory Flexibility Analysis

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

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

There are 8 spearmint oil handlers subject to regulation under the order, and approximately 38 producers of Scotch spearmint oil and approximately 84 producers of Native spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

Based on the SBA's definition of small entities, the Committee estimates that two of the eight handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 19 of the 38 Scotch spearmint oil producers and 29 of the 84 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, a majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of spearmint oil. A typical spearmint oil-producing operation has enough acreage for rotation such that the total acreage required to produce the crop is about one-third spearmint and two-thirds rotational crops. Thus, the typical spearmint oil producer has to have considerably more acreage than is planted to spearmint during any given season. Crop rotation is an essential cultural practice in the production of spearmint oil for weed, insect, and disease control. To remain economically viable with the added costs associated with spearmint oil production, most spearmint oil-producing farms fall into the SBA category of large businesses.

Small spearmint oil producers generally are not as extensively diversified as larger ones and as such are more at risk to market fluctuations. Such small producers generally need to market their entire annual crop and do not have the luxury of having other crops to cushion seasons with poor spearmint oil returns. Conversely, large diversified producers have the potential to endure one or more seasons of poor spearmint oil markets because income from alternate crops could support the operation for a period of time. Being reasonably assured of a stable price and market provides small producing entities with the ability to maintain proper cash flow and to meet annual expenses. Thus, the market and price stability provided by the order potentially benefit the small producer more than such provisions benefit large producers. Even though a majority of handlers and producers of spearmint oil may not be classified as small entities, the volume control feature of this order has small entity orientation.

This rule continues in effect the action that revised the quantity of Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2010–2011 marketing year, which ends on May 31, 2011. The Native spearmint oil salable quantity and allotment percentage is increased to 1,118,639 pounds and 50 percent, respectively, for the 2010–2011 marketing year.

The use of volume control regulation allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. Volume control is believed to have little or no effect on consumer prices of products containing spearmint oil and likely does not result in fewer retail sales of such products. The marketing order's volume control provisions have been successfully implemented in the domestic spearmint oil industry for nearly three decades and provide benefits for producers, handlers, manufacturers, and consumers.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the spearmint industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the November 19, 2010, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before March 28, 2011. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change. To view the interim rule, go to: *http://www.regulations.gov/#!documentDetail;D=AMS-FV-09-0082-0002.*

This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (76 FR 4204, January 25, 2011) will tend to effectuate the declared policy of the Act.

**List of Subjects in 7 CFR Part 985**

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

## PART 985—[AMENDED]

■ Accordingly, the interim rule amending 7 CFR part 985 that was published at 76 FR 4204 on January 25, 2011, is adopted as a final rule, without change.

**[Note:** The affected section of part 985 does not appear in the Code of Federal Regulations.]

Dated: June 6, 2011.

**Ellen King,**

*Acting Administrator,Agricultural Marketing Service.*

[FR Doc. 2011–14430 Filed 6–9–11; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF HOMELAND SECURITY

## 8 CFR Part 214

**[Docket No. ICEB–2011–0003]**

**RIN 1653–ZA03**

## Employment Authorization for Libyan F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of Civil Unrest in Libya Since February 2011

**AGENCY:** U.S. Immigration and Customs Enforcement; DHS.

**ACTION:** Notice of suspension of applicability of certain requirements.

**SUMMARY:** This notice informs the public of the suspension of certain regulatory requirements for F–1 nonimmigrant students whose country of citizenship is Libya and who are experiencing severe economic hardship as a direct result of the civil unrest in Libya since February 2011. The Department of Homeland Security (DHS) is taking action to provide relief to these F–1 students so they may obtain employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F–1 student status. F–1 students who are granted employment authorization by means of this notice will be deemed to be engaged in a "full course of study" for the duration of their employment authorization, provided that they satisfy the minimum course load requirement described in this notice. This suspension of certain regulatory requirements will automatically terminate on December 31, 2011, without further notice.

**DATES:** This notice is effective June 10, 2011 and will remain in effect until December 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Louis Farrell, Director, Student and Exchange Visitor Program; MS 5600, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., Washington, DC 20536–5600; (703) 603–3400. This is not a toll-free number. Program information can be found at *http://www.ice.gov/sevis/*.

**SUPPLEMENTARY INFORMATION:**

## What action is DHS taking under this notice?

The Secretary of Homeland Security is exercising her authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment. F–1 students granted employment authorization by means of this notice will be deemed to be engaged in a "full course of study" for the duration of their employment authorization if they satisfy the minimum course load set forth in this notice. *See* 8 CFR 214.2(f)(6)(i)(F).

## Who is covered by this notice?

This notice applies exclusively to F–1 students whose country of citizenship is Libya and who were lawfully present in the United States in F–1 nonimmigrant status on February 1, 2011 under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i) and (1) are enrolled in an institution that is Student and Exchange Visitor Program (SEVP) certified for enrollment for F–1 students; (2) are currently maintaining F–1 status; and (3) are experiencing severe economic hardship as a direct result of the civil unrest in Libya since February 2011.

This notice applies to both undergraduate and graduate students, as well as elementary school, middle school, and high school students. The notice, however, applies differently to elementary school, middle school, and high school students, as discussed in the question "Does this notice apply to elementary school, middle school, and high school students in F–1 status?"

F–1 students covered by this notice who transfer to other academic institutions that are SEVP-certified for enrollment of F–1 students remain eligible for the relief provided by means of this notice.

Further, this notice regarding employment authorization does not impact other eligibility requirements for Federal Work-Study jobs.

## How long will this notice remain in effect?

This notice grants temporary relief until December 31, 2011 to a specific group of F–1 students whose country of citizenship is Libya. DHS will continue to monitor the situation in Libya. Should the special provisions authorized by this notice need to be modified or extended, DHS will announce such changes in the **Federal Register**.

## Why is DHS taking this action?

DHS is taking action to provide relief to F–1 students whose country of citizenship is Libya and who are experiencing severe economic hardship as a direct result of the civil unrest in Libya since February 2011. These students may obtain employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F–1 status.

Since the government crackdown of protests in the east of the country in February, there has been armed conflict in Libya between loyalists of the current government led by Muammar Qadhafi and opposition forces calling for his departure. Approximately 2,000 F–1 students whose country of citizenship is Libya are enrolled in schools in the United States. Given the current conditions in Libya, affected F–1 students whose primary means of financial support comes from the Libyan Government or family members in Libya may now need to be exempt from the normal student employment requirements to be able to continue their studies in the United States and meet basic living expenses. The suspension of all commercial air travel to Libya, violence and uncertainty at land borders, and an overall lack of security, have made it unfeasible for students to safely return to Libya for the foreseeable future. To ameliorate the hardship arising from the lack of financial support and facilitate the students' continued studies, DHS is suspending the applicability of certain requirements governing on-campus and off-campus employment.

## What is the minimum course load requirement set forth in this notice?

Undergraduate students who are granted on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six semester/quarter hours of instruction per academic term. Graduate-level F–1 students who are granted on-campus or off-campus employment authorization under this notice must remain registered for a minimum of three semester/quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v). In addition, F–1 students (both undergraduate and graduate) granted on-campus or off-campus employment authorization under this notice may count up to the equivalent of one class or three credits per session, term, semester, trimester, or quarter of online or distance education toward satisfying this minimum course load requirement, unless the student's course of study is in a language study program. *See* 8 CFR 214.2(f)(6)(i)(G). Elementary school, middle school, and high school students must maintain "class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation," as required under 8 CFR 214.2(f)(6)(i)(E).

## May Libyan F–1 students who already have on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?

Yes. Libyan F–1 students who already have on-campus or off-campus employment authorization may benefit under this notice, which suspends regulatory requirements relating to the minimum course load requirement under 8 CFR 214.2(f)(6)(i)(A) and (B) and the employment eligibility requirements under 8 CFR 214.2(f)(9) as specified in this notice. Such Libyan F–1 students may benefit without having to apply for a new Form I–766, *Employment Authorization Document* (EAD). To benefit from this notice, the

student must request that his or her Designated School Official (DSO) enter the following statement in the remarks field of the Student and Exchange Visitor Information System (SEVIS) student record, which will be reflected on the student's Form I–20, Certificate of Eligibility for Nonimmigrant (F–1) Student Status:

> Approved for more than 20 hours per week of [DSO must insert "on-campus" or "off-campus," depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of employment] until [DSO must insert the student's program end date, December 31, 2011, or the current EAD expiration date (if the student is currently working off campus), whichever date comes first].

**Must the F–1 student apply for reinstatement after expiration of this special employment authorization if the student reduces his or her full course of study?**

No. F–1 students who are granted employment authorization under this notice will be deemed to be engaged in a "full course of study" for the duration of their employment authorization, provided that qualifying undergraduate level F–1 students remain registered for a minimum of six semester/quarter hours of instruction per academic term, and qualifying graduate level F–1 students remain registered for a minimum of three semester/quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). Such students will not be required to apply for reinstatement under 8 CFR 214.2(f)(16) if they are otherwise maintaining F–1 status.

**Will F–2 dependents (spouse or minor children) of F–1 students covered by this notice be eligible to apply for employment authorization?**

No. An F–2 spouse or minor child of an F–1 student is not authorized to work in the United States and, therefore, may not accept employment under the F–2 status. *See* 8 CFR 214.2(f)(15)(i).

**Will the suspension of the applicability of the standard student employment requirements apply to aliens who are granted an F–1 visa after this notice is published in the Federal Register?**

No. The suspension of the applicability of the standard regulatory requirements only applies to those F–1 students whose country of citizenship is Libya and who were lawfully present in the United States in F–1 nonimmigrant status on February 1, 2011 under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i) and (1) are enrolled in an institution that is SEVP certified for enrollment of F–1 students; (2) are currently maintaining F–1 status; and (3) are experiencing severe economic hardship as a direct result of the civil unrest in Libya. F–1 students who do not meet these requirements do not qualify for the suspension of the applicability of the standard regulatory requirements, even if they are experiencing severe economic hardship as a direct result of the civil unrest in Libya since February 2011.

**Does this notice apply to an F–1 student who departs the United States after this notice is published in the Federal Register and who needs to obtain a new F–1 visa before he or she may return to the United States to continue his or her educational programs?**

Yes, provided that the DSO has properly notated the student's SEVIS record, which will then appear on the student's Form I–20. Subject to the specific terms of this notice, the normal rules for visa issuance (including those related to public charge and nonimmigrant intent) remain applicable to nonimmigrants that need to apply for a new F–1 visa in order to continue their educational programs in the United States.

**Does this notice apply to elementary school, middle school, and high school students in F–1 status?**

This notice does not reduce the required course load for elementary school, middle school, or high school students in F–1 status. Such students must maintain the minimum number of hours of class attendance per week prescribed by the school for normal progress toward graduation. *See* 8 CFR 214.2(f)(6)(i)(E). Eligible F–1 students from Libya enrolled in an elementary school, middle school, or high school do benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session. DHS notes, however, that the suspension of this requirement is solely for DHS purposes of determining valid F–1 status. Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors. With regard to off-campus employment, elementary school, middle school, and high school students benefit from the suspension of the requirement that a student must have been in F–1 status for one full academic year in order to be eligible for off-campus employment and the requirement that limits a student's work authorization to no more than 20 hours per week of off-campus employment while school is in session. With regard to off-campus employment, nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors. The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F–1 students—regardless of educational level—as required by the regulations at 8 CFR 214.2(f)(9)(i) and (f)(9)(ii).

**On-Campus Employment Authorization**

*Will F–1 students who are granted on-campus employment authorization under this notice be authorized to work more than 20 hours per week while school is in session?*

Yes. For F–1 students covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F–1 student's on-campus employment to 20 hours per week while school is in session. A student whose country of citizenship is Libya and who is experiencing severe economic hardship as result of civil unrest in Libya since February 1, 2011 is authorized to work more than 20 hours per week while school is in session if his or her DSO has entered the following statement in the remarks field of the SEVIS student record, which will be reflected on the student's Form I–20:

> Approved for more than 20 hours per week of on-campus authorization and reduced course load, under the Special Student Relief authorization from [DSO must insert the beginning date of employment] until [DSO must insert the student's program end date or December 31, 2011, whichever date comes first].

To obtain on-campus employment authorization, the student must demonstrate to his or her DSO that the employment is necessary to avoid severe economic hardship that is directly resulting from the civil unrest in Libya. A student authorized by his or her DSO to engage in on-campus employment by means of this notice does not need to make any filing with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting fulltime work on-campus when school is not in session or during school vacations apply. *See* 8 CFR 214.2(f)(9)(i).

*Will F–1 students who are granted on-campus employment authorization under this notice be authorized to reduce their normal course load and still maintain their F–1 nonimmigrant status?*

Yes. F–1 students who are granted on-campus employment authorization under this notice will be deemed to be engaged in a "full course of study" for the purpose of maintaining their F–1 status for the duration of their on-campus employment if they satisfy the minimum course load requirement described in this notice. *See* 8 CFR 214.2(f)(6)(i)(F). However, the authorization for reduced course load is solely for DHS purposes of determining valid F–1 status. Nothing in this notice mandates that a school allow a student to take a reduced course load if the reduction would not meet the school's minimum course load requirement for continued enrollment.[1]

**Off-Campus Employment Authorization**

*What regulatory requirements does this notice temporarily suspend relating to off-campus employment?*

For F–1 students covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following regulatory requirements relating to off-campus employment:

(a) The requirement that a student must have been in F–1 status for one full academic year in order to be eligible for off-campus employment;

(b) The requirement that an F–1 student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study; and

(c) The requirement that limits a student's work authorization to no more than 20 hours per week of off-campus employment while school is in session.

*Will F–1 students who are granted off-campus employment authorization under this notice be authorized to reduce their normal course load and still maintain their F–1 nonimmigrant status?*

Yes. F–1 students who are granted employment authorization by means of this notice will be deemed to be engaged in a "full course of study" for purpose of maintaining their F–1 status for the duration of their employment authorization if they satisfy the minimum course load requirement described in this notice. *See* 8 CFR 214.2(f)(6)(i)(F). However, the authorization for reduced course load is solely for DHS purposes of determining valid F–1 status. Nothing in this notice mandates that a school allow a student to take reduced course load if such reduced course load would not meet the school's minimum course load requirement.[2]

*How may Libyan F–1 students obtain employment authorization for off-campus employment with a reduced course load under this notice?*

F–1 students must file a Form I–765 *Application for Employment Authorization* with USCIS if they wish to apply for off-campus employment authorization based on severe economic hardship resulting from the civil unrest in Libya since February 1, 2011. Filing instructions are located at: *http://www.uscis.gov/i-765.*

*Fee considerations.* Submission of a Form I–765 currently requires payment of a $340 fee. If the applicant is unable to pay the fee, he or she must submit a written affidavit or unsworn declaration requesting a waiver of the fee and including the statement: "I declare under penalty of perjury that the foregoing is true and correct." *See http://www.uscis.gov/feewaiver.* The submission must include an explanation of why he or she should be granted the fee waiver and the reasons for his or her inability to pay. *See* 8 CFR 103.7(c).

*Supporting documentation.* An F–1 student seeking off-campus employment authorization due to severe economic hardship must demonstrate to the DSO at the school where the F–1 student is enrolled that this employment is necessary to avoid severe economic hardship and that the hardship is resulting from the civil unrest in Libya since February 1, 2011. If the DSO agrees that the student should receive such employment authorization, he or she must recommend application approval to USCIS by entering the following statement in the remarks field of the student's SEVIS record, which will then appear on the student's Form I–20:

Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I–766 until [DSO must insert the program end date or December 31, 2011, whichever date comes first].

The student must then file the properly endorsed Form I–20 and Form I–765, according to the instructions for the Form I–765. The student may begin working off campus only upon receipt of the EAD from USCIS.

*DSO recommendation.* In making a recommendation that a student be approved for Special Student Relief, the DSO certifies that:

(a) The student is in good academic standing as determined by the DSO;

(b) The student is a citizen of Libya and is experiencing severe economic hardship as a direct result of the civil unrest in Libya since February 1, 2011, as documented on the Form I–20;

(c) The student is carrying a full course of study at the time of the request for employment authorization;

(d) The student will be registered for the duration of his or her authorized employment for a minimum of six semester or quarter hours of instruction per academic term if the student is at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if the student is at the graduate level; and

(e) The off-campus employment is necessary to alleviate severe economic hardship to the individual caused by the civil unrest in Libya since February 1, 2011.

*Processing.* To facilitate prompt adjudication of the student's application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the student should:

(a) Ensure that the application package includes: (1) A completed Form I–765; (2) the required fee or properly documented fee waiver request as defined in 8 CFR 103.7(c); and (3) a signed and dated copy of the student's Form I–20 with the appropriate DSO recommendation, as previously described in this notice; and

(b) send the application in an envelope which is clearly marked on the front of the envelope, bottom right-hand side, with the phrase "SPECIAL STUDENT RELIEF." Failure to include this notation may result in significant processing delays. If USCIS approves the student's Form I–765, the USCIS official will send the student a Form I–766 EAD as evidence of his or her employment authorization. The EAD will contain an expiration date that does not exceed the student's program end date.

**Paperwork Reduction Act**

An F–1 student seeking off-campus employment authorization due to severe

[1] Minimum course load requirement for enrollment in a school must be established in a publicly available document (*e.g.,* catalog, Web site, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

[2] Minimum course load requirement for enrollment in a school must be established in a publicly available document (*e.g.,* catalog, Web site, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

economic hardship must demonstrate to the DSO at the school where he or she is enrolled that this employment is necessary to avoid severe economic hardship. If the DSO agrees that the student should receive such employment authorization, he or she must recommend application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The authority to collect this information is currently contained in the SEVIS collection of information currently approved by OMB under OMB Control Number 1653–0038.

This notice also allows F–1 students whose country of citizenship is Libya and who are experiencing severe economic hardship as a direct result of civil unrest in Libya since February 1, 2011, to obtain employment authorization, work an increased number of hours while school is in session, and reduce their course load, while continuing to maintain their F–1 student status.

To apply for work authorization an F–1 student must complete and submit currently approved Form I–765 according to the instructions on the form. The authority to collect the information contained on the current Form I–765 has previously been approved by the Office of Management and Budget under the Paperwork Reduction Act (PRA) (OMB Control No. 1615–0040). Although there will be a slight increase in the number of Form I–765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I–765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

**Janet Napolitano,**

*Secretary.*

[FR Doc. 2011–14482 Filed 6–9–11; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

### 9 CFR Parts 307, 381, and 590

**[Docket No. FSIS–2010–0014]**

**RIN [0583–AD35]**

## Changes to the Schedule of Operations Regulations

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is amending the meat, poultry products, and egg products regulations pertaining to the schedule of operations. FSIS is amending these regulations to define the 8-hour work day as including time that inspection program personnel need to spend at the workplace donning and doffing required gear, time spent walking to their workstations after donning required gear, and time spent walking from their work stations prior to doffing required gear.

**DATES:** Effective July 11, 2011.

**FOR FURTHER INFORMATION CONTACT:** Daniel L. Engeljohn, Assistant Administrator, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–3700, *telephone:* (202) 205–0495.

**SUPPLEMENTARY INFORMATION:**

### Background

The Federal Meat Inspection Act (FMIA), 21 U.S.C. 601 *et seq.,* and the Poultry Products Inspection Act (PPIA), 21 U.S.C. 451 *et seq.,* provide for mandatory Federal inspection of livestock and poultry slaughtered at official establishments and of meat and poultry products processed at official establishments. The Egg Products Inspection Act (EPIA), 21 U.S.C. 1031 *et seq.,* provides for mandatory inspection of egg products processed at official plants. FSIS bears the cost of mandatory inspection provided during non-overtime and non-holiday hours of operation. Official establishments and egg products plants pay for inspection services performed on holidays or on an overtime basis.

On August 9, 2010, FSIS proposed to amend its regulations pertaining to the schedule of operations. FSIS proposed to define the 8-hour work day as including time that inspection program personnel need to spend at the workplace donning and doffing required gear, time spent walking to their workstations after donning required gear, and time spent walking from their work stations prior to doffing required gear. As explained in the preamble to the proposed rule, FSIS proposed the amendments to administer its inspection program in accord with the Supreme Court's holding in *IBP, Inc.* v. *Alvarez,* 546 U.S. 21 (2005), and policy guidance from the Office of Personnel Management (OPM).

Specifically, the preamble to the proposed rule explained that this regulatory change is necessary in light of the Supreme Court's ruling that the Fair Labor Standards Act (FLSA) covers (1) any activity that is integral and indispensable to a principal activity; and (2) during a continuous workday, any walking time that occurs after the beginning of the employee's first principal activity and before the end of the employee's last principal activity. *IBP,* 546 U.S. at 37. The preamble to the proposed rule also briefly addressed OPM's treatment of the *de minimis* exception, codified at 5 CFR 551.412(a), and an OPM letter to the National Treasury Employees Union discussing that regulation. Finally, the preamble to the proposed rule described a settlement reached between FSIS and the National Joint Council of Food Inspectors regarding inspector compensation for donning and doffing activities.

### Comments and FSIS Responses

FSIS received 20 comments on the proposed rule from the public, industry, and trade organizations. FSIS also received a letter concerning the proposal from the Department of Labor. Commenters generally supported that FSIS inspection program personnel should be fully compensated for work. However, commenters had varying opinions regarding the Agency's interpretation of *IBP,* the distinction between unique and non-unique gear, and application of the *de minimis* rule; and questions about how FSIS will implement the rule.

*Unique Versus Non-Unique Gear and the Application of De Minimis*

Several comments addressed the Agency's treatment of *IBP, Inc.* v. *Alvarez,* 546 U.S. 21 (2005), as it relates to the distinction between unique and non-unique gear and application of the *de minimis* rule. The two comments discussed in detail below were reflective of all comments related to this topic. "Unique" gear refers to items that are unique to the jobs at issue, such as cut-resistant gloves and chain link metal aprons in livestock slaughter establishments. "Non-unique" gear refers to generic items, such as hardhats, and hairnets, worn in all slaughter and processing establishments.

The first comment, submitted by the Department of Labor (DOL), argued that whether gear worn by employees is unique or non-unique is irrelevant to whether donning and doffing the gear is a principal, compensable activity. DOL stated that the preamble to the proposed rule incorrectly implied that *IBP* only dealt with unique protective gear. Rather, DOL stated that the two lower court cases that were consolidated by the Supreme Court in *IBP* in fact dealt with both unique and non-unique gear, and that the Supreme Court treated all items interchangeably, without regard to

weight or uniqueness, declaring that both lower court cases involved required protective gear that the lower courts found integral and indispensable to the employees' work. Next, DOL pointed out that the Supreme Court in *IBP* also cited approvingly to an older Supreme Court decision, *Steiner* v. *Mitchell,* 350 U.S. 247 (1956), in which the court held that changing into and out of old work clothes at a battery plant was an integral and indispensable part of the workers' principal activities, and therefore compensable. DOL argued that the old work clothes in *Steiner* clearly qualify as non-unique gear.

On the other hand, a comment submitted by an industry trade organization argued that the time associated with donning and doffing non-unique gear is noncompensable because it is *de minimis* as a matter of law. The trade organization stated that in *IBP,* the Supreme Court did not hold that the donning and doffing of non-unique gear by on-line inspectors in poultry establishments is a compensable activity. The trade organization stated that the question of what constitutes integral and indispensable activity was not addressed by the Supreme Court in that case. The trade organization stated that *IBP* only addressed whether walking time associated with donning and doffing integral and indispensable gear is compensable. The trade organization stated that the proposed rule incorrectly assumed that gear for both poultry and livestock inspection program personnel is integral and indispensable but that court precedent has not established that to be the case. The trade organization stated that, to the contrary, before *IBP* reached the Supreme Court, the 9th Circuit expressly concluded in *Alvarez* v. *IBP, Inc.,* 339 F.3d 894 (9th Cir. 2003), that donning and doffing time is compensable except for time associated with the donning and doffing of generic protective gear, such as the hardhats and safety goggles worn in the poultry industry, because the time it takes to don and doff such generic gear is *de minimis* as a matter of law. The trade organization stated that the Agency's proposed rule ignores the de minimis rule set forth by the Supreme Court in *Anderson* v. *Mt. Clemens Pottery Co.,* 328 U.S. 680 (1946), and OPM's rule dealing with the de minimis rule as applied to Federal employees, 5 CFR 551.412(a)(1).

*Response:*

The comments described above address two distinct concepts that must be considered in turn to determine whether inspection program personnel donning and doffing activities must be compensated under Federal law. The first is: Are inspection program personnel donning and doffing activities integral and indispensable to their principal activity, and therefore covered under the FLSA? The second is: If the donning and doffing activities are covered under the FLSA, are they nevertheless noncompensable because they are *de minimis*? For the reasons described below, FSIS has determined that (1) inspection program personnel donning and doffing activities are covered by the FLSA; and (2) they are not *de minimis* to the extent that FSIS can reasonably account for them.

1. FSIS has determined that the FLSA covers time inspectors spend donning and doffing both unique and non-unique gear which they are directed by FSIS or an establishment to don and doff at the workplace in order to provide inspection services.

The Portal-to-Portal Act excludes from FLSA coverage time spent walking to and from the actual place of performance of the principal activity of an employee, and activities that are "preliminary or postliminary" to that principal activity. 29 U.S.C. 254(a). In *IBP,* the Supreme Court clarified the scope of what the Portal-to-Portal Act excludes from FLSA coverage, holding: (1) Any activity that is integral and indispensable to a principal activity is itself a principal activity and therefore outside the scope of the Portal-to-Portal Act, and thus covered by the FLSA; and (2) during a continuous workday, any walking time that occurs after the beginning of the employee's first principal activity and before the end of the employee's last principal activity is also outside the scope of the Portal-to-Portal Act and thus covered by the FLSA. *IBP,* 546 U.S. at 37.

Accordingly, if donning and doffing is integral and indispensable to inspectors' principal work activity, then it must also be considered a principal activity covered by the FLSA. The classification of gear as unique or non-unique has no bearing on whether the donning and doffing of such gear at the workplace is an integral and indispensable activity. For example, in *Steiner,* the Supreme Court considered whether changing into and out of old work clothes at a battery plant was an integral and indispensable part of the employees' principal activity of making batteries. 350 U.S. at 256. Although there was arguably nothing unique about the old work clothes at issue in *Steiner,* the Court held that the employees' donning and doffing activity was integral and indispensable to their principal activity. *Id.* The Court's analysis in that case hinged not upon whether the donning and doffing involved unique or non-unique gear, but upon the relationship of the pre-shift and post-shift activity in question (i.e., donning and doffing the work clothes) to the principal productive activity performed by the employees (i.e., making batteries). Because of the toxic nature of making batteries, the plant owners provided employees with old but clean work clothes to change into and out of before and after their shift. In doing so, the plant owners were able to "make their plant as safe a place as [was] possible under the circumstances and thereby increase the efficiency of its operation." *Id.* at 249–51.

In *Alvarez,* the Ninth Circuit ruled that, in light of *Steiner,* the donning and doffing of both unique and non-unique gear by meat slaughter and processing plant employees was integral and indispensable to their principal activities of slaughtering and processing beef and therefore was not excluded from FLSA coverage by the Portal-to-Portal Act. *Alvarez,* 339 F.3d at 903. The Ninth Circuit based this conclusion on the finding that the donning and doffing activities in question were necessary to the principal work done by the employees (i.e., slaughtering and processing beef) and done for the benefit of the employer. *Id.* at 902–03. However, the Ninth Circuit ruled that since the time it takes to perform the donning and doffing of this non-unique gear is de minimis, therefore, it could not justify compensation for the time on these tasks. Id. At 904.

As the comment from the industry trade organization pointed out, the Supreme Court was not asked to review the Ninth Circuit's holding that donning and doffing were integral and indispensable to the principal activities of the meat slaughter and processing plant employees. However, the Supreme Court did consider the Ninth Circuit's related holding that during a continuous workday, time spent by employees walking to their workstation after donning their required gear was not excluded from the FLSA coverage by the Portal-to-Portal Act. *IBP,* 546 U.S. at 32. The Supreme Court's affirmation of the Ninth Circuit's holding with respect to walking to and from production areas was premised on the correctness of the Ninth Circuit's holding that the donning in question was indeed an integral and indispensable activity marking the beginning of the continuous workday. *See Perez* v. *Montaire Farms, Inc.,* 601 F.Supp.2d 670, 676 (D. Md. 2009).

As was the case with the gear considered in *Steiner* and *IBP,* sanitary and protective gear that FSIS inspectors are directed by FSIS or an establishment to don and doff at the workplace in

order to provide inspection services is directly related to the principal activity which they are employed to perform. The principal productive activity of FSIS inspectors is to provide inspection services at meat, poultry and egg products establishments. The purpose of food inspection is to advance FSIS's mission of protecting the health and welfare of consumers by verifying that food products are wholesome and not adulterated. Inspection program personnel don sanitary gear (e.g., hairnets, frocks, or smocks), if required by the establishment, and protective gear required by FSIS, as discussed in this Final rule under the heading "Establishment Specific Application of the Rule and What Does FSIS Mean by Required Gear" before providing inspection services, and doff it afterwards. To minimize the risk of food contamination during inspection and to ensure that inspection program personnel are protected from injury and may continue to fulfill their duties safely and without interruption. The donning and doffing of sanitary and protective gear by inspection program personnel is, therefore, necessary to the provision of proper inspection services. This is equally true of unique and non-unique gear. Accordingly, FSIS finds that all gear that inspection program personnel are directed by FSIS or an establishment to don and doff at the workplace in order to provide inspection services is integral and indispensable to the performance of their principal activities.

Because inspection program personnel's donning and doffing activities are integral and indispensable to inspection program personnel's principal activities, under the Supreme Court's ruling in *IBP,* those donning and doffing activities are themselves principal activities and are therefore covered by the FLSA. *See IBP,* 546 U.S. at 37. Additionally, during a continuous workday, if the donning and doffing are "principal activities," post-donning and pre-doffing walk time is also covered by the FLSA. *Id.;* See 29 CFR 790.6.

2. Although inspection program personnel's donning and doffing activities are covered by the FLSA, such activities might still be deemed noncompensable if they fall under the *de minimis* exception. The comment submitted by the trade organization argued that donning and doffing time at poultry slaughter establishments is never compensable because the donning and doffing of non-unique gear, such as that worn by inspectors at poultry slaughter establishments, is always *de minimis.* In light of the prevailing case law defining what constitutes *de minimis* activities, and OPM's regulation limiting application of the *de minimis* exception in the Federal sector to periods of 10 minutes per day or less, FSIS disagrees with the trade organization comment.

Whether pre-shift and post-shift activity can be considered *de minimis* requires a fact-specific inquiry. Although, "[a]s a general rule, employees cannot recover for otherwise compensable time if it is *de minimis,*" *Lindow* v. *United States,* 738 F.2d 1057, 1062 (9th Cir. 1984), FSIS has determined that for inspection program personnel, time spent donning and doffing is not *de minimis.*

The Supreme Court has reasoned that overtime compensation for "a few seconds or minutes" is de minimis "in light of the realities of the industrial world." *Anderson,* 328 U.S. at 692: see also *Lindow,* 738 F.2d at 1062. *Lindow,* one of the most frequently cited cases on the question of determining whether time spent in pre-shift and post-shift activity is de minimis, describes three factors to be considered: (1) The practical administrative difficulty of recording the additional time; (2) the aggregate amount of compensable time; and (3) the regularity of the additional work. *Id.* at 1063; see also *Bobo* v. *United States,* 136 F.3d 1465, 1468 (Fed.Cir. 1998) (citing approvingly to *Lindow*). In light of these three factors, FSIS has determined that, in most cases, the time inspection program personnel are directed to spend at the workplace donning and doffing required gear, and walking to their workstation after donning and before doffing, is not *de minimis.*

The first factor, the practical administrative difficulty of recording the additional time for payroll purposes, merits some discussion. FSIS bills federally inspected establishments for inspection services provided in excess of eight hours per shift. At slaughter establishments, carcasses are not permitted to begin passing the post-mortem inspection station on the evisceration line until an FSIS on-line inspector is at his or her post-mortem inspection station, ready to conduct carcass-by-carcass inspection. But inspectors must don and doff their required gear before they begin on-line carcass inspection. As a result, slaughter establishments must know in advance of planning their schedule of operations how much of their eight hours of free inspection services will be used for inspection program personnel donning and doffing activities. For example, if a poultry slaughter establishment does not wish to pay for overtime inspection services, and the establishment knows that inspection program personnel must spend a total of 9 minutes per day conducting FLSA-covered donning, doffing, and walking activities, then the establishment can adjust its slaughter inspection operations accordingly. If it chooses to conduct slaughter operations for a full eight hours, it will incur overtime costs because FSIS will have provided more than 8 hours of inspection services.

In order to inform slaughter establishments how much donning and doffing time to account for as part of their regular eight hours of inspection services, FSIS will need to determine in advance of implementing this rule how much time it actually takes for inspection program personnel to conduct FLSA-covered donning, doffing, and walking activities at each individual slaughter establishment.[1] Because donning and doffing activities do not typically change from day to day at a given establishment, FSIS has determined that it is administratively practical to accurately assess the amount of time inspectors spend in those activities each day at each establishment, to inform slaughter establishments how much inspection time will be used for those activities in each respective establishment, and to ensure that inspection program personnel have the correct amount of time to conduct those activities each day.

The second *de minimis* factor, the aggregate amount of compensable time, also weighs in favor of a finding that inspection program personnel donning and doffing time is not *de minimis.* Inspection program personnel donning and doffing takes place every day, often for several minutes per day. In aggregate over time, this results in a substantial amount of compensable time.

The third *de minimis* factor, the regularity of the additional work, weighs in favor of the same conclusion because donning and doffing of generally the same gear occurs at the beginning and the end of every work day, generally for the same amount of time each day. Accordingly, FSIS finds that for inspection program personnel,

[1] However, it should be noted that FSIS does not intend to use this advance estimate of donning, doffing and walking time at each establishment for payroll purposes, but only for scheduling and billing purposes. FSIS intends to use the time studies only to provide advance notice of the duration and costs to each establishment of these principal activities. However, FSIS employees will be paid based on the time it actually takes them each day to perform these activities. FSIS anticipates that this time will be recorded on the time and attendance sheet that each inspector fills out. The actual time worked may or may not include overtime, depending on how the establishment schedules the work.

time they spend on donning and doffing activities is not *de minimis.*

The trade organization also argued that the donning and doffing of non-unique gear is always noncompensable in light of an OPM regulation addressing the *de minimis* doctrine in the context of Federal employees. *See* 5 CFR 551.412(a)(1). Under that regulation, "OPM limits the application of the *de minimis* doctrine to periods of 10 minutes or less per day." *Bull* v. *United States,* 68 Fed.Cl. 212, 226 (2005) (citing 5 CFR 551.412(a)(1); *see also Riggs* v. *U.S.,* 21 Cl.Ct. 664, 683 (1990) (holding that OPM's 10 minute threshold for time spent in pre-shift and post-shift activities is a proper application of the *de minimis* rule to the FLSA and the Portal-to-Portal Act).

Specifically, OPM's rule directs: "If an agency reasonably determines that a preparatory or concluding activity is closely related to an employee's principal activities, and is indispensable to the performance of the principal activities, and that the total time spent in that activity is more than 10 minutes per workday, the agency shall credit all of the time spent in that activity, including the 10 minutes, as hours of work." 5 CFR 551.412(a)(1).

The trade organization argued that under the OPM rule, preparatory and concluding activities such as inspection program personnel donning and doffing are only compensable when the total time spent in such activities is more than 10 minutes per workday. To the contrary, as the court explained in *Bull,* OPM's regulation provides an upper limit to the amount of time that a Federal agency may consider noncompensable under the *de minimis* exception, directing that if FLSA-covered activity exceeds 10 minutes per work day, the agency must compensate its employees for that activity. The rule forecloses the possibility of a Federal agency finding that an FLSA-covered preparatory or concluding activity which exceeds 10 minutes per day is *de minimis.* However, based on the three factor test discussed above, FSIS has determined that for inspection program personnel, most time spent on donning and doffing activity is not *de minimis,* so OPM's regulation limiting application of the *de minimis* doctrine is generally not applicable.

**How FSIS Will Apply the Rule to Daily Operations**

Several commenters sought clarification regarding how application of this rule might affect establishment operating schedules.

**Response**

Because inspection program personnel donning and doffing are principal activities, they will be treated in the same manner as other inspection services. Thus, the new rule specifies that the regular workweek, which consists of five 8-hour days of scheduled inspection service provided without charge, will include donning and doffing activities. Establishments must therefore understand that the 8-hours per scheduled shift of inspection service which they are provided without charge must include the time inspection program personnel need for FLSA-covered donning and doffing activities. At establishments where donning and doffing activities must occur before and after the commencement of on-line, carcass and parts inspection, FSIS will ensure that establishments know how much time inspection program personnel donning and doffing activities take so that those establishments may plan their regular operating schedules accordingly. If establishments require more than 8 hours of inspection service, they must request overtime inspection service as provided in 9 CFR 307.4(d)(3), 9 CFR 381.37(d)(3), and 9 CFR 590.126.

**Establishment Specific Application of the Rule and What Does FSIS Mean by Required Gear**

Some industry commenters expressed concern that FSIS would impose a "one-size-fits-all" approach to implementing this regulation by requiring each establishment to schedule the same amount of time for donning and doffing activities. The commenters contended that each establishment is different, and that the required donning, doffing and walking time should reflect the realities of each individual establishment. The commenters also requested that FSIS explain what the phrase "required gear" is intended to include.

**Response**

FSIS agrees that actual donning, doffing, and walking time will vary in each establishment depending on plant-specific variables. The Agency does not intend to use a one-size-fits-all approach to implement this rule. Some industry commenters misunderstood the proposed rule to state that each establishment must provide 15 minutes for donning, doffing, and walking time. This figure was only used in the context of estimating the cost to industry that may result from this rule.

FSIS agrees with the commenters that post-donning and pre-doffing walk time can vary significantly among establishments. Also, FSIS is aware that inspectors may don and doff some equipment unique to a specific establishment. However, there is equipment that FSIS requires all of its on-line personnel to wear in meat slaughter operations and poultry slaughter operations. The following is the specific gear FSIS requires its employees to wear:

- Hard Hats—FSIS Directive 4791.1, Revision 2, Amendment 2 (5/15/02), the Basic Occupational Health and Safety Program, requires hard hats to be worn.
- Hearing Protection—FSIS Directive 4791.1, Revision 2, Amendment 2 (5/15/02), the Basic Occupational Health and Safety Program, requires hearing protection.
- Cut Resistant and Cover Gloves—FSIS Directive 4791.1, Revision 2, Amendment 2 (5/15/02), the Basic Occupational Health and Safety Program, requires Cut-Resistant Gloves.
- Slaughter Equipment—Knives, hook, steel, and scabbard. This equipment is required to perform postmortem inspection procedures as outlined in FSIS Directive 6100.2 Postmortem Livestock Inspection (9/17/07). Chapter II (pages 5–16) of this directive outlines the required inspection procedures for all species of livestock.

In response to the comment about required gear, FSIS has determined that the FLSA covers time inspectors spend donning and doffing required gear which they are directed by FSIS or an establishment (e.g., hairnets, frocks, or smocks) to don and doff at the workplace in order to provide inspection services.

Although FSIS requires inspection program personnel to wear skid-resistant footwear, FSIS allows them to don and doff this footwear at home. Accordingly, time spent donning and doffing required skid-resistant footwear is generally not compensable. However, if an individual establishment requires inspection program personnel to don and doff footwear at the establishment, then that time would be compensable.

Donning and doffing activities also include time to retrieve, clean, and store equipment to maintain sanitary conditions. Such activities were calculated and included as part of the time study mentioned in the economic analysis for the proposed rule. The letter from DOL also made specific reference to the need to compensate for the time to conduct such activities.

Also, FSIS employees are entitled to their entire lunch period. Donning and doffing activities, as well as walk time, are outside of the lunch period. The donning and doffing activity can differ

around the lunch period based on several factors including the amount of equipment (helmet, ear protection, etc.) the inspectors remove before their lunch period. Some equipment is removed based on personal comfort, and some equipment is removed because of plant requirements. For this reason, the Agency determined that the most practical and reasonable approach to assessing donning and doffing time surrounding the lunch period is to assume that the inspector will remove all personal protective equipment before taking his or her lunch period and will don all equipment after the lunch period before resuming on-line inspection duties. Therefore, donning and doffing around the lunch period will be factored into the time measurement discussed below.

After publication of this rule, FSIS will measure the amount of time it takes for on-line inspection program personnel to don and doff all required gear (including before and after the lunch period), walk to and from their workstation, and retrieve, clean, and store equipment to maintain sanitary conditions at each affected meat and poultry slaughter establishment. This cumulative total will give each plant the specific donning, doffing, walking time, retrieving, cleaning, and storage time measurement needed, so that they can account for it in their daily schedule of operations or as overtime. See footnote 1 for the explanation that this time will not be used for payroll purposes. For administrative and scheduling purposes, the time will be rounded up or down to the next whole minute. If an establishment has a concern about the outcome of the time measurements in its facility it can appeal as set out in FSIS's regulations.

**Making Facilities Changes To Shorten Donning, Doffing, and Walking Time**

Commenters also asked if it would be possible to make changes at their establishment to reduce donning, doffing, and walk time.

**Response**

Establishments may make facilities adjustments to reduce donning, doffing, and walk times, provided such changes do not affect the sanitary conditions in the establishment or impede inspection.

**Overtime Charges**

Several commenters stated that FSIS should not charge for overtime in 15 minute increments but only bill establishments for the actual time inspectors at the establishment take to don, doff, and walk to and from their work station.

**Response**

As a preliminary matter, compensable donning, doffing, and walking time will not necessarily be overtime. Consistent with current regulations, overtime will only be charged for time inspection program personnel work in excess of eight hours per workday. If an establishment's schedule of operations calls for less than eight hours of on-line inspection time, then any compensable donning, doffing, and walking time may still fit within the normal 8-hour workday. In that case, no overtime charges would result.

On the other hand, if the total workday, including on-line inspection time and compensable donning, doffing, and walking time, exceeds eight hours per workday, then all time in excess of eight hours will be charged as overtime as set forth in 9 CFR 307.6. This regulation establishes that for billing purposes, eight or more minutes shall be considered a full quarter hour. Also, the National Finance Center, which is tasked with processing our bill documents, can only bill in 15 minute increments.

**FSIS Employees to Whom the Regulation Applies**

FSIS received comments from Federal veterinarians stating that the proposed rule concerning donning and doffing is too limited because it does not include all personnel that must be prepared and on the line when operations start, in particular Public Health Veterinarians and Supervisory Public Health Veterinarians.

**Response**

The new regulations include donning, doffing, and walking time as activities that are within an FSIS inspection personnel's 8-hour work-day. This would apply to any FSIS inspection program personnel, including FSIS veterinarians, who are required to don and doff and be at an inspection station on the line at the start of a shift. In general, FSIS Veterinarians, off-line inspectors, supervisory consumer safety inspectors, inspectors in processing facilities, and inspectors working in egg product plants are not required to be at an inspection workstation at start of or at the end of a shift. Note that for inspectors who are required to come in early, such as for pre-operational inspection, their donning, doffing, and walking time must also be accounted for.

Therefore, this regulatory change has no impact on their working conditions, unless they have to perform on-line duties in order for the establishment's line to start operating.

**Change to the Regulatory Language**

The letter that FSIS received from DOL stated that the proposed regulation would define the proposed 8-hour workday as including "the necessary time for FSIS inspection program personnel to put on required gear and walk to a work station and the necessary time for FSIS inspection program personnel to return from a work station and remove required gear. * * *" DOL requested that the word necessary be eliminated from the final regulation because it could be read to suggest something less than the actual time taken while performing such tasks.

**Response**

FSIS agrees with DOL that the actual time spent donning and doffing and the associated walk times are inspection activities that fall into the 8-hour workday. FSIS will know how much donning and doffing and walk time there is at each establishment as discussed above. FSIS believes this approach will ensure that FSIS employees are fully compensated as required by the FLSA. Therefore, to more accurately reflect that donning, doffing, and walk time are part of the inspector's 8-hour workday, FSIS has eliminated the word necessary from the final version of the regulation.

**The Final Rule**

Consistent with the proposed rule, FSIS is amending 9 CFR 307.4(c), 381.37(c), and 590.124 to provide that the eight hours of inspection service includes the time for inspection program personnel to put on required gear and walk to a work station and the time for inspection program personnel to return from a work station and remove required gear. Any time over those eight hours is overtime charged to an establishment. The only change, as discussed above, is to remove the word necessary from the regulatory language.

For egg product plants, FSIS's regulations at 9 CFR 590.124 define the normal operating schedule as consisting of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch) 5 consecutive days per week. FSIS does not believe additional time for donning and doffing will typically be necessary for inspection program personnel in egg product plants because inspection program personnel at those plants do not need to be at a required station for operations to begin. To ensure compliance with the applicable law and OPM guidance, however, the Agency is proposing to amend 9 CFR 590.124 to define the 8-hour work day as including the time for inspection

program personnel to put on required gear and walk to a work station and the time for inspection program personnel to return from a work station and remove required gear. The Agency anticipates that this change is likely to have little application to the work of the Agency's egg product inspection program personnel.

**Executive Order 12866 and the Regulatory Flexibility Act**

This rule was reviewed by the Office of Management and Budget under Executive Order 12866 and was determined to be significant.

**Cost to the Industry**

The FSIS cost estimate in this final rule remains similar to that of the proposed rule, but has been updated to reflect final FSIS overtime rates for FY 2011 and FY 2012.

Under this final rule, the most direct cost to the industry will be the overtime fee that the Agency will need to charge establishments for the time inspection program personnel spend donning required gear, walking to a work station, returning from a work station, and doffing required gear. If meat and poultry slaughter establishments want to maintain their normal shift length of operating for eight hours, they will incur some overtime fees. The choice is voluntary. Some meat and poultry slaughter establishments may choose not to incur the overtime charges if they expect that the decline in revenues from operating for a shorter amount of time will be smaller than the overtime fee cost. However, the Agency expects that most large meat and poultry slaughter establishments will choose to pay the overtime charge and maintain their current shift-time, as shortening the shift time will decrease production and revenue while idling existing capacity.

The actual time FSIS inspection program personnel will take to don and doff required gear will vary in each meat and poultry slaughter establishment depending on plant-specific variables. In response to comments on the proposed rule, FSIS has decided, as discussed above, that it will measure the amount of time it takes for inspection program personnel to don and doff all required gear, walk to and from their workstation, and retrieve, clean, and store equipment to maintain sanitary conditions. See footnote 1 for the explanation that this time will not be used for payroll purposes.

For the purpose of its analysis, FSIS is using 15 minutes for donning, doffing, and walking time at all meat and poultry slaughter establishments as a reasonably conservative estimate for both poultry and livestock inspectors. The overtime fee that the Agency charges for 15 minutes is $16.88 and $17.16 for FY 2011 and 2012, respectively.[2] These costs are far less than the value of the poultry or livestock an establishment can slaughter in 15 minutes per line.

FSIS calculated these costs for the meat and poultry slaughter establishments because carcasses are not permitted to begin passing the post-mortem inspection station on the evisceration line until an FSIS on-line inspector is at his or her post-mortem inspection station, ready to conduct carcass and parts inspection.

This regulatory change should not impact the schedule of operations for meat and poultry processing establishments and egg product plants because those establishments can begin operations without FSIS inspection program personnel being at an on-line inspection work station. Furthermore, very-small slaughter establishments typically will not be affected by this rule because of the nature of how slaughter is conducted in very-small establishments. Many of the inspectors at such establishments are on patrol assignments, inspectors typically drive up to the establishment, go into the establishment and simply put on their frock.

The most recent Agency data shows that there are 1,041 meat and poultry slaughter establishments, of which 263 are small and 566 are very small (by Small Business Administration size standards.)

FSIS started by calculating the number of inspection program personnel that this proposed rule will affect. Agency data show that there are 2,911 inspection program personnel in the poultry and meat slaughter establishments—1,954 in poultry and 957 in meat. Assuming all the establishments pay the 15-minute overtime charge per inspection program personnel, and that the establishments operate 260 days (5 days a week times 52 weeks), the annual cost for one on-line inspector will be about $4,389 at the FY 2011 rate. The total cost to the industry will be about $12.8 million and $13.0 million in FY 2011 and 2012, respectively (see Table 1). Given that the annual revenue of the meat slaughtering industry alone in 2009 is about $67.2 billion,[3] the overtime cost to the industry is insignificant. If we breakdown the cost for FY 2011 by establishment size, based on the numbers of inspectors for each SBA size category, it will be $10.6 million for the large establishments, $2.1 million for the small and $0.066 million for the very small establishments.[4]

TABLE 1—ESTIMATED ANNUAL COST OF THE OVERTIME CHARGE TO THE INDUSTRY

| | Number of inspection program personnel | Overtime fee (15 min.) | Daily cost | Number of days | Annual cost (Daily × Number of Days) |
|---|---|---|---|---|---|
| FY 2011 | 2,911 | $16.88 | $49,138 | 260 | $12,775,797 |
| FY 2012 | 2,911 | 17.16 | 49,953 | 260 | 12,987,718 |

**Cost to the Consumer**

The industry is likely to pass the increased costs on to consumers because of the inelastic nature of the consumer demand for meat and poultry products. However, given that the total volume of meat and poultry slaughtered under Federal inspection in 2009 was about 91 billion pounds,[5] the increased cost per pound due to the overtime fee will be only $0.0001, on average.

[2] FSIS Final Rule of New Formula for Calculating the Basetime, Overtime, Holiday, and Laboratory Rates; Rate Changes Based on the Formulas; and Increased Fees for the Accredited Laboratory Program.

[3] Summary of the *Animal (except Poultry) Slaughtering Industry in the U.S. and its International Trade [2010 edition,]* Supplier Relations US, LLC. *http://www.htrends.com/report-2700858–Animal_except_Poultry_Slaughtering_Industry_in_the_U_S_and_its_International_Trade_Edition.html,* as of 7/16/2010.

[4] Among the 2,911 inspectors, 2,416 are for the large establishments, 480 are for the small establishments, and 15 are for the very small establishments.

[5] *Livestock, Dairy, & Poultry Outlook*/LDP–M–188/February 24, 2010; Economic Research Service, USDA. The Web-link to the report is *http://www.ers.usda.gov/Publications/ldp/2010/02Feb/ldpm188.pdf.*

**Benefit of the Rule**

This rule will ensure compliance with the law and the best use of Agency resources.

**Regulatory Flexibility Analysis**

The FSIS Administrator has made a determination that this final rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). There are 263 small and 566 very small meat and poultry slaughter establishments. Based on the data and information contained in the cost to industry section of this rule, the fee is, at most, $4,389 per year for one on-line inspector for an extra 15 minutes (FY 2011 rate). The time required for donning and doffing for small and very small establishments is likely much less than 15 minutes. Furthermore, almost all the very-small establishments will not be affected by this rule because they are on a patrol assignment. Therefore, the impact will not be significant.

**Paperwork Reduction Act**

This final rule has been reviewed under the Paperwork Reduction Act and imposes no new paperwork or recordkeeping requirements.

**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 final rule, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/Regulations_&_Policies/2010_Final_Rules_Index/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 will 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 e-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.

**List of Subjects**

*9 CFR Part 307*

Facilities for inspection.

*9 CFR Part 381*

Poultry products inspection regulations.

*9 CFR Part 590*

Inspection of eggs and egg products (egg products inspection act).

For the reasons discussed in the preamble, FSIS is amending 9 CFR Chapter III as follows:

## PART 307—FACILITIES FOR INSPECTION

■ 1. The authority citation for part 307 continues to read as follows:

**Authority:** 7 U.S.C. 394; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

■ 2. In § 307.4(c), revise the second sentence to read as follows:

**§ 307.4 Schedule of operations.**

* * * * *

(c) * * * The basic workweek shall consist of 5 consecutive 8-hour days within the administrative workweek Sunday through Saturday, and shall include the time for FSIS inspection program personnel to put on required gear and to walk to a work station, and the time for FSIS inspection program personnel to return from a work station and remove required gear, excluding the lunch period; except that, when possible, the Department shall schedule the basic workweek so as to consist of 5 consecutive 8-hour days Monday through Friday, and shall include the time for FSIS inspection program personnel to put on required gear and to walk to a work station, and the time for FSIS inspection program personnel to return from a work station and remove required gear, excluding the lunch period. * * *

* * * * *

## PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 3. The authority citation for part 381 continues to read as follows:

**Authority:** 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.7, 2.18, 2.53.

■ 4. In § 381.37(c), revise the second sentence to read as follows:

**§ 381.37 Schedule of operations.**

* * * * *

(c) * * * The basic workweek shall consist of 5 consecutive 8-hour days within the administrative workweek Sunday through Saturday, and shall include the time for FSIS inspection program personnel to put on required gear and to walk to a work station, and the time for FSIS inspection program personnel to return from a work station and remove required gear, excluding the lunch period; except that, when possible, the Department shall schedule the basic workweek so as to consist of 5 consecutive 8-hour days Monday through Friday, and shall include the time for FSIS inspection program personnel to put on required gear and to walk to a work station, and the time for FSIS inspection program personnel return from a work station and remove required gear, excluding the lunch period. * * *

* * * * *

## PART 590—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

■ 5. The authority citation for part 590 continues to read as follows:

**Authority:** 21 U.S.C. 1031–1056.

**§ 590.124 [Amended]**

■ 6. In § 590.124, in the second sentence, after the word "day", add the phrase "and shall include the time for FSIS inspection program personnel to put on required gear and to walk to a work station, and the time for FSIS inspection program personnel to return from a work station and remove required gear".

Done at Washington, DC, on: June 7, 2011.

**Alfred V. Almanza,**

*Administrator.*

[FR Doc. 2011–14442 Filed 6–9–11; 8:45 am]

BILLING CODE 3410–DM–P

## SMALL BUSINESS ADMINISTRATION

## 13 CFR Part 124

**[Docket No. SBA–2011–0013]**

## 8(a) Business Development Program Regulation Changes; Tribal Consultation

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Notice; correction.

**SUMMARY:** The Small Business Administration (SBA) published a

document in the **Federal Register** on Friday, May 13, 2011, concerning 8(a) Business Development Program Regulation Changes; Tribal Consultation. SBA announced holding tribal consultation meetings to discuss the recent changes to the 8(a) BD program regulations, specifically to take comments on the mandatory reporting of community benefits provision scheduled to take effect on September 9, 2011.

**FOR FURTHER INFORMATION CONTACT:** LaTanya Wright, Senior Advisor, Office of Business Development, 409 Third Street, SW., Washington, DC 20416, at (202) 205–5852, Fax (202) 205–6139, or *e-mail: latanya.wright@sba.gov.*

**SUPPLEMENTARY INFORMATION:**

### Correction

In the **Federal Register** of May 13, 2011, in FR Doc. 2011–11172, on page 27859, in the third column, correct item 2 in the **ADDRESSES** section to read:

2. The Anchorage Tribal Consultation address is the Anchorage Marriott Downtown, 820 West 7th Avenue, Anchorage, AK 99501.

Dated: June 1, 2011.

**LeAnn C. Delaney,**

*Acting Associate Administrator for Business Development.*

[FR Doc. 2011–14156 Filed 6–9–11; 8:45 am]

**BILLING CODE 8025–01–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 33

**[Docket No. NE130; Special Conditions No. 33–008–SCI]**

## Special Conditions: Pratt and Whitney Canada Model PW210S Turboshaft Engine

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions.

**SUMMARY:** These special conditions are issued for Pratt and Whitney Canada (PWC) model PW210S engines. The engine model will have a novel or unusual design feature which is engine operation in auxiliary power unit (APU) mode. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the added safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is July 11, 2011.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this rule contact Marc Bouthillier, ANE–111, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone (781) 238–7120; facsimile (781) 238–7199; e-mail *marc.bouthillier@faa.gov.* For legal questions concerning this rule contact Vincent Bennett, ANE–7 Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone (781) 238–7044; facsimile (781) 238–7055; e-mail *vincent.bennett@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

On December 5, 2005, PWC applied for type certification for a new model PW210S turboshaft engine. This engine consists of a two stage compressor driven by a single stage uncooled turbine, and a two stage free power turbine driving a two stage reduction gearbox. The control system includes a dual channel full authority digital electronic control.

The engine will incorporate a novel or unusual design feature, which is engine operation in auxiliary power unit (APU) mode.

The applicable airworthiness standards do not contain adequate or appropriate airworthiness standards to address this design feature.

These special conditions contain the additional airworthiness standards necessary to establish a level of safety equivalent to the level that would result from compliance with the applicable standards of airworthiness in effect on the date of application.

### Type Certification Basis

Under the provisions of 14 CFR 21.17(a) and 21.101(a), PWC must show that the model PW210S turboshaft engine meets the provisions of the applicable regulations in effect on the date of application, unless otherwise specified by the FAA. The application date is December 5, 2005, which corresponds to 14 CFR part 33 Amendment 20. However, PWC has elected to demonstrate compliance to later amendments of part 33 for this model. Therefore, the certification basis for the PW210S model turboshaft engine will be part 33, effective February 1, 1965, amended by Amendments 33–1 through 33–24.

The FAA has determined that the applicable airworthiness regulations in part 33, Amendments 1–24 inclusive, do not contain adequate or appropriate safety standards for the model PW210 turboshaft engine, because of a novel or unusual rating. Therefore, special conditions are prescribed under the provisions of 14 CFR 11.19 and 14 CFR 21.16.

The FAA issues special conditions, as defined by 14 CFR 11.19, in accordance with 14 CFR 11.38, which become part of the type certification basis in accordance with § 21.17(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include another related model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model.

### Novel or Unusual Design Features

The PWC PW210S turbo shaft engine will incorporate a novel or unusual design feature which is engine operation in auxiliary power unit (APU) mode. This design feature is considered to be novel and unusual relative to the part 33 airworthiness standards.

### Discussion of Comments

Notice of proposed special conditions, Notice No. 33–10–01–SC for the PW210S engine model was published on February 14, 2011 (76 FR 8321). One comment letter was received.

The commenter stated that the part 1 definition included in the special condition may not be necessary, or may require clarification. The FAA does not agree. The definition is necessary to explain the engine function to which these special conditions apply, and the term is used within the rule itself. However, to improve clarity, each of the special condition subsections now includes a reference to APU mode operation.

The commenter stated that the 400 cycle dynamic braking test is inappropriate for this engine certification program, that engine dynamics will be difficult to simulate in a test stand, and that an engine test of this type would be better addressed as part of part 29 rotorcraft certification testing. The FAA does not agree. This test is the same as conducted for turbopropeller engines under § 33.96 and is applicable to turboshaft engines as well. We do not believe it is impractical to reasonably simulate the braking action input into the engine

type design, and that the effects of dynamic braking need to be demonstrated on the complete engine prior to issuing a type certificate. Lastly, a need for installation limitations or special instructions for continued airworthiness requirements could be identified based on the results from this test, making it impractical to wait for part 29 certification testing.

The commenter stated that the locked rotor portion of the special condition tests needs to be conducted on a single engine, but the dynamic requirements can be addressed separately. The FAA concurs in part. We have concluded that an engine test is required to demonstrate the complete engine response to dynamic braking, however we do agree that the two elements of required testing (locked rotor and dynamic) can be conducted on separate test engines. The FAA has therefore revised paragraph (d) to eliminate the reference to paragraph (b) (400 cycle dynamic braking test), and therefore allows separate engine tests at the applicant's discretion. The FAA has also deleted proposed paragraph (0, which is a safety analysis requirement specific to dynamic responses. In this regard, existing § 33.75 Safety Analysis is considered adequate when an engine test for dynamic braking is conducted per this special condition.

## Applicability

These special conditions are applicable to the PWC PW210S turbo shaft engine. If PWC applies later for a change to the type certificate to include another closely related model incorporating the same novel or unusual design feature, these special conditions may also apply to that model as well, and would be made part of the certification basis for that model.

## Conclusion

We reviewed the available data, including the comment received, and have determined that air safety and the public interest require adopting this special condition with the changes described above. This action affects only certain novel or unusual design features on one model of engine. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of this feature on the engine product.

## List of Subjects in 14 CFR Part 33

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

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

## The Special Conditions

Accordingly, the Federal Aviation Administration (FAA) issues the following special conditions as part of the type certification basis for the PWC PW210S turbo shaft engine.

1. PART 1 DEFINITION. Unless otherwise approved by the Administrator and documented in the appropriate manuals and certification documents, the following definition applies to this special condition: "Auxiliary Power Unit Mode"—Engine operation with the main output shaft and power turbine locked and stationary, while the gas generator portion of the engine continues to operate, for the purpose of supplying the rotorcraft with electric/hydraulic/pneumatic power (as applicable) while on the ground.

2. PART 33 ENGINE TEST REQUIREMENTS:

(a) Ground locking: A total of 45 hours with the engine output shaft locked to simulate rotor brake engagement, in a manner which clearly demonstrates the complete engine's ability to function without adverse affect while operating in the APU mode under the maximum conditions of engine rotor speed, torque, temperature, air bleed and power extraction as specified by the applicant.

(b) Dynamic braking: A total of 400 application-release cycles of simulated brake engagements must be made in a manner which clearly demonstrates the complete engine's ability to function without adverse affect while operating in the APU mode under the maximum conditions of engine acceleration and deceleration rate, rotor speed, torque and temperature as specified by the applicant. The engine output shaft must be stopped prior to brake-release.

(c) One hundred engine starts and stops with the output shaft locked in a manner simulating rotor brake engagement during APU mode operation.

(d) The tests required by paragraphs (a) and (c) of this section must be performed on the same engine.

(e) The tests required by paragraphs (a), (b) and (c) above must be followed by engine disassembly to the extent necessary to show that each engine part conforms to the type design and is eligible for incorporation into an engine for continued operation in accordance with information submitted in compliance with § 33.4 Instructions for Continued Airworthiness.

Issued in Burlington, Massachusetts, on May 25, 2011.

**Colleen M. D'Alessandro,**

*Acting Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 2011–14113 Filed 6–9–11; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2011–0159; Directorate Identifier 2010–NM–246–AD; Amendment 39–16713; AD 2011–12–06]**

**RIN 2120–AA64**

# Airworthiness Directives; Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) Airplanes

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

**ACTION:** Final rule.

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

An inspection by the vendor revealed that a number of Rubber Bull Gears (RBG) in the Horizontal Stabilizer Trim Actuator (HSTA) of the CL–600–2C10, CL–600–2D15 and CL–600–2D24 aeroplanes were installed with a wheel material hardness out of specification. This non-conformity has a direct impact on the HSTA life limit. The teeth of these non-conformant RBGs could break and in extreme cases, could lead to uncontrolled HSTA movement without the ability to re-trim the aeroplane. If not corrected, this condition could result in a difficulty to control the pitch and subsequent loss of the aeroplane.

* * * * *

We are issuing this AD to require actions to correct the unsafe condition on these products.

**DATES:** This AD becomes effective July 15, 2011.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 15, 2011.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the

U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Fabio Buttitta, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7303; fax (516) 794–5531.

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 14, 2011 (76 FR 13536). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> An inspection by the vendor revealed that a number of Rubber Bull Gears (RBG) in the Horizontal Stabilizer Trim Actuator (HSTA) of the CL–600–2C10, CL–600–2D15 and CL–600–2D24 aeroplanes were installed with a wheel material hardness out of specification. This non-conformity has a direct impact on the HSTA life limit. The teeth of these non-conformant RBGs could break and in extreme cases, could lead to uncontrolled HSTA movement without the ability to re-trim the aeroplane. If not corrected, this condition could result in a difficulty to control the pitch and subsequent loss of the aeroplane.
>
> This [Canadian airworthiness] directive mandates replacement of the RBGs which have material hardness out of specification [with a modified HSTA].

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

## Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

## Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

## Differences Between This AD and the MCAI or Service Information

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

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

## Costs of Compliance

We estimate that this AD will affect 387 products of U.S. registry. We also estimate that it will take about 9 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $296,055, or $765 per product.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

## Examining the AD Docket

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

# PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2011–12–06 Bombardier, Inc.:** Amendment 39–16713. Docket No. FAA–2011–0159; Directorate Identifier 2010–NM–246–AD.

**Effective Date**

(a) This airworthiness directive (AD) becomes effective July 15, 2011.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes, certificated in any category, equipped with a horizontal stabilizer trim actuator having part numbers (P/Ns) 8489–5, 8489–6, 8489–7, and 8489–7R.

**Subject**

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

**Reason**

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

An inspection by the vendor revealed that a number of Rubber Bull Gears (RBG) in the Horizontal Stabilizer Trim Actuator (HSTA) of the CL–600–2C10, CL–600–2D15 and CL–600–2D24 aeroplanes were installed with a wheel material hardness out of specification. This non-conformity has a direct impact on the HSTA life limit. The teeth of these non-conformant RBGs could break and in extreme cases, could lead to uncontrolled HSTA movement without the ability to re-trim the aeroplane. If not corrected, this condition could result in a difficulty to control the pitch and subsequent loss of the aeroplane.

* * * * *

**Compliance**

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

**Modifying the HSTA**

(g) For airplanes having any HSTA with S/N 107, 111, 124, 126, 135, 139, 142, 145, 146, 266, 268, 271, 274, 276, 277, 280, 282 through 285 inclusive, 290, 292, 294, 297, 299, 307, 309, 320, 337, 400, 402, 403, 410, 412, 418, 421 through 428 inclusive, 430, 435 through 439 inclusive, 441, 443 through 446 inclusive, 448 through 450 inclusive, 452 through 454 inclusive, 456, 459, 461, 463 through 470 inclusive, 472, 474 through 476 inclusive, 478, 545 through 549 inclusive, 570, 571, 573, 574, 600, 603, 608, 612 through 616 inclusive, 623, 627, and 629 through 659 inclusive: At the applicable compliance time specified in paragraph (g)(1) or (g)(2) of this AD, replace the HSTA with a modified HSTA, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–058, dated August 31, 2010.

(1) For HSTAs that have accumulated 8,700 total flight cycles or less as of the effective date of this AD: Within 3,000 flight cycles from the effective date of this AD, or before the HSTA has accumulated 10,500 flight cycles, whichever occurs first.

(2) For HSTAs that have accumulated more than 8,700 total flight cycles as of the effective date of this AD: Within 1,800 flight cycles after the effective date of this AD.

(h) For airplanes having any HSTA with S/N 185, 479, 481, 482, 485, 487, 489, 491 through 496 inclusive, 498, 499, 501, 503, 504, 506, 507, 509, 512 through 514 inclusive, 517, 519 through 522 inclusive, 524, 526 through 528 inclusive, 530, 534 through 536 inclusive, 539, 542, and 543: Within 1,800 flight cycles after the effective date of this AD, replace the affected HSTA with a modified HSTA in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–058, dated August 31, 2010.

**Parts Installation**

(i) As of the effective date of this AD, no person may install a HSTA, having P/N 8489–5, 8489–6, 8489–7, or 8489–7R, with any serial numbers identified in paragraph (g) or (h) of this AD, on any airplane, unless that HSTA has been modified in accordance with SAGEM Service Bulletin 8489–27–007, Revision 1, dated August 10, 2010, and that HSTA has a suffix "B" beside the serial number.

**FAA AD Differences**

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

**Other FAA AD Provisions**

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

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

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

**Related Information**

(k) Refer to MCAI Canadian Airworthiness Directive CF–2010–34, dated October 5, 2010; Bombardier Service Bulletin 670BA–27–058, dated August 31, 2010; and SAGEM Service Bulletin 8489–27–007, Revision 1, dated August 10, 2010; for related information.

**Material Incorporated by Reference**

(l) You must use Bombardier Service Bulletin 670BA–27–058, dated August 31, 2010; and SAGEM Service Bulletin 8489–27–007, Revision 1, dated August 10, 2010; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; e-mail *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on May 20, 2011.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2011–13650 Filed 6–9–11; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2011–0456; Directorate Identifier 2011–NE–15–AD; Amendment 39–16711; AD 2011–12–04]**

**RIN 2120–AA64**

## Airworthiness Directives; BRP–Powertrain GmbH & Co. KG Rotax 912 F3, 912 S2, 912 S3, 912 S4, 914 F2, 914 F3, and 914 F4 Reciprocating Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

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

During a production process review, a deviation in hardening of certain Part Number (P/N) 944072 washers has been detected, which exceeds the hardness of the design specification.

The affected washers are part of the magneto ring flywheel hub installation and have been installed on a limited number of engines. No defective washers have been shipped as spare parts.

This condition, if not corrected, could lead to cracks in the washer, loosening of the magneto flywheel hub and consequent ignition failure, possibly resulting in damage to the engine, in-flight engine shutdown and forced landing, damage to the aeroplane and injury to occupants.

We are issuing this AD to prevent engine in-flight shutdown, and damage to the airplane.

**DATES:** This AD becomes effective June 27, 2011.

We must receive comments on this AD by July 11, 2011.

The Director of the Federal Register approved the incorporation by reference of BRP–Powertrain GmbH & Co. KG Rotax Mandatory Service Bulletins No. SB–912–058 and No. SB–914–041 (combined in one document), dated April 15, 2011, listed in the AD as of June 27, 2011.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

## Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: alan.strom@faa.gov; phone:* (781) 238–7143; *fax:* (781) 238–7199.

**SUPPLEMENTARY INFORMATION:**

## Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0067–E, dated April 15, 2011 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> During a production process review, a deviation in hardening of certain Part Number (P/N) 944072 washers has been detected, which exceeds the hardness of the design specification.
>
> The affected washers are part of the magneto ring flywheel hub installation and have been installed on a limited number of engines. No defective washers have been shipped as spare parts.
>
> This condition, if not corrected, could lead to cracks in the washer, loosening of the magneto flywheel hub and consequent ignition failure, possibly resulting in damage to the engine, in-flight engine shutdown and forced landing, damage to the aeroplane and injury to occupants.

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

## Relevant Service Information

BRP–Powertrain GmbH & Co. KG has issued Rotax Mandatory Service Bulletins No. SB–912–058 and No. SB–914–041 (combined in one document), dated April 15, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

## FAA's Determination and Requirements of this AD

This product has been approved by the aviation authority of Austria and is approved for operation in the United States. Pursuant to our bilateral agreement with Austria, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This AD requires replacing the washer securing the magneto ring flywheel hub with a new washer of the same part number, on certain serial number BRP–Powertrain GmbH & Co. KG Rotax 912 and 914 reciprocating engines.

## FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of the short compliance time in this AD of within 10 flight hours or at next maintenance after the effective date of the AD, whichever occurs first. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

## Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0456; Directorate Identifier 2011–NE–15–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

## Authority for This Rulemaking

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

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

## Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between

the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

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

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

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

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

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2011–12–04 BRP–Powertrain GmbH & Co. KG (Formerly Bombardier-Rotax GmbH):** Amendment 39–16711.; Docket No. FAA–2011–0456; Directorate Identifier 2011–NE–15–AD.

**Effective Date**

(a) This airworthiness directive (AD) becomes effective June 27, 2011.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to the following BRP–Powertrain GmbH & Co. KG Rotax reciprocating engines:

(1) Model 912 F3—serial number (S/N) 4,412.986 and S/N 4,412.987.

(2) Models 912 S2, 912 S3, and 912 S4—S/N 4,924.087 through S/N 4,924.139 inclusive, and S/N 4,924.141 through 4,924.166 inclusive.

(3) Models 914 F2, 914 F3, and 914 F4—S/N 4,420.970 through 4,420.990 inclusive, S/N 4,420.997, and S/N 4,421.001 through 4,421.003 inclusive.

**Reason**

(d) This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

During a production process review, a deviation in hardening of certain Part Number (P/N) 944072 washers has been detected, which exceeds the hardness of the design specification.

The affected washers are part of the magneto ring flywheel hub installation and have been installed on a limited number of engines. No defective washers have been shipped as spare parts.

This condition, if not corrected, could lead to cracks in the washer, loosening of the magneto flywheel hub and consequent ignition failure, possibly resulting in damage to the engine, in-flight engine shutdown and forced landing, damage to the aeroplane and injury to occupants.

We are issuing this AD to prevent engine in-flight shutdown, and damage to the airplane.

**Actions and Compliance**

(e) Unless already done, do the following actions within 10 flight hours or at next maintenance after the effective date of this AD, whichever occurs first:

(1) Replace the magneto ring flywheel hub washer, P/N 944072.

(2) Use paragraph 3.1 of BRP–Powertrain GmbH & Co. KG Rotax Mandatory Service Bulletin SB–912–058, dated April 15, 2011 or SB–914–041 dated April 15, 2011, to do the replacement.

**Prohibition**

(f) After the effective date of this AD, do not install any washer P/N 944072 removed as specified in paragraph (e)(1) of this AD into any magneto or onto any engine.

**FAA AD Differences**

(g) This AD differs from the Mandatory Continuing Airworthiness Information (MCAI) as follows:

(1) European Aviation Safety Agency (EASA) AD 2011–0067–E requires compliance within 10 flight hours or 4 calendar months after the effective date of the AD, whichever occurs first. This AD requires compliance within 10 flight hours or at next maintenance after the effective date of this AD, whichever occurs first.

(2) EASA AD 2011–0067–E requires operators to return the washer removed from service to BRP–Powertrain GmbH & Co. KG. This AD does not.

**Alternative Methods of Compliance (AMOCs)**

(h) The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

**Related Information**

(i) Refer to MCAI EASA AD 2011–0067–E, dated April 15, 2011, for related information.

(j) Contact Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: alan.strom@faa.gov;* phone (781) 238–7143; fax (781) 238–719, for more information about this AD.

**Material Incorporated by Reference**

(k) You must use BRP–Powertrain GmbH & Co. KG Rotax Mandatory Service Bulletins No. SB–912–058 and No. SB–914–041 (combined in one document), dated April 15, 2011, to do the actions required by this AD.

(1) For service information identified in this AD, contact BRP–Powertrain GmbH & Co. KG, Welser Strasse 32, A–4623 Gunskirchen, Austria, or go to: *http://www.rotax-aircraft-engines.com.*

(2) You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on May 26, 2011.

**Peter A. White,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 2011–14239 Filed 6–9–11; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2010–1277; Directorate Identifier 2010–NM–218–AD; Amendment 39–16722; AD 2009–18–19 R1]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A330–200 and –300 Series Airplanes, and Model A340–200 and –300 Series Airplanes

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

**ACTION:** Final rule; rescission.

**SUMMARY:** This amendment rescinds airworthiness directive (AD) 2009–18–19 for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by EASA, to rescind EASA AD 2010–0083. The MCAI specifies the following:

It has been assessed that multiple NRV [non-return valve] failures in combination with certain trapped fuel cases could potentially increase the quantity of unusable fuel on the aeroplane, possibly leading to fuel starvation which could result in engines in-flight shut down and would constitute an unsafe condition. To prevent and detect this condition, EASA issued EASA AD 2010–0083.

Based on in service experience, mainly on the results of the operational test required by

EASA AD 2010–0083, Airbus has performed a safety analysis on the NRV to check if the safety objectives are met.

This analysis of the Collector Cell motive flow line NRV, taking into account all failure scenarios, concludes that the previous non compliance can be alleviated. Consequently, no unsafe condition exists any more on the affected NRV.

For the reasons described above, EASA AD 2010–0083 is cancelled.

This AD rescinds the parallel FAA AD 2009–18–19.

**DATES:** This AD becomes effective June 10, 2011.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by rescinding an existing AD. That NPRM was published in the **Federal Register** on December 30, 2010 (75 FR 82325) and proposed to rescind AD 2009–18–19, Amendment 39–16016 (74 FR 46322, September 9, 2009). That AD was intended to address an unsafe condition on the products listed above.

Since we issued AD 2009–18–19, EASA issued Airworthiness Directive 2010–0083–CN, dated September 20, 2010, to cancel EASA AD 2010–0083, dated May 3, 2010, for the specified products. EASA AD 2010–0083–CN states:

It has been assessed that multiple NRV [non-return valve] failures in combination with certain trapped fuel cases could potentially increase the quantity of unusable fuel on the aeroplane, possibly leading to fuel starvation which could result in engines in-flight shut down and would constitute an unsafe condition. To prevent and detect this condition, EASA issued EASA AD 2010–0083.

Based on in service experience, mainly on the results of the operational test required by EASA AD 2010–0083, Airbus has performed a safety analysis on the NRV to check if the safety objectives are met.

This analysis of the Collector Cell motive flow line NRV, taking into account all failure scenarios, concludes that the previous non compliance can be alleviated. Consequently, no unsafe condition exists any more on the affected NRV.

For the reasons described above, EASA AD 2010–0083 is cancelled.

This AD rescinds the parallel FAA AD 2009–18–19. You may obtain further information by examining the MCAI in the AD docket.

## Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

## Conclusions

We reviewed the available data and determined that air safety and the public interest require the rescission of the AD as proposed.

## Differences Between This AD and the MCAI or Service Information

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

## Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

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

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

## Examining the AD Docket

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

## List of Subjects in 14 CFR Part 39

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

## The Rescission

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing amendment 39–16016 (74 FR 46322, September 9, 2009):

**2009–18–19 R1 Airbus:** Amendment 39–16722. Docket No. FAA–2010–1277; Directorate Identifier 2010–NM–218–AD.

**Effective Date**

(a) This rescission becomes effective June 10, 2011.

**Affected ADs**

(b) This AD rescinds AD 2009–18–19, Amendment 39–16016.

**Applicability**

(c) Airbus airplanes, certificated in any category, identified in paragraphs (c)(1) and (c)(2) of the AD.

(1) Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 series airplanes, all serial numbers.

(2) Airbus Model A340–211, –212, –213, –311, –312, and –313 series airplanes, all serial numbers.

**Related Information**

(d) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2010–0083–CN, dated September 20, 2010, for related information.

**Materials Incorporated by Reference**

(e) None.

Issued in Renton, Washington, on June 1, 2011.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2011–14398 Filed 6–9–11; 8:45 am]

BILLING CODE 4910–13–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2011–0028; Directorate Identifier 2009–NM–228–AD; Amendment 39–16716; AD 2011–12–09]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD requires, depending on airplane configuration, doing certain wiring changes, replacing the fuel pump power control relays for the main, center, and auxiliary tanks, as applicable, with new relays having a ground fault interrupter (GFI) feature, performing certain bonding resistance measurements, and modifying relay module assemblies. This AD also requires revising the maintenance program to incorporate certain Airworthiness Limitations. This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent damage to the fuel pumps caused by electrical arcing that could introduce an ignition source in the fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

**DATES:** This AD is effective July 15, 2011.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of July 15, 2011.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, PO Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98057–3356; phone: 425–917–6482; fax: 425–917–6590; e-mail: *georgios.roussos@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to the specified products. That NPRM published in the **Federal Register** on January 21, 2011 (76 FR 3856). That NPRM proposed to require, depending on airplane configuration, doing certain wiring changes, replacing the fuel pump power control relays for the main, center, and auxiliary tanks, as applicable, with new relays having a GFI feature, performing certain bonding resistance measurements, and modifying relay module assemblies. That NPRM also proposed to require revising the maintenance program to incorporate Airworthiness Limitations (AWLs) 28–AWL–23 (for Model 737–100, 737–200, and 737–200C series airplanes) and 28–AWL–22 (for Model 737–300, 737–400, and 737–500 series airplanes).

### Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment. Boeing concurs with the content of this AD.

### Request To Correct Typographical Errors

Alaska Airlines requested that corrections be made to certain accomplishment instructions of Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010. Alaska Airlines requested that Boeing Information Notice 737–28A1212 IN 01, dated October 7, 2010, which specifies those corrections, be incorporated into the AD.

We agree that typographical errors in that service bulletin need to be corrected. Where paragraph 3.B.1.s. of Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010, states that the affected airplanes are "Group 11, Configuration 1," that paragraph also applies to "Group 13, Configuration 1." The action specified in paragraph 3.B.1.s. of that service bulletin (changing a wire bundle) is a logical outgrowth of the actions specified in that service bulletin. Paragraph (j) of this AD addresses this change. Also, the figure in Appendix A, paragraph 1., of Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010, is not identified, but should be identified as "Figure 1." Paragraph (k) of this AD addresses this change. That information notice includes additional changes to that service bulletin; however, they are not part of the accomplishment instructions, and therefore are not addressed in our response.

### Additional Change

Boeing has issued Section 9 of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWL) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision August 2010, to update certain AWLs other than those specified in this AD. The document reference has been updated in paragraph (l) of this AD.

We have also clarified the intent of paragraph (n) of this AD by revising the heading.

We have also added paragraph (o) of this AD to give credit for revising the maintenance program by incorporating AWLs 28–AWL–22 (for Model 737–300, –400, and –500 series airplanes) and 28–AWL–23 (for Model 737–100, –200, and –200C series airplanes), in accordance with Section 9 of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWL) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision May 2009.

### Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

## Costs of Compliance

We estimate that this AD affects 750 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

TABLE—ESTIMATED COSTS

| Action | Work hours | Average labor rate per hour | Parts | Cost per product | Number of U.S.-registered airplanes | Fleet cost |
|---|---|---|---|---|---|---|
| Replacement of power control relays. | 4 to 9 [1] | $85 | $14,500 | $14,840 to $15,265 [1]. | 750 | $11,130,000 to $11,448,750 [1] |
| Modification | 5 | $85 | $0 | $425 | 750 | $318,750 |
| Maintenance program revision | 1 | $85 | $0 | $85 | 750 | $63,750 |

[1] Depending on airplane configuration.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2011–12–09 The Boeing Company:** Amendment 39–16716; Docket No. FAA–2011–0028; Directorate Identifier 2009–NM–228–AD.

**Effective Date**

(a) This AD is effective July 15, 2011.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010.

**Note 1:** This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (p) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

**Subject**

(d) Air Transport Association (ATA) of America Code 28: Fuel.

**Unsafe Condition**

(e) This AD results from fuel system reviews conducted by the manufacturer. The Federal Aviation Administration is issuing this AD to prevent damage to the fuel pumps caused by electrical arcing that could introduce an ignition source in the fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

**Compliance**

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

**Part 1: Wiring Changes, Relay Replacements, and Certain Bonding Resistance Measurements for Certain Airplanes**

(g) For airplanes on which Boeing Alert Service Bulletin 737–28A1212, dated July 23, 2009, has not been incorporated as of the effective date of this AD: Within 60 months after the effective date of this AD, do the applicable actions required by paragraph (g)(1) or (g)(2) of this AD.

(1) Airplanes without the M181, M182, and M183 supplier relay modules installed: Do the wiring changes; replace the fuel pump power control relays for the main, center, and auxiliary tanks, as applicable, with new relays having a ground fault interrupter (GFI) feature; and do certain bonding resistance measurements to verify that certain bonding requirements are met; in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010, except as provided by paragraphs (j) and (k) of this AD.

(2) Airplanes with the M181, M182, and M183 supplier relay modules installed: Modify the M181, M182, and M183 relay module assemblies, and do certain bonding resistance measurements to verify that certain bonding requirements are met, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert

Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010, except as provided by paragraphs (j) and (k) of this AD.

**Note 2:** Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010, refers to BAE Systems Service Bulletin 65–49808–24–01, Revision 1, dated July 19, 2010, as an additional source of guidance for doing the modification and certain bonding resistance measurements on the M181, M182, and M183 supplier relay modules.

**Part 2: Wiring Changes and Certain Bonding Measurements for Certain Airplanes**

(h) For airplanes on which Boeing Alert Service Bulletin 737–28A1212, dated July 23, 2009, has been incorporated as of the effective date of this AD, and on which the M181, M182, and M183 supplier relay modules are not installed: Within 60 months after the effective date of this AD, do the wiring changes and certain bonding measurements to verify that certain bonding requirements are met, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010, except as provided by paragraphs (j) and (k) of this AD.

**Part 3: Certain Bonding Measurements for Certain Airplanes**

(i) For airplanes on which Boeing Alert Service Bulletin 737–28A1212, dated July 23, 2009, has been incorporated as of the effective date of this AD, and on which the M181, M182, and M183 supplier relay modules are installed: Within 60 months after the effective date of this AD, do certain bonding measurements to verify that certain bonding requirements are met, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010, except as provided by paragraphs (j) and (k) of this AD.

**Note 3:** Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010, refers to BAE Systems Service Bulletin 65–49808–24–01, Revision 1, dated July 19, 2010, as an additional source of guidance for doing the modification and certain bonding resistance measurements on the M181, M182, and M183 supplier relay modules.

**Exceptions to the Service Information**

(j) Where paragraph 3.B.1.s. of Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010, states the applicability as "Group 11, Configuration 1," that paragraph also applies to "Group 13, Configuration 1."

(k) The figure in Appendix A, paragraph 1., of Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010, should be identified as Figure 1 (immediately following the text).

**Maintenance Program Revisions**

(l) Concurrently with accomplishing the actions required by paragraph (g), (h), or (i) of this AD, as applicable, or within 30 days after the effective date of this AD, whichever occurs later, revise the maintenance program by incorporating the applicable airworthiness limitation (AWL) specified in paragraph (l)(1) or (l)(2) of this AD.

(1) For Model 737–100, –200, and –200C series airplanes: AWL 28–AWL–23 of Section 9 of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision August 2010. The initial compliance time for the actions specified in AWL 28–AWL–23 is within 1 year after accomplishing the installation required by paragraph (g), (h), or (i) of this AD, or within 1 year after the effective date of this AD, whichever occurs later.

(2) For Model 737–300, –400, and –500 series airplanes: AWL 28–AWL–22 of Section 9 of Boeing 737–100/200/200C/300/400/500 AWL and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision August 2010. The initial compliance time for the actions specified in AWL 28–AWL–22 is within 1 year after accomplishing the installation required by paragraph (g), (h), or (i) of this AD, or within 1 year after the effective date of this AD, whichever occurs later.

**No Alternative Inspections or Inspection Intervals**

(m) After accomplishment of the actions required by paragraph (g), (h), or (i) of this AD, as applicable, no alternative inspections or inspection intervals may be used, unless the inspections or intervals are approved as an alternative method of compliance in accordance with the procedures specified in paragraph (p) of this AD.

**Optional Terminating Action**

(n) Revising the maintenance program to incorporate AWLs 28–AWL–22 (for Model 737–300, –400, and –500 series airplanes) and 28–AWL–23 (for Model 737–100, –200, and –200C series airplanes) in accordance with paragraphs (g)(1) and (g)(2) of AD 2008–10–09 R1, amendment 39–16148, terminates the requirements of paragraph (l) of this AD.

**Credit for Actions Accomplished in Accordance With Earlier Revisions of AWLs**

(o) Revising the maintenance program to incorporate AWLs 28–AWL–22 (for Model 737–300, –400, and –500 series airplanes) and 28–AWL–23 (for Model 737–100, –200, and –200C series airplanes) before the effective date of this AD, in accordance with Section 9 of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision May 2009, is acceptable for compliance with the requirements of paragraph (l) of this AD.

**Alternative Methods of Compliance (AMOCs)**

(p)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, sent it to ATTN: Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98057–3356; phone: 425–917–6482; fax: 425–917–6590; e-mail: *georgios.roussos@faa.gov.* Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

**Material Incorporated by Reference**

(q) You must use Boeing Alert Service Bulletin 737–28A1212, Revision 1, dated August 27, 2010; and Section 9 of the Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision August 2010; as applicable; to do the actions required by this AD, unless the AD specifies otherwise. This document is identified as Section 9 only on the List of Effective Pages.

(1) The Director of the Federal Register approved the incorporation by reference of the service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on May 27, 2011.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2011–14203 Filed 6–9–11; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2010–1272; Directorate Identifier 2010–NM–226–AD; Amendment 39–16712; AD 2011–12–05]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD requires replacing the existing unshielded fuel quantity indication system (FQIS) wire bundles with double shielded FQIS wire bundles, installing a new wire feed-through fitting, and grounding the wire shields, as applicable; and doing repetitive low frequency eddy current (LFEC) inspections for cracking of the fuselage skin, and corrective actions if necessary. This AD also requires revising the maintenance program to incorporate certain airworthiness limitations. This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to increase the level of protection from lightning strikes and prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**DATES:** This AD is effective July 15, 2011.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of July 15, 2011.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Louis Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; phone: 425–917–6478; fax: 425–917–6590; e-mail: *elias.natsiopoulos@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to the specified products. That NPRM published in the **Federal Register** on January 3, 2011 (76 FR 31). That NPRM proposed to require replacing the existing unshielded fuel quantity indication system (FQIS) wire bundles with double shielded FQIS wire bundles, installing a new wire feed-through fitting, and grounding the wire shields, as applicable; and doing repetitive low frequency eddy current (LFEC) inspections for cracking of the fuselage skin, and corrective actions if necessary. That NPRM also proposed to require revising the maintenance program to incorporate certain airworthiness limitations.

### Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the proposal and the FAA's response to the comment.

### Request for Explanation of Alternative Method of Compliance (AMOC) Authority for Structures Portions of the NPRM

Boeing requested that we explain that some designees with AMOC authority may be necessary for the structural portions of the AD. Boeing stated that repairs to airplane structure, if needed, would also be an AMOC to the AD and would need to be noted as such and approved by the FAA or a Boeing Authorized Representative designated with AMOC authority for the structural aspects of this installation. Boeing added that any repair would need to address damage tolerance issues associated with 14 CFR 25.571 and 14 CFR part 26, subpart E. of the Federal Aviation Regulations. Boeing stated that these requirements are the basis for the inspections provided in Boeing Service Bulletin 727–28–0131, dated August 18, 2010, and changes to the installation with repairs may revise the inspection requirements.

We agree with the request to add explanatory information to paragraph (i) of this AD. Any structural repairs that cannot be done in accordance with the accomplishment instructions of Boeing Service Bulletin 727–28–0131, dated August 18, 2010, will require a request for an AMOC. The requested AMOC, if it provides an acceptable level of safety, may be approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. Paragraph (i) of this AD has been changed to explain that some designees with AMOC authority for the structures portions of the AD might be necessary.

### Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the change described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

### Costs of Compliance

We estimate that this AD affects 566 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Installation | Between 86 and 247 work-hours × $85 per hour = Between $7,310–$20,995.[1] | Between $16,191 and $34,712.[1] | Between $23,501 and $55,707.[1] | Up to $27,195,925.[2] |
| Inspection | 2 work-hours × $85 per hour = $170 per inspection cycle. | $0 | $170 | $96,220 per inspection cycle. |
| Maintenance Program Revision | 1 work-hour × $85 per hour = $85 | $0 | $85 | $48,110. |

[1] Depending on configuration.
[2] The cost to U.S. operators is based on configuration and number of airplanes in that configuration.

We have received no definitive data that would enable us to provide a cost estimate for the on-condition action specified in this AD.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2011–12–05 The Boeing Company:** Amendment 39–16712; Docket No. FAA–2010–1272; Directorate Identifier 2010–NM–226–AD.

**Effective Date**

(a) This AD is effective July 15, 2011.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to The Boeing Company Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, all variable numbers, certificated in any category.

**Note 1:** This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (l) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

**Subject**

(d) Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 28, Fuel.

**Unsafe Condition**

(e) This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to increase the level of protection from lightning strikes and prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**Compliance**

(f) Comply with this AD within the compliance times specified, unless already done.

**Installation**

(g) Within 60 months after the effective date of this AD, install double shielded fuel quantity indicating system (FQIS) wire bundles, install a new wire feed-through fitting, and ground the wire shields, as applicable, in accordance with Part 1 of the Accomplishment Instructions of Boeing Service Bulletin 727–28–0131, dated August 18, 2010.

**Repetitive Inspections**

(h) At the applicable times specified in paragraphs (h)(1) or (h)(2) of this AD, do low frequency eddy current (LFEC) inspections for cracking of the fuselage skin, in accordance with Part 2 of the Accomplishment Instructions of Boeing Service Bulletin 727–28–0131, dated August 18, 2010.

(1) For Model 727, 727–100, 727–100C, and 727C series airplanes: Before the accumulation of 45,000 total flight cycles, or within 8,000 flight cycles after the effective date of this AD, whichever occurs later. Repeat the inspections thereafter at intervals not to exceed 8,000 flight cycles.

(2) For Model 727–200 and 727–200F series airplanes: Before the accumulation of 45,000 total flight cycles, or within 16,000 flight cycles after the effective date of this AD, whichever occurs later. Repeat the inspections thereafter at intervals not to exceed 16,000 flight cycles.

(i) If any cracking is found during any inspection required by paragraph (h) of this AD: Before further flight, repair the crack in accordance with a method approved by the Manager, Seattle ACO, FAA. For a repair method to be approved, the repair must meet

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

**Maintenance Program Revision**

(j) Before or concurrently with doing the actions required by paragraph (g) of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Revise the maintenance program by incorporating airworthiness limitations (AWL) No. 28–AWL–18 and 28–AWL–19 in Section D of Section 9 ("AIRWORTHINESS LIMITATIONS–FUEL SYSTEMS") of the Boeing 727–100/200 Airworthiness Limitations (AWLs) Document, D6–8766–AWL, Revision August 2010. The initial compliance time for AWL No. 28–AWL–18 is within 10 years after the accomplishment of paragraph (g) of this AD, or within 10 years after the effective date of this AD, whichever occurs later.

**No Alternative Inspections, Inspection Intervals, or Critical Design Configuration Control Limitations (CDCCLs)**

(k) After accomplishing the action specified in paragraph (j) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are approved as an alternative method of compliance in accordance with the procedures specified in paragraph (l) of this AD.

**Alternative Methods of Compliance (AMOCs)**

(l)(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be e-mailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

**Related Information**

(m) For more information about this AD, contact Louis Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; phone: 425–917–6478; fax: 425–917–6590; e-mail: *elias.natsiopoulos@faa.gov.*

**Material Incorporated by Reference**

(n) You must use Boeing Service Bulletin 727–28–0131, dated August 18, 2010; and Section 9 of the Boeing 727–100/200 Airworthiness Limitations (AWLs) Section 9, Document D6–8766–AWL, Revision August 2010; to do the actions required by this AD, unless the AD specifies otherwise. "Section 9" is referenced only in the List of Effective Pages section of the Boeing 727–100/200 AWLs Document.

(1) The Director of the Federal Register approved the incorporation by reference of the service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on May 11, 2011.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2011–13652 Filed 6–9–11; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF STATE

## 22 CFR Part 62

**[Public Notice 7500]**

**RIN 1400–ZA20**

## Exchange Visitor Program

**AGENCY:** Department of State.

**ACTION:** Notice of suspension of applicability of certain requirements.

**SUMMARY:** The Department is temporarily suspending the application of certain requirements governing program status and on-campus and off-campus employment for J–1 Libyan students. This action is necessary to mitigate the adverse impact upon these students due to political turmoil in their home country.

**DATES:** This action is effective June 10, 2011, and will remain in effect until December 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Nicole Deaner, Senior Advisor, Private Sector Exchange, 2200 C Street NW., SA–5, 5th Floor, Washington, DC 20522; e-mail *JExchanges@state.gov.*

**SUPPLEMENTARY INFORMATION:** Recent political turmoil in Libya has affected Exchange Visitor Program college and university students studying in the United States. Many of the students dependent upon financial support originating in their home country have found themselves without funds. To ameliorate the hardship arising from this lack of financial support and facilitate these students' continued studies, the Department is suspending the application of the full course of study requirement set forth at 22 CFR 62.23(e), the application of the requirements governing student employment set forth at 22 CFR 62.23(g), and the application of the duration of participation requirements set forth at 22 CFR 62.23(h) effective June 10, 2011 until December 31, 2011. The temporary suspension of certain requirements governing program status and on-campus and off-campus employment for J–1 Libyan students does not apply to Federal Work-Study jobs.

College and university students in J–1 status whose means of financial support come from Libya and whose financial support has been disrupted, reduced, or eliminated due to turmoil in their home country may be authorized by the Responsible Officer of their academic institution to pursue full-time or part-time on-campus or off-campus employment. A reduction in the students' academic course load may also be necessary due to this employment and accordingly, such students will be deemed to be in valid J–1 Exchange Visitor Program student status if they are (i) an undergraduate student and enrolled for not less than six semester hours of academic credit or its recognized equivalent; (ii) a graduate student enrolled for not less than three hours of academic credit or its recognized equivalent; (iii) a non-degree student actively participating on not less than a half-time equivalent basis in the prescribed course of study for which the student was initially authorized J–1 student status; or (iv) a non-degree student actively pursuing English language instruction on not less than a half-time equivalent basis.

Responsible officers who authorize on-campus or off-campus employment for these students should update the

students' SEVIS record by notating in the remarks box of their electronic record: "Special Student Relief work authorization granted until December 31, 2011." If a reduced course load is also authorized due to employment, the responsible officer should also record this fact in the SEVIS record comment box as: "reduced course load authorized."

The Department's suspension of the application of the requirements set forth in 22 CFR 62.23(e), 22 CFR 62.23(g) and 22 CFR 62.23(h) for these identified students will remain in effect until December 31, 2011.

Dated: June 6, 2011.

**Joseph A. Ereli,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2011–14499 Filed 6–9–11; 8:45 am]

**BILLING CODE 4710–05–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 9528]**

**RIN 1545–BH32**

## Alternative Simplified Credit Under Section 41(c)(5)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations relating to the election and calculation of the alternative simplified credit under section 41(c)(5) of the Internal Revenue Code (Code). The final regulations affect certain taxpayers claiming the credit under section 41. These final regulations implement changes to the credit for increasing research activities under section 41 made by the Tax Relief and Health Care Act of 2006.

**DATES:** *Effective Date:* These regulations are effective on June 9, 2011.

*Applicability Date:* For dates of applicability, see §§ 1.41–6(j)(3), 1.41–8(b)(5), and 1.41–9(d).

**FOR FURTHER INFORMATION CONTACT:** David Selig (202) 622–3040 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

On June 17, 2008, the Treasury Department and the IRS published final and temporary regulations (TD 9401) in the **Federal Register** (73 FR 34185) relating to the election and calculation of the alternative simplified credit (ASC) under section 41(c)(5). The ASC was added by the Tax Relief and Health Care Act of 2006 (Public Law 109–432, 120 Stat. 2922, December 20, 2006). A notice of proposed rulemaking cross-referencing the temporary regulations was also published in the same issue of the **Federal Register** (73 FR 34237). Written and electronic comments responding to these regulations (collectively, the 2008 regulations) were received and a public hearing was held on the 2008 regulations on September 25, 2008. After consideration of the comments received and the statements made at the public hearing, the 2008 regulations are adopted as revised by this Treasury decision.

### Summary of Comments and Explanation of Changes

The 2008 regulations were issued primarily to provide guidance on the election and calculation of the ASC. Section 1.41–9T(b) of the 2008 regulations provide that an election to make or revoke the provisions of the ASC under section 41(c)(5) must be made on a timely filed (including extensions) original return for the taxable year and may not be made on an amended return. Before the issuance of the 2008 regulations, identical election procedures existed for the alternative incremental research credit (AIRC) under § 1.41–8. The 2008 regulations extended these election procedures to the ASC under § 1.41–9T. The 2008 regulations also provided that extensions of time to make or revoke the election for both the AIRC and the ASC will not be granted under § 301.9100–3. In the case of the AIRC, the 2008 regulations are of limited duration as section 41(h)(2) provides that no election under section 41(c)(4) shall apply to taxable years beginning after December 31, 2008.

Commenters stated that these provisions of the 2008 regulations are restrictive and asked that they be excluded from the final regulations.

The Treasury Department and the IRS believe that both tax administration and fairness are best served by adopting the same election procedures for the ASC that are used for the AIRC under § 1.41–8. A taxpayer may make or revoke an election each taxable year by obtaining the consent of the Commissioner. A taxpayer is deemed to have requested, and to have been granted, the consent of the Commissioner to make or revoke an election if the taxpayer completes the portion of Form 6765, "Credit for Increasing Research Activities," (or successor form) relating to the credit determined under section 41(a)(1), the AIRC, or the ASC, as appropriate, and attaches the completed form to the taxpayer's timely filed (including extensions) original return for the year to which it applies. As is the case with a revocation of an AIRC election under § 1.41–8, an ASC election under section 41(c)(5) may not be made or revoked on an amended return. Consistent with this position, the final regulations also provide that an extension of time to make or revoke an election under sections 41(c)(4) and 41(c)(5) will not be granted under § 301.9100–3.

One commenter suggested changing the ASC short taxable year rules in the 2008 regulations to prorate short years by the number of days in the year instead of the number of months in the year. The Treasury Department and the IRS agree that calculating the ASC for short taxable years on a daily rather than a monthly basis provides a more accurate calculation and removes uncertainty as to whether and how to include a partial month in making the monthly calculation. Accordingly, the final regulations generally require that short taxable years be prorated by the number of days in the year instead of the number of months in the year for taxable years ending after June 9, 2011. Recognizing that some taxpayers may have already filed returns using a monthly calculation for a short taxable year, the final regulations also provide that returns filed for taxable years ending within a specified time period may, at the taxpayer's option, be amended to reflect the daily calculation.

### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Although a substantial number of small entities may make an election under these regulations, any economic impact is minimal. This certification is based upon the fact that the information required by these regulations is already required to be maintained under the statute and current regulations. These regulations add little or no new burden to the existing requirements. Additionally, an election under these regulations generally will simplify the calculation of the credit and may result

in a benefit to the taxpayer. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Drafting Information**

The principal author of these regulations is David Selig, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing § 1.41–0T to read in part as follows:

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

Section 1.41–8 also issued under 26 U.S.C. 41(c)(4)(B). Section 1.41–9 also issued under 26 U.S.C. 41(c)(5)(C). * * *

■ **Par. 2.** Section 1.41–0 is amended as follows:

■ 1. Under § 1.41–6, the entries for paragraphs (j) introductory text and (j)(3) are revised.

■ 2. Under § 1.41–8, the section heading is revised and entries for paragraphs (b)(4)(i) and (b)(4)(ii) are added.

■ 3. Revising the entry for § 1.41–9.

The revisions and additions read as follows:

**§ 1.41–0 Table of contents.**

* * * * *

**§ 1.41–6 Aggregation of expenditures.**

* * * * *

(j) Effective/applicability dates.

* * * * *

(3) Taxable years ending after June 9, 2011.

* * * * *

**§ 1.41–8 Alternative incremental credit applicable for taxable years beginning on or before December 31, 2008.**

* * * * *

(b) * * *

(4) * * *

(i) In general.

(ii) Designated member.

* * * * *

**§ 1.41–9 Alternative simplified credit.**

(a) Determination of credit.

(b) Election.

(1) In general.

(2) Time and manner of election.

(3) Revocation.

(4) Special rules for controlled groups.

(i) In general.

(ii) Designated member.

(c) Special rules.

(1) Qualified research expenditures (QREs) required in all years.

(2) Section 41(c)(6) applicability.

(3) Short taxable years.

(i) General rule.

(ii) Limited exception.

(4) Controlled groups.

(d) Effective/applicability dates.

**§ 1.41–0T [Removed]**

■ **Par. 3.** Section 1.41–0T is removed.

■ **Par. 4.** Section 1.41–6 is amended as follows:

■ 1. Paragraphs (b)(1), (c)(2), (e) introductory text, paragraph (j) introductory text heading, and (j)(3) are revised.

■ 2. Adding new *Example 7* to paragraph (e).

The revisions and addition read as follows:

**§ 1.41–6 Aggregation of expenditures.**

* * * * *

(b) *Computation of the group credit*—(1) *In general.* All members of a controlled group are treated as a single taxpayer for purposes of computing the research credit. The group credit is computed by applying all of the section 41 computational rules on an aggregate basis. All members of a controlled group must use the same method of computation: The method described in section 41(a)(1), the alternative incremental credit (AIRC) method described in section 41(c)(4) (available for years beginning on or before December 31, 2008), or the alternative simplified credit (ASC) method described in section 41(c)(5), in computing the group credit for a credit year.

* * * * *

(c) * * *

(2) *Stand-alone entity credit.* The term *stand-alone entity credit* means the research credit (if any) that would be allowable to a member of a controlled group if the credit were computed as if section 41(f)(1) did not apply, except that the member must apply the rules provided in § 1.41–6(d)(1) (relating to consolidated groups) and § 1.41–6(i) (relating to intra-group transactions). Each member's stand-alone entity credit for any credit year must be computed under whichever available method (the method described in section 41(a)(1), the method described in section 41(c)(4), or the method described in section 41(c)(5)) results in the greatest stand-alone entity credit for that member, without regard to the method used to compute the group credit.

* * * * *

(e) *Examples.* The following examples illustrate the provisions of this section. Unless otherwise stated, no members of a controlled group are members of a consolidated group, no member of the group made any basic research payments or paid or incurred any amounts to an energy research consortium, and the group has not made an AIRC election (except as provided in *Example 6*) or an ASC election (except as provided in *Example 7*).

* * * * *

*Example 7. Group alternative simplified credit.* The following example illustrates a group computation in a year for which the ASC method under section 41(c)(5) is in effect. No members of the controlled group are members of a consolidated group and no member of the group made any basic research payments or paid or incurred any amounts to an energy research consortium.

(i) *Facts.* Q, R, and S, all of which are calendar-year taxpayers, are members of a controlled group. The research credit under section 41(a)(1) is not allowable to the group for the 2011 taxable year (the credit year) because the group's aggregate QREs for the credit year are less than the group's base amount. The group does not use the AIRC method of section 41(c)(4) because it is unavailable for taxable years beginning after December 31, 2008. The group credit is computed using the ASC rules of section 41(c)(5). Assume that each member of the group had QREs in each of the three years preceding the credit year. For purposes of computing the group credit for the credit year, Q, R, and S had the following:

| | Q | R | S | Group aggregate |
|---|---|---|---|---|
| Credit Year QREs | $0x | $20x | $30x | $50x |
| Average QREs for 3 Years Preceding the Credit Year | $10x | $20x | $10x | $40x |

(ii) *Computation of the group credit.* The research credit allowable to the group is computed as if Q, R, and S are one taxpayer. The group credit is equal to 14 percent of so much of the QREs for the credit year as exceeds 50 percent of the average QREs for the three taxable years preceding the credit year. The group credit is 0.14 × ($50x − (0.5 × $40x)), which equals $4.2x.

(iii) *Allocation of the group credit.* Under paragraph (c)(2) of this section, the stand-alone entity credit for each member of the group must be computed using the method that results in the greatest stand-alone entity credit for that member. The stand-alone entity credit for Q is zero under the regular or ASC methods. Assume that the stand-alone entity credit for each of R ($1.4x) and S ($3.5x) is greatest using the ASC method. Therefore, the stand-alone entity credits for each of R and S must be computed using the ASC method. The sum of the stand-alone entity credits of the members of the group is $4.9x. Because the group credit of $4.2x is less than the sum of the stand-alone entity credits of all the members of the group ($4.9x), the group credit is allocated among the members of the group based on the ratio that each member's stand-alone entity credit bears to the sum of the stand-alone entity credits of all the members of the group. The $4.2x group credit is allocated as follows:

| | Q | R | S | Total |
|---|---|---|---|---|
| Stand-Alone Entity Credit | $0x | $1.4x | $3.5x | $4.9x |
| Allocation Ratio (Stand-Alone Entity Credit/Sum of Stand-Alone Entity Credits) | 0/4.9 | 1.4/4.9 | 3.5/4.9 | |
| Multiplied by: Group Credit | $4.2x | $4.2x | $4.2x | |
| Equals: Credit Allocated to Member | $0x | $1.2x | $3x | $4.2x |

* * * * *

(j) *Effective/applicability dates.* * * * * * * * *

(3) *Taxable years ending after June 9, 2011.* Paragraphs (b)(1), (c)(2), and (e) of this section are applicable for taxable years ending after June 9, 2011. For taxable years ending on or before June 9, 2011, see §§ 1.41–6T and 1.41–6 as contained in 26 CFR part 1, revised April 1, 2011.

**§ 1.41–6T [Removed]**

■ **Par. 5.** Section 1.41–6T is removed.

■ **Par. 6.** In § 1.41–8, the section heading and paragraphs (b)(2), (b)(3), (b)(4)(ii), and (b)(5) are revised to read as follows:

**§ 1.41–8 Alternative incremental credit applicable for taxable years beginning on or before December 31, 2008.**

* * * * *

(b) * * *

(2) *Time and manner of election.* An election under section 41(c)(4) is made by completing the portion of Form 6765, "Credit for Increasing Research Activities," (or successor form) relating to the election of the AIRC, and attaching the completed form to the taxpayer's timely filed (including extensions) original return for the taxable year to which the election applies. An election under section 41(c)(4) may not be made on an amended return. An extension of time to make an election under section 41(c)(4) will not be granted under § 301.9100–3 of this chapter.

(3) *Revocation.* An election under this section may not be revoked except with the consent of the Commissioner. A taxpayer is deemed to have requested, and to have been granted, the consent of the Commissioner to revoke an election under section 41(c)(4) if the taxpayer completes the portion of Form 6765, "Credit For Increasing Research Activities," (or successor form) relating to the amount determined under section 41(a)(1) (the regular credit) or the alternative simplified credit (ASC) and attaches the completed form to the taxpayer's timely filed (including extensions) original return for the year to which the revocation applies. An election under section 41(c)(4) may not be revoked on an amended return. An extension of time to revoke an election under section 41(c)(4) will not be granted under § 301.9100–3 of this chapter.

(4) * * *

(ii) *Designated member.* For purposes of this paragraph (b)(4), for any credit year, the term *designated member* means that member of the group that is allocated the greatest amount of the group credit under § 1.41–6(c) based on the amount of credit reported on the taxpayer's timely filed (including extensions) original Federal income tax return (even if that member subsequently is determined not to be the designated member). If the members of a group compute the group credit using different methods (the method described in section 41(a)(1), the AIRC method of section 41(c)(4) (available for years beginning on or before December 31, 2008), or the ASC method of section 41(c)(5)) and at least two members of the group qualify as the designated member, then the term *designated member* means that member that computes the group credit using the method that yields the greatest group credit. For example, A, B, C, and D are members of a controlled group but are not members of a consolidated group. For the 2008 taxable year (the credit year), the group credit using the method described in section 41(a)(1) is $10x. Under this method, A would be allocated $5x of the group credit, which would be the largest share of the group credit under this method. For the credit year, the group credit using the AIRC method is $15x. Under the AIRC method, B would be allocated $5x of the group credit, which is the largest share of the group credit computed using the AIRC method. For the credit year, the group credit using the ASC method is $10x. Under the ASC method, C would be allocated $5x of the group credit, which is the largest share of the group credit computed using the ASC method. Because the group credit is greatest using the AIRC method and B is allocated the greatest amount of credit under that method, B is the designated member. Therefore, if B makes a section 41(c)(4) election on its original timely filed return for the credit year, that election is binding on all members of the group for the credit year.

(5) *Effective/applicability dates.* This section is applicable for taxable years ending after *June 9, 2011.* For taxable years ending on or before *June 9, 2011,* see §§ 1.41–8 and 1.41–8T, as contained in 26 CFR part 1, revised April 1, 2011.

**§ 1.41–8T [Removed]**

■ **Par. 7.** Section 1.41–8T is removed.

■ **Par. 8.** Section 1.41–9 is revised to read as follows:

**§ 1.41–9 Alternative simplified credit.**

(a) *Determination of credit.* At the election of the taxpayer, the credit determined under section 41(a)(1) equals the amount determined under section 41(c)(5).

(b) *Election*—(1) *In general.* A taxpayer may elect to apply the provisions of the alternative simplified credit (ASC) in section 41(c)(5) for any taxable year of the taxpayer ending after December 31, 2006. If a taxpayer makes an election under section 41(c)(5), the election applies to the taxable year for which made and all subsequent taxable years unless revoked in the manner prescribed in paragraph (b)(3) of this section.

(2) *Time and manner of election.* An election under section 41(c)(5) is made

by completing the portion of Form 6765, "Credit for Increasing Research Activities," (or successor form) relating to the election of the ASC, and attaching the completed form to the taxpayer's timely filed (including extensions) original return for the taxable year to which the election applies. An election under section 41(c)(5) may not be made on an amended return. An extension of time to make an election under section 41(c)(5) will not be granted under § 301.9100–3 of this chapter.

(3) *Revocation.* An election under this section may not be revoked except with the consent of the Commissioner. A taxpayer is deemed to have requested, and to have been granted, the consent of the Commissioner to revoke an election under section 41(c)(5) if the taxpayer completes the portion of Form 6765 (or successor form) relating to the credit determined under section 41(a)(1) (the regular credit) or the alternative incremental credit (AIRC) and attaches the completed form to the taxpayer's timely filed (including extensions) original return for the year to which the revocation applies. An election under section 41(c)(5) may not be revoked on an amended return. An extension of time to revoke an election under section 41(c)(5) will not be granted under § 301.9100–3 of this chapter.

(4) *Special rules for controlled groups*—(i) *In general.* In the case of a controlled group of corporations, all the members of which are not included on a single consolidated return, an election (or revocation) must be made by the designated member by satisfying the requirements of paragraphs (b)(2) or (b)(3) of this section (whichever applies), and such election (or revocation) by the designated member shall be binding on all the members of the group for the credit year to which the election (or revocation) relates. If the designated member fails to timely make (or revoke) an election, each member of the group must compute the group credit using the method used to compute the group credit for the immediately preceding credit year.

(ii) *Designated member.* For purposes of this paragraph (b)(4), for any credit year, the term *designated member* means that member of the group that is allocated the greatest amount of the group credit under § 1.41–6(c) based on the amount of credit reported on the taxpayer's timely filed (including extensions) original Federal income tax return (even if that member subsequently is determined not to be the designated member). If the members of a group compute the group credit using different methods (the method described in section 41(a)(1), the AIRC method of section 41(c)(4), or the ASC method of section 41(c)(5)) and at least two members of the group qualify as the designated member, then the term *designated member* means that member that computes the group credit using the method that yields the greatest group credit. For example, A, B, C, and D are members of a controlled group but are not members of a consolidated group. For the 2011 taxable year (the credit year), the group credit using the method described in section 41(a)(1) is $10x. Under this method, A would be allocated $5x of the group credit, which would be the largest share of the group credit under this method. For the credit year, the group credit using the ASC method is $15x. Under the ASC method, C would be allocated $5x of the group credit, which is the largest share of the group credit computed using the ASC method. Because the group credit is greatest using the ASC method and C is allocated the greatest amount of credit under that method, C is the designated member. Therefore, if C makes a section 41(c)(5) election on its timely filed (including extensions) original return for the credit year, that election is binding on all members of the group for the credit year.

(c) *Special rules*—(1) *Qualified research expenses (QREs) required in all years.* Unless a taxpayer has QREs in each of the three taxable years preceding the taxable year for which the credit is being determined, the credit equals that percentage of the QREs for the taxable year provided by section 41(c)(5)(B)(ii).

(2) *Section 41(c)(6) applicability.* QREs for the three taxable years preceding the credit year must be determined on a basis consistent with the definition of QREs for the credit year, without regard to the law in effect for the three taxable years preceding the credit year. This consistency requirement applies even if the period for filing a claim for credit or refund has expired for any of the three taxable years preceding the credit year.

(3) *Short taxable years*—(i) *General rule.* If one or more of the three taxable years preceding the credit year is a short taxable year, then the QREs for such year are deemed to be equal to the QREs actually paid or incurred in that year multiplied by 365 and divided by the number of days in that year. If a credit year is a short taxable year, then the average QREs for the three taxable years preceding the credit year are modified by multiplying that amount by the number of days in the short taxable year and dividing the result by 365.

(ii) *Limited exception.* Returns filed for taxable years ending after December 31, 2006, and before June 9, 2011, and for which the period of limitations has not expired, may be amended to apply the daily calculation for short taxable years provided in paragraph (3)(i) of this section in lieu of the monthly calculation for short taxable years provided in § 1.41–9T(c)(4).

(4) *Controlled groups.* For purposes of computing the group credit under § 1.41–6, a controlled group must apply the rules of this paragraph (c) on an aggregate basis. For example, if the controlled group has QREs in each of the three taxable years preceding the taxable year for which the credit is being determined, the controlled group applies the credit computation provided by section 41(c)(5)(A) rather than section 41(c)(5)(B)(ii).

(d) *Effective/applicability dates.* This section is applicable for taxable years ending after June 9, 2011. For taxable years ending on or before June 9, 2011, see § 1.41–9T as contained in 26 CFR part 1, revised April 1, 2011.

**§ 1.41–9T [Removed]**

■ **Par. 9.** Section 1.41–9T is removed.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

Approved: June 2, 2011

**Emily S. McMahon,**

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

[FR Doc. 2011–14407 Filed 6–9–11; 8:45 am]

BILLING CODE 4830–01–P

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[TD 9529]**

**RIN 1545–BK01**

## Requirements for Taxpayers Filing Form 5472

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Temporary regulations.

**SUMMARY:** This document contains temporary regulations that remove the duplicate filing requirement for Form 5472, "Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business." The temporary regulations affect certain 25-percent foreign-owned domestic corporations and certain foreign corporations that are engaged in a trade or business in the United States that are required to file Form 5472. The text of the temporary

regulations also serves as the text of the proposed regulations set forth in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** *Effective Date:* These regulations are effective June 10, 2011.

*Applicability Dates:* For dates of applicability, see §§ 1.6038A–1T(n) and 1.6038A–2(h).

**FOR FURTHER INFORMATION CONTACT:** Gregory A. Spring, (202) 435–5265 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

## Background

Section 6038A of the Internal Revenue Code (Code) generally requires information reporting by a 25-percent foreign-owned domestic corporation with respect to certain transactions between such corporation and certain related parties. Similarly, section 6038C generally requires a foreign corporation engaged in a trade or business within the United States at any time during the taxable year to report the information described in section 6038A with respect to certain transactions between such corporation and certain related parties.

On June 19, 1991, the Treasury Department and the IRS published in the **Federal Register** (56 FR 28056) final regulations (TD 8353, 1991–2 CB 402) under section 6038A (1991 final regulations). A correction to TD 8353 was published in the **Federal Register** (56 FR 41792) on August 23, 1991. The 1991 final regulations contained guidance under a number of provisions including §§ 1.6038A–1 and 1.6038A–2 regarding information reporting requirements under sections 6038A and 6038C. Section 1.6038A–1(c)(1) defines a reporting corporation as: (i) A domestic corporation that is 25-percent foreign-owned; (ii) a foreign corporation that is 25-percent foreign-owned and engaged in trade or business within the United States; or (iii) (after November 4, 1990) a foreign corporation engaged in a trade or business within the United States at any time during a taxable year. Section 1.6038A–2(a)(1) generally requires a reporting corporation to file a separate annual information return on Form 5472, "Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business," with respect to each related party with which the reporting corporation has had any reportable transaction during the taxable year. Section 1.6038A–2(d) requires a reporting corporation to file Form 5472 with its income tax return for the taxable year by the due date of that return. Section 1.6038A–2(d) also requires a reporting corporation to file a duplicate Form 5472 with the Internal Revenue Service Center in Philadelphia, PA (duplicate filing requirement). Section 1.6038A–2(e) provides that if a reporting corporation's income tax return is not timely filed, Form 5472 nonetheless is required to be filed (with a duplicate to the Internal Revenue Service Center in Philadelphia, PA) at the service center where the return is due (untimely filed return provision). When the income tax return is ultimately filed, a copy of Form 5472 must be attached to the return.

On February 9, 2004, the Treasury Department and the IRS published in the **Federal Register** (69 FR 5931) final regulations and temporary regulations (2004 temporary regulations) (TD 9113, 2004–1 CB 524) under section 6038A regarding the duplicate filing requirement. The text of the 2004 temporary regulations also served as the text of proposed regulations (REG–167217–03, 2004–1 CB 540) set forth in the proposed rules section of the same issue of the **Federal Register** (69 FR 5940–01) (2004 proposed regulations). The 2004 temporary regulations provided that the duplicate filing requirement of § 1.6038A–2(d) is satisfied if Form 5472 is timely filed electronically (electronic filing provision). The 2004 temporary regulations did not add a conforming electronic filing provision to § 1.6038A–2(e) (containing the untimely filed return provision) because the electronic filing of Form 5472 other than as an attachment to an electronically filed income tax return was not technically possible at the time the 2004 temporary regulations were published. However, the preamble to the 2004 temporary regulations states that the Treasury Department and the IRS intend that a Form 5472 that is timely and separately filed electronically, once technically possible, would be treated as satisfying the duplicate filing requirement of § 1.6038A–2(e).

On September 15, 2004, the Treasury Department and the IRS published in the **Federal Register** (69 FR 55499–02) final regulations (TD 9161, 2004–2 CB 704) that adopted the 2004 proposed regulations without change (2004 final regulations). As part of the 2004 final regulations, § 1.6038A–1(n)(2) (providing effective dates) was also amended to indicate that the electronic filing provision applies for taxable years ending on or after January 1, 2003. TD 9161 also removed the text of the 2004 temporary regulations.

## Explanation of Provisions

As a result of advances in electronic processing and data collection in the IRS, the duplicate filing requirement contained in § 1.6038A–2(d) is no longer necessary. Upon the effective date of these temporary regulations, the duplicate filing of Form 5472 will no longer be required regardless of whether the reporting corporation files a paper or an electronic income tax return. The temporary regulations implement this change by removing from § 1.6038A–2(d), the duplicate filing requirement and the electronic filing provision.

As a conforming amendment, the temporary regulations also remove the duplicate filing requirement from the untimely filed return provision of § 1.6038A–2(e). In addition, the temporary regulations remove the reference in § 1.6038A–2(e) to "at the service center where the return is due" in order to avoid any implication that the untimely filed return provision can only be satisfied by filing a paper Form 5472. However, while the Treasury Department and the IRS intend that a timely filed electronic Form 5472 would be treated as satisfying the untimely filed return provision, there are currently no procedures for electronically filing Form 5472 independent of an electronically filed income tax return. Thus, a reporting corporation that does not timely file an income tax return must still timely file a paper Form 5472 in order to satisfy the untimely filed return provision. If the IRS institutes procedures for the separate electronic filing of Form 5472, reporting corporations will no longer be required to file a paper Form 5472 when filing the Form 5472 separate from an income tax return.

Lastly, the temporary regulations amend the effective date provisions of § 1.6038A–1(n) to provide that the amendments to § 1.6038A–2(d) and (e) apply for taxable years ending on or after June 10, 2011.

The text of the temporary regulations also serves as the text of the proposed regulations set forth in the Proposed Rules section in this issue of the **Federal Register**.

## Special Analyses

It has been determined that this temporary regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C chapter 6) refer to the Special Analyses section of the preamble of the cross-referenced notice of proposed rulemaking published in

the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Drafting Information**

The principal author of these regulations is Gregory A. Spring, Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in its development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.6038A–1 is amended by revising paragraph (n)(2) to read as follows:

**§ 1.6038A–1 General requirements and definitions.**

* * * * *

(n) * * *

(2) [Reserved]. For further guidance, see § 1.6038A–1T(n)(2).

* * * * *

■ **Par. 3.** Section 1.6038A–1T is added to read as follows:

**§ 1.6038A–1T General requirements and definitions (temporary).**

(a) through (n)(1) [Reserved]. For further guidance see § 1.6038A–1(a) through (n)(1).

(2) *Section 1.6038A–2.* Section 1.6038A–2 (relating to the requirement to file Form 5472) generally applies for taxable years beginning after July 10, 1989. However, § 1.6038A–2 as it applies to reporting corporations whose sole trade or business in the United States is a banking, financing, or similar business as defined in § 1.864–4(c)(5)(i) applies for taxable years beginning after December 10, 1990. Section 1.6038A–2(d) and (e) apply for taxable years ending on or after June 10, 2011. For taxable years ending prior to June 10, 2011, see § 1.6038A–2(d) and (e) as contained in 26 CFR part 1 revised as of September 15, 2004.

(n)(3) through (n)(6) [Reserved]. For further guidance see § 1.6038A–1(n)(3) through (6).

■ **Par. 4.** Section 1.6038A–2 is amended by revising paragraphs (d) and (e) to read as follows:

**§ 1.6038A–2 Requirement of return.**

* * * * *

(d) [Reserved]. For further guidance, see § 1.6038A–2T(d).

(e) [Reserved]. For further guidance, see § 1.6038A–2T(e).

* * * * *

■ **Par. 5.** Section 1.6038A–2T is added to read as follows:

**§ 1.6038A–2T Requirement of return (temporary).**

(a) through (c) [Reserved]. For further guidance, see § 1.6038A–2(a) through (c).

(d) *Time for filing returns.* A Form 5472 required under this section must be filed with the reporting corporation's income tax return for the taxable year by the due date (including extensions) of that return.

(e) *Untimely filed return.* If the reporting corporation's income tax return is untimely filed, Form 5472 nonetheless must be timely filed. When the reporting corporation's income tax return is ultimately filed, a copy of Form 5472 must be attached.

(f) through (h) [Reserved]. For further guidance, see § 1.6038A–2(f) through (h).

Approved: May 2, 2011.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

**Emily S. McMahon,**

*Acting Assistant Secretary for the Treasury (Tax Policy).*

[FR Doc. 2011–14468 Filed 6–9–11; 8:45 am]

BILLING CODE 4830–01–P

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Parts 18 and 21

**RIN 2900–AI36**

### Spouse and Surviving Spouse; Technical Amendment

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** The Department of Veterans Affairs published a document on February 6, 1997, amending 38 CFR part 3 by removing § 3.51. At that time, we failed to remove all the cross-references to 38 CFR 3.51 in other parts of 38 CFR. This document corrects that error by removing those cross-references.

**DATES:** *Effective Date:* June 10, 2011.

**FOR FURTHER INFORMATION CONTACT:** Molly McCann, Office of Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–4902. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On February 6, 1997 (62 FR 5528), VA amended 38 CFR part 3 to eliminate gender-specific language. As part of that amendment, VA removed 38 CFR 3.51. At that time, we failed to remove all the cross-references to 38 CFR 3.51 in other parts of 38 CFR. As § 3.51 has been removed, any cross-references to it are obsolete and should have been eliminated. This document corrects those sections which refer to 38 CFR 3.51 by removing the cross-reference. These nonsubstantive technical corrections are made for clarity and accuracy. With this action, VA is amending 38 CFR part 18, Subpart E, Appendix B and 38 CFR 21.260(d), which contain cross-references to 38 CFR 3.51.

**Administrative Procedure Act**

This action is a technical correction to cross-references in two regulations. Accordingly, it is exempt from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553.

**List of Subjects**

*38 CFR Part 18*

Administrative practice and procedure, Aged, Authority delegations, Blind, Buildings, Civil rights, Employment, Equal educational opportunity, Equal employment opportunity, Grant programs, Handicapped, Investigations.

*38 CFR Part 21*

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses,

Veterans, Vocational education, Vocational rehabilitation.

**William F. Russo,**

*Deputy Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.*

For the reasons set out in the preamble, 38 CFR parts 18 and 21 are correctly amended as follows:

## PART 18—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

■ 1. The authority citation for 38 CFR part 18, subpart E continues to read as follows:

**Authority:** Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.;* 45 CFR part 90 (1979).

### Appendix B to Subpart E [Amended]

■ 2. Amend Appendix B to Subpart E, at the table titled "*Age Distinctions in Regulations Governing Federal Financial Assistance Programs of the Department of Veterans Affairs,*" third column, last paragraph, by removing "3.51,".

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

■ 3. The authority citation for part 21, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), chs. 18, 31, and as noted in specific sections.

### § 21.260 [Amended]

■ 4. Amend § 21.260(d) by removing "3.51,".

[FR Doc. 2011–14401 Filed 6–9–11; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R03–OAR–2009–0881; FRL–9308–9]**

## Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Requirements for Major Sources Locating in or Impacting a Nonattainment Area in Allegheny County

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Pennsylvania State Implementation Plan (SIP) which was submitted on November 16, 2006 by the Pennsylvania Department of Environmental Protection (PADEP). This change to Allegheny County's Air Pollution Control Rules and Regulations amends the existing requirements for sources locating in or impacting a nonattainment area in Allegheny County by incorporating Federal modeling requirements. EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on August 9, 2011 without further notice, unless EPA receives adverse written comment by July 11, 2011. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R03–OAR–2009–0881 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: cox.kathleen@epa.gov.*

C. *Mail:* EPA–R03–OAR–2009–0881, Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R03–OAR–2009–0881. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

**FOR FURTHER INFORMATION CONTACT:** Paul T. Wentworth, P.E. (215) 814–2183, or by e-mail at: *wentworth.paul@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

Throughout this rulemaking action, whenever "we," "us," or "our" is used, we are referring to EPA. On November 16, 2006, PADEP submitted a revision to the Pennsylvania SIP. This change to Allegheny County's Air Pollution Control Rules and Regulations amends the existing requirements for sources locating in or impacting a nonattainment area by incorporating Federal modeling requirements.

### II. Summary of the SIP Revision

EPA is approving a formal revision to the Pennsylvania SIP submitted by the State on November 16, 2006 by the PADEP. This SIP revision adds a new paragraph (2102.06.g.) to Allegheny

County's Article XXI Air Pollution Control Rules and Regulations and amends the existing requirements for sources locating in or impacting nonattainment areas by incorporating the modeling requirements from 40 CFR part 51, subpart I, entitled "Review of New Sources and Modifications." These requirements specify that where air quality models are used to meet the provisions of this section, modeling must be based on the applicable models and other requirements specified in 40 CFR part 51, appendix W, entitled "Federal Guideline on Air Quality Models" (Guideline). Additionally, these requirements explicitly state where an air quality model specified in the Guideline is inappropriate, the model may be modified or another model substituted but only on a case-by-case basis or, where appropriate, on a generic basis for a specific State program. Modifying or substituting a model requires written approval of the EPA Administrator. In addition, the use of a modified or substituted model is subject to public comment under procedures set forth in Federal regulation 40 CFR 51.102.

## III. Final Action

EPA is approving a revision to the Pennsylvania SIP as submitted on November 16, 2006. This revision adds the modeling requirements in 40 CFR part 51, subpart I as a new paragraph 2102.06.g., entitled "Requirements of Modeling", to Allegheny County's Article XXI, section 2102.06, "Major Sources Locating in or Impacting a Nonattainment Area." EPA is publishing this rule without prior proposal because EPA views this as a non-controversial amendment and anticipates no adverse comment. This revision to Allegheny County's regulation 2102.06, addresses the requirements in Federal regulation 40 CFR part 51 subpart I. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on August 9, 2011 without further notice unless EPA receives adverse comment by July 11, 2011. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

## IV. Statutory and Executive Order Reviews

### *A. General Requirements*

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

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

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

### *B. Submission to Congress and the Comptroller General*

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

### *C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking.

This action which modifies the Pennsylvania SIP by adding the Federal modeling requirements of 40 CFR part 51, subpart I for Allegheny County may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 6, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(2) is amended by amending the entry for section 2102.06 to read as follows:

**§ 52.2020 Identification of plan.**

* * * * *

(c) * * *

(2) * * *

| Article XX or XXI citation | Title/subject | State effective date | EPA approval date | Additional explanation/ § 52.2063 citation |
|---|---|---|---|---|
| * | * | * | * | * |
| **Part B Permits Generally** | | | | |
| * | * | * | * | * |
| 2102.06 ..... | Major Sources Locating in or Impacting a Non-attainment Area. | 7/10/05 | 6/10/11 *[Insert page number where the document begins]*. | Addition of new paragraph 2102.06.g. |
| * | * | * | * | * |

* * * * *

[FR Doc. 2011–14227 Filed 6–9–11; 8:45 am]

BILLING CODE 6560–50–P

# Proposed Rules

Federal Register
Vol. 76, No. 112
Friday, June 10, 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 JUSTICE

**2 CFR Chapter XXVII**

**5 CFR Chapter XXVIII**

**8 CFR Chapter V**

**21 CFR Chapter II**

**27 CFR Chapter II**

**28 CFR Chapters I, III, V, and VI**

**31 CFR Chapter IX**

**40 CFR Chapter IV**

**41 CFR Chapter 128**

**45 CFR Chapter V**

**48 CFR Chapter 28**

**[FDMS Docket No. DOJ–LA–2011–0016]**

## Preliminary Plan for Retrospective Review Under E.O. 13563

**AGENCY:** Department of Justice.

**ACTION:** Request for comments.

**SUMMARY:** As part of its implementation of Executive Order 13563, "Improving Regulation and Regulatory Review," issued by the President on January 18, 2011, the Department of Justice (the Department) encourages comments on its preliminary plan for the retrospective review of its existing regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed. The purpose of the Department's review is to make its regulatory program more effective and less burdensome in achieving its regulatory objectives.

*Comment Date:* Written comments must be postmarked and electronic comments must be submitted on or before July 11, 2011. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

**ADDRESSES:** Comments may be mailed to OLP Regulatory Docket Clerk, Department of Justice, 950 Pennsylvania Avenue, NW., Room 4250, Washington, DC 20530. To ensure proper handling, please reference FDMS Docket No. DOJ–LA–2011–0016 on your correspondence. You may also submit comments electronically or view an electronic version of this notice and of the plan at *http://www.regulations.gov,* at Docket No. DOJ–LA–2011–0016.

**FOR FURTHER INFORMATION CONTACT:** Robert Hinchman, Senior Counsel, Office of Legal Policy, Department of Justice, 950 Pennsylvania Avenue, NW., Room 4252, Washington, DC 20530; Telephone (202) 514–8059.

**SUPPLEMENTARY INFORMATION:**

*Posting of Public Comments.* Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, *etc.*) voluntarily submitted by the commenter. Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

The Department understands that the public comment period set forth in this Request for comments is shorter than the 60-day comment period normally given for proposed rules. However, in this Request for comments (which is not, of course, a proposed rule), the Department is not asking for detailed, lengthy comments on its regulations, but only on matters pertaining to the Department's preliminary retrospective review plan.

### Overview

On January 18, 2011, the President issued Executive Order 13563, "Improving Regulation and Regulatory Review," to ensure that Federal regulations seek more affordable, less intrusive means to achieve policy goals, and that agencies give careful consideration to the benefits and costs of those regulations. As part of the Department's implementation of the Executive Order, on March 1, 2011, it published a Request for Information (RFI) seeking public comment on how best to review its existing regulations and to identify whether any of its existing regulations should be modified, streamlined, expanded, or repealed. (76 FR 11163) Before the comment period closed on March 30, 2011, the Department received ten comments. The comments are summarized in the Department's Preliminary Plan for Retrospective Review of Existing Regulations (May 18, 2011), which is posted on *http://www.regulations.gov* at Docket No. DOJ–LA–2011–0016, and is also available on the Department's main Web site at *http://www.justice.gov/.*

Consistent with the Department's commitment to public participation in the rulemaking process, the Department is now by this Request for comments soliciting views from the public on its Preliminary Plan for Retrospective Review of its regulations. The Department is also soliciting additional candidate rules for review, and specifically inviting comments that identify why particular rules should be prioritized for review under the standards we lay out in the plan.

To comment on the Justice Department's preliminary plan, visit *http://www.regulations.gov* and insert DOJ–LA–2011–0016 in the "Enter Keyword or ID" box. Once you are taken to the docket for the plan, click on the "Submit a Comment" bubble to open the comment form. We look forward to hearing from you.

The Department notes that this Request for comments is issued solely for information and program-planning purposes. The Department will give careful consideration to the responses, and may use them as appropriate during the retrospective review, but we do not anticipate providing a point-by-point response to each comment submitted. While responses to this Request for comments do not bind the Department to any further actions related to the response, all submissions will be made publically available on *http://www.regulations.gov.*

Dated: June 2, 2011.

**Christopher H. Schroeder,**

*Assistant Attorney General, Office of Legal Policy.*

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 1170

**RIN 0581–AD12**

**[Doc. AMS–DA–10–0089; DA–11–01]**

## Dairy Product Mandatory Reporting

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Mandatory Price Reporting Act of 2010 amended section 273(d) of the Agricultural Marketing Act of 1946 (the Act), requiring the Secretary of Agriculture (Secretary) to establish an electronic reporting system for certain manufacturers of dairy products to report sales information for a mandatory dairy product reporting program. The amendment further stated that the Secretary shall publish the information obtained for the preceding week not later than 3 p.m. Eastern Time on Wednesday of each week.

This proposed rule offers procedures for the Agricultural Marketing Service (AMS) to implement the amendment to section 273(d) the Act and announces the intention of AMS to request approval by the Office of Management and Budget (OMB) of associated information collection requirements. This proposed rule requests comments concerning changes proposed in this rule.

**DATES:** Comments must be received by August 9, 2011.

**ADDRESSES:** Interested persons are invited to submit written comments via the Federal eRulemaking portal at *http://www.regulations.gov* or to John R. Mengel, Chief Economist, USDA/AMS/Dairy Programs, Office of the Chief Economist, STOP 0229–Room 2753, 1400 Independence Ave, SW., Washington, DC 20250–0229, *fax:* (202) 720–2454. All comments should reference the docket number as well as the date and page number of this issue of the **Federal Register**. Comments will be made available for public inspection in the above office during regular business hours or can be viewed at *http://www.regulations.gov.* All comments received will be posted without change, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** John R. Mengel, Chief Economist, USDA/AMS/Dairy Programs, Office of the Chief Economist, STOP 0229–Room 2753, 1400 Independence Ave, SW., Washington, DC 20250–0229, *john.mengel@ams.usda.gov.*

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued pursuant to the Agricultural Marketing Act of 1946 [7 U.S.C. 1621 *et seq.*], as amended November 22, 2000, by Public Law 106–532, 114 Stat. 2541; May 13, 2002, by Public Law 107–171, 116 Stat. 207; and September 27, 2010, by Public Law 111–239, 124 Stat. 2502.

*Background:* The Dairy Product Mandatory Reporting Program was established on August 2, 2007, on an interim final basis (72 FR 36341). A final rule (73 FR 34175) became effective June 22, 2008. The National Agricultural Statistics Service (NASS) currently collects information for the program, and AMS provides verification and enforcement functions for the program. NASS publishes sales information for cheddar cheese, butter, dry whey, and nonfat dry milk (NFDM) on a weekly basis. NASS began publishing cheddar cheese sales information in 1997 and began publishing butter, NFDM, and dry whey sales information in 1998. Information was collected on a voluntary basis before the Dairy Product Mandatory Reporting Program became effective. Any manufacturer that processes and markets less than 1 million pounds of the applicable dairy products per calendar year is exempt from these reporting requirements.

AMS is responsible for verifying the sales information submitted by reporting entities to NASS. AMS currently visits larger entities that account for 80 percent of the yearly reported product volume of each specified dairy product at least once annually. AMS visits one-half of entities that account for the remaining 20 percent each year, visiting each such entity at least once every other year. During each visit, AMS reviews applicable sales transactions records for at least the 4 most recent weeks. In some cases, AMS may review sales records for periods of up to 2 years. AMS verifies that sales transactions match the information reported to NASS and that there are no applicable sales transactions not reported to NASS. Noncompliance, appeals, and enforcement procedures are administered by AMS.

The Mandatory Price Reporting Act of 2010 (Pub. L. 111–239, Sept. 27, 2010) amended section 273(d) of the Act (7 U.S.C. 1637b) to require that the Secretary establish an electronic reporting system for manufacturers of dairy products to report certain market information for the mandatory dairy product reporting program. The amendment further stated that the Secretary shall publish the information obtained under this section for the preceding week not later than 3 p.m. Eastern Time on Wednesday of each week. This proposed rule includes regulatory changes for implementing these provisions and transferring applicable data collection responsibilities to AMS. This proposed rule announces the intention of AMS to request approval of associated information collection requirements by the Office of Management and Budget (OMB). Comments are requested concerning changes proposed in this rule.

### Executive Orders 12866

This proposed rule has been determined to not be significant for purposes of Executive Orders 12866 and therefore has not been reviewed by the Office of Management and Budget with respect to this Executive Order.

### Executive Order 12988 Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. The amendments contained in this proposed rule are not intended to have a retroactive effect.

### Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this proposed rule on small entities and has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Small businesses in the dairy product manufacturing[1] industry have been defined by the Small Business Administration (SBA) as those processors employing not more than 500 employees. For purposes of determining a processor's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees. According to U.S. Census Bureau Statistics of U.S. Businesses, there were 1,583 dairy manufacturing establishments in the United States in 2008. Of these businesses, 1,039

[1] North American Industry Classification System (NAICS) code 3115.

establishments had fewer than 500 employees, and 544 establishments had greater than 500 employees (*http://www.census.gov/econ/susb/*, U.S. Census Bureau, 2008 County Business Patterns).

The dairy manufacturing establishments included in U.S. Census Bureau statistics include manufacturers of all types of dairy products. The number of plants that produce butter, cheese, NFDM, and dry whey with the precise specifications included in the mandatory reporting requirements is much lower than this. Furthermore, those manufacturers that process and market less than 1 million pounds of the applicable dairy products annually are exempt from reporting sales data. Currently, NASS conducts an annual validation survey that serves to determine which plants are required to report. In 2010, this survey included 182 plants. Based upon the survey, there were 88 dairy product plants that were subject to mandatory reporting of sales data. There were 52 reporting entities that reported data for one or more plants. The annual cost for plants to complete this survey is estimated at approximately $9 per plant. AMS intends to continue to conduct the survey. Based upon company profile information available on the Internet, AMS estimates that almost half of the reporting entities are considered small businesses under the criteria established by the SBA.

AMS estimates that the annual cost per plant for reporting sales information for products included in the surveys is approximately $511. The majority of reporting entities report data to NASS through a secure web-based application. Less than three plants regularly fax their information, and it is believed that these plants do have Internet access. Therefore, there would be no significant start-up costs anticipated for the reporting entities as a result of implementing this rule as proposed.

Under the current Dairy Product Mandatory Reporting Program, dairy manufacturers are required to maintain records for verification purposes for a 2-year period. This proposed rule makes no changes to this requirement. These records are maintained as part of the normal course of business. Thus, there is no additional burden or cost associated with the maintenance of these records. Therefore, in total, this proposed rule will not have a significant economic impact on a substantial number of small entities.

**Paperwork Reduction Act**

The Act requires persons engaged in manufacturing dairy products to provide to USDA certain information including the price, quantity, and moisture content, where applicable, of dairy products sold by the manufacturer. In accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35), AMS announces its intention to request an approval of information collection and recordkeeping pursuant to these requirements.

*Title:* Dairy Products Mandatory Sales Reporting Program.

*OMB Number:* 0581–NEW.

*Expiration Date of Approval:* 3 years from date of OMB approval.

*Type of Request:* New information collection.

*Abstract:* The information collection requirements in the request are essential to carry out the intent of the Agricultural Marketing Act of 1946 as amended (the Act).

The Act requires each manufacturer to report to the Secretary information concerning the price, quantity, and moisture content (where applicable) of dairy products sold by the manufacturer. Dairy products reported include cheddar cheese, butter, dry whey, and NFDM. Dairy manufacturers report information for these products if the products meet certain product specifications.

The collection and reporting of sales information, as required by the Act, have been the responsibility of NASS. NASS currently collects the information as part of the information collection package OMB 0535–0020. NASS allows manufacturers to submit information through a secure web-based application, by e-mail, or by fax. Manufacturers are required to submit information to NASS by 12 noon on Wednesday on all applicable products during the 7 days ending 12 midnight of the previous Saturday, local time of the plant or storage facility where the sales are made. NASS compiles and aggregates the information reported by the reporting entities and publishes the information each Friday morning. If a Federal holiday falls on a Tuesday or Wednesday, NASS contacts manufacturers via e-mail or phone concerning the applicable report deadline.

Manufacturers that process and market less than 1 million pounds of applicable dairy products annually are exempt from reporting requirements. Each year, dairy manufacturers complete an Annual Validation Worksheet for NASS to determine which dairy manufacturers are exempt and to ascertain if valid information is being supplied. NASS currently collects the information as part of the information collection package OMB 0535–0020.

The Mandatory Price Reporting Act of 2010 amended subsection 273(d) of the Act, requiring the Secretary to establish an electronic reporting system to collect the required information and to publish, not later than 3 p.m. Eastern Time on Wednesday of each week, a report containing the preceding week's information. The information collection and reporting requirements have been the responsibility of NASS. Under this proposed rule AMS would assume this responsibility. NASS would no longer collect price, quantity, or moisture content (where applicable) information for cheddar cheese, butter, NFDM, or dry whey, and NASS would no longer collect the associated annual validation information. The forms associated with this data collection would be removed from OMB 0535–0020 and would be included in an AMS collection package, OMB 0581–NEW.

The proposed provisions have been reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements. The proposed electronic submission 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 Act. It is expected that no outside technical expertise will be needed. The forms are simple, easy to understand, and place as small a burden as possible on respondents.

To assist the industry in achieving compliance, educational and outreach sessions will be held prior to implementation. AMS will assist reporting entities in understanding requirements for submitting data through electronic means specified by AMS. In addition, AMS plans to beta test the electronic-submission technology before implementation, and all entities required to report will be encouraged to participate in the beta-testing program. Any feedback received during this outreach and testing period will be used to correct technical problems.

Collecting the information will coincide with normal industry business practices. The timing and frequency of collecting information are intended to meet the needs of the program while minimizing the amount of work necessary to submit the required reports. The information to be collected by AMS, as proposed in this rule, is identical to the information currently collected by NASS. NASS currently allows manufacturers to submit information through a secure web-based

application, by e-mail, or by fax. This proposed rule will require manufacturers to submit information only by electronic means specified by AMS. AMS would specify that each manufacturer submit the information using a secure Internet connection that includes a user name and password. The requirement that reporting entities submit information electronically is in accordance with the Act.

The frequency of data collection will not change. Reporting entities are now required to report information to NASS by 12 noon on Wednesday. This proposed rule would require reporting entities to report the same information to AMS by 12 noon local time of the reporting entities on Tuesday. This change is necessary to allow AMS personnel time to review and compile data and to publish the information by 3 p.m. Eastern Time on Wednesday as required by the Act. If a Federal holiday falls on Monday through Wednesday of a particular week, the due date for report submission may be adjusted. Prior to the beginning of each calendar year, this rule proposes that AMS shall inform reporting entities of the times and dates that reports are due.

Information collection requirements that are included in this proposal include:

(1) Dairy Products Sales, Cheddar Cheese

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 20 minutes per week for each report submitted.

*Respondents:* Cheddar cheese manufacturers. Each reporting entity may report for a single cheddar cheese plant or it may report for more than one cheddar cheese plant, depending upon how the business is structured.

*Estimated Number of Respondents:* 28.

*Estimated Total Annual Burden on Respondents:* 485 hours.

(2) Dairy Products Sales, Butter

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 20 minutes per week for each report submitted.

*Respondents:* Butter manufacturers. Each reporting entity may report for a single butter plant or it may report for more than one butter plant, depending upon how the business is structured.

*Estimated Number of Respondents:* 20.

*Estimated Total Annual Burden on Respondents:* 347 hours.

(3) Dairy Products Sales, Nonfat Dry Milk

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 20 minutes per week for each report submitted.

*Respondents:* NFDM manufacturers. Each reporting entity may report for a single NFDM plant or it may report for more than one NFDM plant, depending upon how the business is structured.

*Estimated Number of Respondents:* 26.

*Estimated Total Annual Burden on Respondents:* 451 hours.

(4) Dairy Products Sales, Dry Whey

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 20 minutes per week for each report submitted.

*Respondents:* Dry whey manufacturers. Each reporting entity may report for a single dry whey plant or it may report for more than one dry whey plant, depending upon how the business is structured.

*Estimated Number of Respondents:* 21.

*Estimated Total Annual Burden on Respondents:* 364 hours.

(5) Annual Validation Survey

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 20 minutes per year for each report submitted.

*Respondents:* Dairy manufacturers. Each reporting entity may report for a single plant or it may report for more than one plant, depending upon how the business is structured.

*Estimated Number of Respondents:* 180.

*Estimated Total Annual Burden on Res*pondents: 60 hours.

(6) Survey Follow-Up, Verification

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 5 minutes for each contact from AMS.

*Respondents:* Dairy manufacturers. Each reporting entity may report for a single plant or it may report for more than one plant, depending upon how the business is structured.

*Estimated Number of Respondents:* 7 per week.

*Estimated Total Annual Burden on Respondents:* 30 hours.

Copies of this information collection and related instructions can be obtained without charge from John Mengel, Chief Economist, *john.mengel@ams.usda.gov.*

**Request for Public Comment Under the Paperwork Reduction Act**

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on those who are to respond.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Except as otherwise directed by the Secretary of Agriculture or the U.S. Attorney General for enforcement purposes, no officer, employee, or agent of the United States shall provide the public any information, statistics, or documents obtained from or submitted by any person under the Act that does not ensure preservation of confidentiality regarding the identity of persons, including parties to contracts and proprietary business information. All report forms include a statement that individual reports are kept confidential.

With respect to the application of the Privacy Act of 1974 (5 U.S.C. 552a) to the maintenance of records required by the Act, the Dairy Products Sales survey population consists of dairy product manufacturers. Data collected by this survey relates to manufacturers' operations and transactions and not to those of individuals. Records maintained at business sites for verification of information that would be reported to AMS include contracts, agreements, receipts and other materials related to sales of specific dairy products. No records about individuals would be maintained by AMS for this survey, and AMS believes that none would be part of these maintained business papers.

**Request for Public Comment on Proposals To Change to 7 CFR Part 1170**

This rule proposes that AMS be responsible for collection of sales data and reporting; that reporting entities be required to submit, by an electronic means specified by AMS, a report to AMS by Tuesday, 12 noon local time of reporting entities (unless adjusted because of a Federal holiday and communicated to dairy product manufacturers by AMS before the beginning of the calendar year), of all

products sold as specified in § 1170.8 during the 7 days ending 12 midnight of the previous Saturday, local time of the plant or storage facility where the sales are made; and that not later than 3 p.m. Eastern Time on Wednesday of each week (unless adjusted because of a Federal holiday and publicly announced by AMS before the beginning of the calendar year), AMS shall publish aggregated information obtained from manufacturers or other persons of all products sold as specified in § 1170.8. Conforming changes are proposed where necessary since data collection and publication responsibilities would be transferred from NASS to AMS. AMS specifically requests comments concerning changes proposed in this rule.

AMS will review all timely comments received and will consider these comments in developing a final rule.

**List of Subjects in 7 CFR Part 1170**

Dairy products, Reporting and recordkeeping requirements, Cheese, Butter, Whey, Nonfat dry milk.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1170 be amended as follows:

## PART 1170—DAIRY PRODUCT MANDATORY REPORTING

1. The authority citation for 7 CFR part 1170 is amended to read as follows:

**Authority:** 7 U.S.C. 1637–1637b, as amended by Public Law 106–532, 114 Stat. 2541; Public Law 107–171, 116 Stat. 207; and Public Law. 111–239, 124 Stat. 2501.

2. Revise § 1170.2 to read as follows:

### § 1170.2 Act.

*Act* means the Agricultural Marketing Act of 1946, 7 U.S.C. 1621 *et seq.,* as amended by the Dairy Market Enhancement Act of 2000, Public Law 106–532, 114 Stat. 2541; the Farm Security and Rural Investment Act of 2002, Public Law 107–171, 116 Stat. 207; and the Mandatory Price Reporting Act of 2010, Public Law 111–239, 124 Stat. 2501.

3. Revise § 1170.7 to read as follows:

### § 1170.7 Reporting requirements.

(a) All dairy product manufacturers, with the exception of those who are exempt as described in § 1170.9, shall submit a report weekly to the Agricultural Marketing Service (AMS) by Tuesday, 12 noon local time of reporting entities, on all products sold as specified in § 1170.8 during the 7 days ending 12 midnight of the previous Saturday, local time of the plant or storage facility where the sales are made. If a Federal holiday falls on Monday through Wednesday of a particular week, the due date for report submission may be adjusted. Prior to the beginning of each calendar year, AMS shall release, to manufacturers that are required to report, the times and dates that reports are due. The report is to be submitted by electronic means specified by AMS and shall indicate the name, address, plant location(s), quantities sold, total sales dollars or dollars per pound for the applicable products, and the moisture content where applicable. Each sale shall be reported for the time period when the transaction is completed, i.e. the product is "shipped out" and title transfer occurs. Each sale shall be reported either f.o.b. plant if the product is "shipped out" from the plant or f.o.b. storage facility location if the product is "shipped out" from a storage facility. In calculating the total dollars received or dollars per pound, the reporting entity shall neither add transportation charges incurred at the time the product is "shipped out" or after the product is "shipped out" nor deduct transportation charges incurred before the product is "shipped out." In calculating the total dollars received or dollars per pound, the reporting entity shall not deduct brokerage fees or clearing charges paid by the manufacturer.

(b) Manufacturers or other persons storing dairy products are required to report, on a monthly basis, stocks of dairy products (as defined in § 1170.4) on hand, on the appropriate forms supplied by the National Agricultural Statistic Service. The report shall indicate the name, address, and stocks on hand at the end of the month for each storage location.

4. Revise § 1170.8 (a)(3)(ii) to read as follows:

### § 1170.8 Price reporting specifications.

* * * * *

(a) * * *

(3) * * *

(ii) *500-pound barrels:* Report weighted average moisture content of cheese sold. AMS will adjust price to a benchmark of 38.0 percent based on standard moisture adjustment formulas. Exclude cheese with moisture content exceeding 37.7 percent.

* * * * *

5. Add § 1170.17 to read as follows:

### § 1170.17 Publication of statistical information.

Not later than 3 p.m. Eastern Time on the Wednesday of each week, AMS shall publish aggregated information obtained by manufacturers or other persons of all products sold as specified in § 1170.8. If a Federal holiday falls on Monday through Wednesday of a particular week, the due date for report publication may be adjusted. The public shall be notified of report times prior to the beginning of the calendar year.

Dated: June 7, 2011.

**Ellen King,**

*Acting Administrator, Agricultural Marketing Service.*

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BILLING CODE 3410–02–P

## NUCLEAR REGULATORY COMMISSION

## 10 CFR Part 50

**[NRC–2010–0267]**

## Draft Regulatory Basis for a Potential Rulemaking on Spent Nuclear Fuel Reprocessing Facilities

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule; public meeting and request for comments.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or the Commission) plans to conduct a two-day public meeting in Augusta, Georgia, to solicit input on issues associated with the development of a draft regulatory basis document for a potential rulemaking on spent nuclear fuel reprocessing facilities.

**DATES:** The public meeting will be held on June 21 and 22, 2011, from 9 a.m. to 5 p.m. See **ADDRESSES** section for public meeting location. Submit comments on the issues and questions presented in this document and discussed at the meeting by July 7, 2011. Comments received after this date will be considered if it is practical to do so.

**ADDRESSES:** The public meeting will be held at the Hilton Garden Inn Augusta, 1065 Stevens Creek Road, Augusta, GA 30907; *telephone:* 706–739–9990. Please include Docket ID NRC–2010–0267 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, *http://www.regulations.gov*. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their

comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. 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–2010–0267. Address questions about NRC dockets to Carol Gallagher; *telephone:* 301–492–3668; *e-mail: Carol.Gallagher@nrc.gov*.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attn:* Rulemakings and Adjudications Staff.
- *E-mail comments to: Rulemaking.Comments@nrc.gov*. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1677.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (*telephone:* 301–415–1677).
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

You can access publicly available documents related to this document using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library 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.*
- *Federal Rulemaking Web Site:* Public comments and supporting materials related to this proposed rule can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2010–0267.

**FOR FURTHER INFORMATION CONTACT:** Raj Iyengar, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; *telephone:* 301–492–3174; *e-mail: Raj.Iyengar@nrc.gov* or John Sulima, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; *telephone:* 301–492–3180; *e-mail: John.Sulima@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Commission directed the NRC staff, in a staff requirements memorandum, SRM–SECY–07–0081 (ML071800084), to perform a gap analysis to identify what changes in regulatory requirements would be necessary to license a reprocessing facility. The staff was also directed to provide a technical basis document with recommended options on a path forward and an associated rulemaking plan, if appropriate, for licensing facilities associated with reprocessing of spent nuclear fuel. The staff provided the Commission with information on the regulatory structure for spent fuel reprocessing (SECY–08–0134, ML082110363) and an update on the reprocessing regulatory framework (SECY–09–0082, ML091520280 and ML091520365). In May 2010, the staff provided, in a memorandum to the Commission, an annual update on reprocessing activities and stated that it anticipated that it could complete the draft regulatory basis (formerly referred to as "technical basis") by September 2011.

The NRC has the authority under the Atomic Energy Act to license commercial spent fuel reprocessing facilities. Currently, Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," provides the licensing framework for production and utilization facilities. Although a reprocessing facility is one type of production facility, its industrial processes are more akin to fuel cycle processes. This framework was established in the 1970's to license the first U.S. reprocessing facilities. The policy decision by the Carter Administration to cease reprocessing initiatives was based, in part, on the proliferation risks posed by the early reprocessing technology. While that policy was reversed during the Reagan Administration, until recently there was no commercial interest in reprocessing and, hence, no need to update the existing reprocessing regulatory framework in 10 CFR part 50.

Although commercial reprocessing interest waned, the Department of Energy (DOE) continued to pursue reprocessing technology development through the National Laboratories. The DOE has sought to decrease proliferation risk and spent fuel high-level waste through developing more sophisticated reprocessing technologies.

During the Bush Administration, the Global Nuclear Energy Partnership (GNEP) renewed interest in commercial reprocessing. The GNEP sought to expand the use of civilian nuclear power globally and close the nuclear fuel cycle through reprocessing spent fuel and deploying fast reactors to burn long-lived actinides. In response to these initiatives, the Commission directed the staff to complete an analysis of 10 CFR part 50 to identify regulatory gaps for licensing an advanced reprocessing facility.

In mid-2008, two nuclear industry companies informed the NRC of their intent to seek a license for a reprocessing facility in the U.S. An additional company expressed its support for updating the regulatory framework for reprocessing, but stopped short of stating its intent to seek a license for such a facility. At the time, the NRC staff also noted that progress on some GNEP initiatives had waned and it appeared appropriate to shift the focus of the NRC staff's efforts from specific GNEP-facility regulations to a more broadly applicable framework for commercial reprocessing facilities.

In SECY–08–0134, the staff discussed the shift in its approach to developing the regulatory framework for commercial reprocessing facilities. The staff noted that it would defer additional work on regulatory framework development efforts for advanced recycling reactors and focus on the framework revisions necessary to license a commercial reprocessing facility. As a result of this shift, an additional review of the initial gap analysis was warranted.

The NRC staff further refined the regulatory gap analysis by focusing on commercial reprocessing and recycling using existing reactor technology. The staff summarized this analysis in SECY–09–0082. The staff's gap analysis identified 14 "high" priority gaps that must be resolved to establish an effective and efficient regulatory framework. The NRC staff's regulatory gap analysis considered several documents in its analysis, including: NUREG–1909, a white paper authored by the Advisory Committee on Nuclear Waste and Materials, titled "Background, Status and Issues Related to the Regulation of Advanced Spent Nuclear Fuel Recycle Facilities," issued June 2008; correspondence from the Union of Concerned Scientists titled, "Revising the Rules for Materials Protection, Control and Accounting;" and a Nuclear Energy Institute white

paper titled, "Regulatory Framework for an NRC Licensed Recycling Facility."

Building on the gap analysis, efforts are currently underway to develop a regulatory basis (formerly known as "technical basis") to pursue rulemaking that would enable the effective licensing and regulation of reprocessing facilities. The status of the regulatory basis development and estimated schedule for completing the reprocessing regulatory framework development are summarized in the May 14, 2010, memorandum to the Commission (ADAMS ML101110444).

Stakeholder perspectives have provided significant input into the development process through the two public workshops which occurred on September 8, 2010, in Rockville, Maryland, and on October 19, 2010, in Albuquerque, New Mexico. The NRC staff considered the stakeholders' feedback in the development of the regulatory framework. The proposed workshop in Augusta, Georgia is intended to further enhance the development of the regulatory framework and to continue the pursuit of an open and transparent regulatory process.

The NRC develops a foundation for a rulemaking before beginning the process to develop the rule. An adequate regulatory basis forms the foundation for a rule. The regulatory basis provides the justification for rulemaking as the appropriate path forward, describes the technical, legal, or policy information that supports the direction and content of the rulemaking, and provides a basis for informed decisions to be made as the rulemaking process continues. A regulatory basis may include background information and a listing of documents that supported or addressed the current regulation or policy, or that support staff positions in the regulatory basis.

The NRC staff is using the gaps and their resolution as the framework for the regulatory basis for a potential rulemaking for licensing a spent nuclear fuel reprocessing facility. The NRC staff is in the process of completing an initial draft of the regulatory basis. To facilitate stakeholder involvement and obtain comments on the NRC's approach and rationale for resolving the regulatory gaps, the staff is compiling summaries of the initial draft text for each gap. The gap summaries, as appropriate, will include questions where the NRC staff is seeking input that will assist in completing the draft regulatory basis. During any potential rulemaking, the NRC staff will consider the need for and the development of associated guidance. Thus, the NRC staff is compiling a list of potentially pertinent guidance documents. The summary documents for the gaps and a listing of potentially pertinent guidance documents will be made available at *http://www.regulations.gov* under Docket ID NRC–2010–0267 no later than 15 days prior to the meeting on June 21–22, 2011.

The agenda for the public meeting will be noticed ten (10) days prior to the meeting on the NRC's public meeting schedule Web site at *http://www.nrc.gov/public-involve/public-meetings/index.cfm.* Please refer to the Section II of the **SUPPLEMENTARY INFORMATION** section for additional information on the issues proposed for discussion at the public workshops. Members of the public may provide feedback at the transcribed public meeting or may submit comments on the issues discussed in this document by any method provided in the **ADDRESSES** section.

The NRC plans to consider these stakeholder views in the development of the draft regulatory basis. During the June 21–22, 2011, public meeting, the NRC staff will invite representatives of interested stakeholders, in a "roundtable" format, to provide input, comments, and perspectives on the issues being considered in the development of the draft regulatory basis for a potential rulemaking on spent nuclear fuel reprocessing facilities. In order to have a manageable discussion, the number of participants around the table will be limited. The NRC will attempt to ensure broad participation by the spectrum of interests affected by the potential rulemaking, including citizen and environmental groups, nuclear industry interests, State, and local governments, and experts from academia and other Federal agencies. Other members of the public are welcome to attend and participate. Those not seated at the tables, including individual members of the public, will have the opportunity to provide feedback on each of the issues slated for discussion by the roundtable participants. Questions about participation in the roundtable discussion may be directed to the points of contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

## II. Issues for Discussion

During the public meeting, the NRC plans to solicit stakeholder comments and feedback during separate discussion sessions, which will broadly cover four main areas of the regulatory basis for licensing commercial reprocessing facilities: (1) Regulatory framework, (2) waste management and environmental considerations, (3) safety, risk, and licensing considerations, and (4) security considerations and materials control and accounting. Each area includes the gaps related to that topic.

In the summary documents posted at *http://www.regulations.gov,* specific questions related to the gaps will be included. These questions will shape the public meeting discussion and the feedback obtained will be considered in the resolution of the gaps.

As part of the potential rulemaking, the NRC staff will consider the need for and development of associated guidance. The listing of potentially pertinent guidance documents will be made available prior to the meeting on June 21–22, 2011, at *http://www.regulations.gov* under Docket ID NRC–2010–0267. This list will include standard review plans that may be applicable to the potential rulemaking.

Furthermore, in developing options for a potential rulemaking the NRC staff seeks information on what timeline should be considered for rulemaking. Is there a point when it becomes critical for this rulemaking to become effective?

Dated at Rockville, Maryland this 6th day of June, 2011.

For the Nuclear Regulatory Commission.

**Jack Guttmann,**

*Chief, Engineering Branch, Technical Review Directorate, Division of High Level Waste Repository Safety, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2011–14540 Filed 6–9–11; 8:45 am]

BILLING CODE 7590–01–P

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Part 43**

**[Docket No. OCC–2011–0002]**

**RIN 1557–AD40**

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 244**

**[Docket No. 2011–1411]**

**RIN 7100–AD 70**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 373**

**RIN 3064–AD74**

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 246**

**[Release No. 34–64603; File No. S7–14–11]**

**RIN 3235–AK96**

**FEDERAL HOUSING FINANCE AGENCY**

**12 CFR Part 1234**

**RIN 2590–AA43**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 267**

**RIN 2501–AD53**

## Credit Risk Retention

**AGENCIES:** Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); U.S. Securities and Exchange Commission (Commission); Federal Housing Finance Agency (FHFA); and Department of Housing and Urban Development (HUD).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On April 29, 2011, the OCC, Board, FDIC, Commission, FHFA and HUD (collectively, the "Agencies") published in the **Federal Register** a joint notice of proposed rulemaking for public comment to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934, as added by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Credit Risk NPR" or "proposed rule").

Due to the complexity of the rulemaking and to allow parties more time to consider the impact of the Credit Risk NPR on affected markets, the Agencies have determined that an extension of the comment period until August 1, 2011, is appropriate. This action will allow interested persons additional time to analyze the proposed rules and prepare their comments.

**DATES:** The comment period for the proposed rule published April 29, 2011, at 76 FR 24090, is extended. Comments on the Credit Risk NPR must be received on or before August 1, 2011.

**ADDRESSES:** You may submit comments by any of the methods identified in the Credit Risk NPR. Please submit your comments using only one method.

**FOR FURTHER INFORMATION CONTACT:**

*OCC:* Chris Downey, Risk Specialist, Financial Markets Group, (202) 874–4660; Kevin Russell, Director, Retail Credit Risk, (202) 874–5170; Darrin Benhart, Director, Commercial Credit Risk, (202) 874–5670; or Jamey Basham, Assistant Director, or Carl Kaminski, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

*Board:* Benjamin W. McDonough, Counsel, (202) 452–2036; April C. Snyder, Counsel, (202) 452–3099; Sebastian R. Astrada, Attorney, (202) 452–3594; or Flora H. Ahn, Attorney, (202) 452–2317, Legal Division; Thomas R. Boemio, Manager, (202) 452–2982; Donald N. Gabbai, Senior Supervisory Financial Analyst, (202) 452–3358; or Sviatlana A. Phelan, Financial Analyst, (202) 912–4306, Division of Banking Supervision and Regulation; Andreas Lehnert, Deputy Director, Office of Financial Stability Policy and Research, (202) 452–3325; or Brent Lattin, Counsel, (202) 452–3367, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

*FDIC:* Beverlea S. Gardner, Special Assistant to the Chairman, (202) 898–3640; Mark L. Handzlik, Counsel, (202) 898–3990; Phillip E. Sloan, Counsel, (703) 562–6137; Petrina R. Dawson, Counsel, (703) 562–2688; or Jeannette Roach, Counsel, (202) 898–3785, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

*Commission:* Jay Knight, Special Counsel, or Katherine Hsu, Chief, Office of Structured Finance, Division of Corporation Finance, at (202) 551–3753, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628.

*FHFA:* Patrick J. Lawler, Associate Director and Chief Economist, *Patrick.Lawler@fhfa.gov,* (202) 414–3746; Austin Kelly, Associate Director for Housing Finance Research, *Austin.Kelly@fhfa.gov,* (202) 343–1336; Phillip Millman, Principal Capital Markets Specialist, *Phillip.Millman@fhfa.gov,* (202) 343–1507; or Thomas E. Joseph, Senior Attorney Advisor, *Thomas.Joseph@fhfa.gov,* (202) 414–3095; Federal Housing Finance Agency, Third Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

*HUD:* Robert C. Ryan, Acting Assistant Secretary for Housing—Federal Housing Commissioner, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 9100, Washington, DC 20410; telephone number (202) 402–5216 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** On April 29, 2011, the Credit Risk NPR was published in the **Federal Register**.[1] The Credit Risk NPR proposes to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934 (15 U.S.C. 78o–11), as added by section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). Section 15G generally requires the securitizer of asset-backed securities ("ABS") to retain an economic interest of no less than five percent in the credit risk of the assets collateralizing the ABS. Section 15G includes a variety of exemptions from this requirement, including an exemption for asset-backed securities that are collateralized exclusively by "qualified residential mortgages," as such term is defined by the Agencies by rule.

The Credit Risk NPR would specify credit risk retention requirements for securitizers of ABS. In designing the proposed rules, the Agencies sought to ensure that the amount of credit risk retained would be meaningful—consistent with the purposes of section 15G—while reducing the potential for the proposed rules to negatively affect the availability and cost of credit to

[1] *See* 76 FR 24090.

consumers and businesses. In recognition of the complexities of the rulemaking and the variety of considerations involved in its impact and implementation, the Agencies requested that commenters respond to numerous questions. The Credit Risk NPR stated that the public comment period would close on June 10, 2011.[2]

The Agencies have received requests from the public for an extension of the comment period to allow for sufficient time for data gathering and impact analyses related to the provisions of the proposed rule.[3] The Agencies believe that it is important for interested persons to have additional time to fully review the provisions of the proposed rule and the questions posed by the Agencies, and to conduct appropriate data collection and analysis on the potential impact of the Credit Risk NPR prior to submitting comment. Therefore, the Agencies are extending the comment period for the Credit Risk NPR from June 10, 2011 to August 1, 2011.

Dated: June 3, 2011.

**John Walsh,**

*Acting Comptroller of the Currency.*

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary under delegated authority, June 6, 2011.

**Jennifer J. Johnson,**

*Secretary of the Board.*

Dated at Washington, DC, this 3rd day of June 2011.

By order of the Board of Directors. Federal Deposit Insurance Corporation.

**Valerie J. Best,**

*Assistant Executive Secretary.*

By the Securities and Exchange Commission.

Dated: June 6, 2011.

**Elizabeth M. Murphy,**

*Secretary.*

Dated: June 2, 2011.

**Edward J. Demarco,**

*Acting Director, Federal Housing Finance Agency.*

Jointly prescribed with the Agencies.

By the Department of Housing and Urban Development.

Dated: June 6, 2011.

**Robert C. Ryan,**

*Acting Assistant Secretary Housing—Federal Housing Commissioner.*

[FR Doc. 2011–14444 Filed 6–9–11; 8:45 am]

**BILLING CODE 6714–01–P; BILLING CODE 4810–33–P; BILLING CODE 6210–01–P; BILLING CODE 8011–01–P; BILLING CODE 8070–01–P; BILLING CODE 4210–67–P**

[2] *See id.*

[3] *See, e.g.,* comment letters to the Agencies from American Bankers Association *et al.* (May 13, 2011) and The Loan Syndications and Trading Association (May 26, 2011); and press release from Realogy Corporation (May 10, 2011).

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2011–0597; Directorate Identifier 2011–CE–019–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Viking Air Limited (Type Certificate No. A–815 Formerly Held by Bombardier Inc. and de Havilland, Inc.) Model DHC–3 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to supersede an existing airworthiness directive (AD) that applies to the products listed above. The existing AD currently requires repetitively inspecting the elevator control tabs for discrepancies and, if any discrepancies are found, taking necessary corrective actions to bring all discrepancies within acceptable tolerances. The existing AD also requires reporting certain inspection results to the FAA. Since we issued that AD, we determined that we inadvertently omitted certain airplanes from the Applicability section. This proposed AD would retain the actions currently required in AD 2011–05–02 and remove the Supplemental Type Certificate (STC) SA01059SE condition in the Applicability section. We are proposing this AD to add new repetitive inspections of the elevator control tabs. If these inspections are not done, excessive free-play in the elevator control tabs could develop. This condition could lead to loss of tab control linkage and severe elevator flutter. Such elevator flutter could lead to possible loss of control.

**DATES:** We must receive comments on this proposed AD by July 25, 2011.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For information about the revisions to the FAA-approved maintenance/inspection program identified in this AD, contact Viking Air Ltd., 9574 Hampden Road, Sidney, BC Canada V8L 5V5; telephone: (800) 663–8444; Internet: *http://www.vikingair.com.* You may review copies of the referenced revisions at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

### Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** George Duckett, Aerospace Engineer, New York Aircraft Certification Office, FAA, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228–7325; fax: (516) 794–5531; e-mail: *george.duckett@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0597; Directorate Identifier 2011–CE–019–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

### Discussion

On February 15, 2011, we issued AD 2011–05–02, Amendment 39–16611 (76 FR 10220, February 24, 2011), for certain Viking Air Limited (Type Certificate No. A–815 formerly held by Bombardier Inc. and de Havilland, Inc.) Model DHC–3 airplanes. That AD requires repetitively inspecting the

elevator control tabs for discrepancies and, if any discrepancies are found, taking necessary corrective actions to bring all discrepancies within acceptable tolerances. That AD also requires reporting certain inspection results to the FAA. That AD resulted from an evaluation of revisions to the manufacturer's maintenance manual that adds new repetitive inspections of the elevator control tabs. To require compliance with these inspections for U.S. owners and operators we mandated the inspections through the rulemaking process. We issued that AD to add new repetitive inspections of the elevator control tabs. If these inspections are not done, excessive free-play in the elevator control tabs could develop. This condition could lead to loss of tab control linkage and severe elevator flutter. Such elevator flutter could lead to possible loss of control.

**Actions Since Existing AD Was Issued**

Since we issued AD 2011–05–02, we determined that we inadvertently omitted certain airplanes from the Applicability section. The current Applicability section includes Model DHC–3 airplanes, all serial numbers, that do not have the new elevator servo tab and redundant control linkage installed according to Supplemental Type Certificate (STC) No. SA01059SE and that are certificated in any category.

The actions currently required in AD 2011–05–02 were intended for all Model DHC–3 airplanes regardless if the installation of the redundant linkage was done according to Supplemental Type Certificate (STC) SA01059SE.

**FAA's Determination**

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

**Proposed AD Requirements**

This proposed AD would retain all of the requirements of AD 2011–05–02. This proposed AD would add airplanes to the applicability statement of the existing AD by removing the STC SA01059SE condition.

**Interim Action**

We are continuing to evaluate the cause of the unsafe condition identified in this proposed AD to enable us to obtain better insight into the nature, cause, and extent of excessive free-play in the elevator control tabs. Based on this evaluation, we may consider further rulemaking.

**Costs of Compliance**

We estimate that this proposed AD affects 65 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection | 1 work-hour × $85 per hour = $85 per inspection cycle. | Not applicable | $85 per inspection cycle | $5,525 per inspection cycle. |

We estimate the following costs to do any necessary follow-on actions that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need this repair/replacement:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Minimum repair | 1 work-hour × $85 per hour = $85 | $50 | $135 |
| Moderate repair | 3 work-hours × $85 per hour = $255 | 150 | 405 |
| Maximum repair | 6 work-hours × $85 per hour = $510 | 450 | 960 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

(1) Is not a "significant regulatory action" under Executive Order 12866,

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

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

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

**List of Subjects in 14 CFR Part 39**

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. The FAA amends § 39.13 by removing airworthiness directive (AD) AD 2011–05–02, Amendment 39–16611 (76 FR 10220, February 24, 2011), and adding the following new AD:

**Viking Air Limited (Type Certificate No. A–815 Formerly Held by Bombardier Inc. and de Havilland, Inc.):** Docket No. FAA–2011–0597; Directorate Identifier 2011–CE–019–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by July 25, 2011.

**Affected ADs**

(b) This AD supersedes AD 2011–05–02, Amendment 39–16611.

**Applicability**

(c) This AD applies to Viking Air Limited (type certificate No. A–815 formerly held by Bombardier Inc. and de Havilland, Inc.) Model DHC–3 airplanes, all serial numbers, that are certificated in any category.

**Subject**

(d) Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 27, Flight Controls.

**Unsafe Condition**

(e) This AD results from an evaluation of revisions to the manufacturer's maintenance manual that adds new repetitive inspections to the elevator control tabs. To require compliance with these inspections for U.S. owners and operators we are mandating these inspections through the rulemaking process. We are issuing this AD to add new repetitive inspections of the elevator control tabs. If these inspections are not done, excessive free-play in the elevator control tabs could develop. This condition could lead to loss of tab control linkage and severe elevator flutter. Such elevator flutter could lead to possible loss of control.

**Compliance**

(f) Comply with this AD within the compliance times specified, unless already done.

| Actions | Compliance | Procedures |
|---|---|---|
| (1) Inspect the elevator control tabs for discrepancies. | (i) *For airplanes previously affected by AD 2011–05–02:* Initially within the next 50 hours time-in-service (TIS) after March 31, 2011 (the effective date retained from AD 2011–05–02).<br>(ii) *For airplanes not previously affected by AD 2011–05–02:* Initially within the next 50 hours time-in-service (TIS) after the effective date of this AD.<br>(iii) *For all affected airplanes:* Repetitively thereafter inspect at intervals not to exceed 100 hours TIS. | Following Viking DHC–3 Otter Maintenance Manual Temporary Revisions No. 18, No. 19, and No. 20, all dated December 5, 2008. |
| (2) If any discrepancies are found during any inspection required in paragraph (f)(1) of this AD, take necessary corrective actions to bring all discrepancies within acceptable tolerances. | *For all affected airplanes:* Before further flight after any inspection required in paragraph (f)(1) of this AD in which discrepancies are found. | Following Viking DHC–3 Otter Maintenance Manual Temporary Revisions No. 18, No. 19, and No. 20, all dated December 5, 2008. |
| (3) If, during any inspection required in paragraph (f)(1) of this AD, the total maximum free play of the elevator servo tab and trim tab relative to the elevator exceeds 1.0 degree (this is equal to a maximum displacement of 0.070″ at the trailing edge), report the results of the inspection to the FAA. | *For all affected airplanes:* Within 30 days after the inspection or within the next 10 days after the effective date of this AD, whichever occurs later. *For airplanes previously affected by AD 2011–05–02:* We are collecting these inspection results for 24 months after March 31, 2011 (the effective date retained from AD 2011–05–02). *For airplanes not previously affected by AD 2011–05–02:* We are collecting these inspection results for 24 months after the effective date of this AD. The reporting requirements of this AD are no longer required after that time. | Use the form (Figure 1 of this AD) and submit it to FAA, Small Airplane Directorate, Attn: Jim Rutherford, 901 Locust, Room 301, Kansas City, Missouri 64106. |

DOCKET NO. FAA–2011–0597

| | |
|---|---|
| Airplane Serial Number: | |
| Time-in-Service (TIS) of Airplane: | |
| Airplane Engine Type/Model Number/Series Number: | |
| TIS of Airplane When Current Engine was Installed: | |
| Date When Current Engine was Installed: | |
| STC Number that Installed Current Engine (if applicable): | |
| Out of Tolerance Recording: | |

DOCKET NO. FAA–2011–0597—Continued

| | |
|---|---|
| Corrective Action Taken: | |
| Any Additional Information (Optional): | |
| Name: | |
| Telephone and/or E-mail Address: | |
| Date: | |

Send report to: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; facsimile: (816) 329–4090; e-mail: *jim.rutherford@faa.gov.*

**Figure 1**

**Paperwork Reduction Act Burden Statement**

(g) A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave., SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**Alternative Methods of Compliance (AMOCs)**

(h)(1) The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your Principal Maintenance Inspector or Principal Avionics Inspector, as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

**Related Information**

(i) For more information about this AD, contact George Duckett, Aerospace Engineer, New York ACO, FAA, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228–7325; fax: (516) 794–5531; e-mail: *george.duckett@faa.gov.*

(j) To get information about the revisions to the maintenance program identified in this proposed AD, contact Viking Air Ltd., 9574 Hampden Road, Sidney, BC Canada V8L 5V5; telephone: (800) 663–8444; Internet: *http://www.vikingair.com.* You may review copies of the referenced revision at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

Issued in Kansas City, Missouri, on June 6, 2011.

**John Colomy,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2011–14396 Filed 6–9–11; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2011–0565; Directorate Identifier 2010–NM–280–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Model CL–215–1A10, CL–215–6B11 (CL–215T Variant), and CL–215–6B11 (CL–415 Variant) Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

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

The emergency water dump pulley support bracket assembly, Part Number (P/N) 215–94711–2, has been found cracked or broken on a number of aeroplanes. Failure of the emergency water dump pulley support bracket assembly in combination with other system failures such as an engine failure during take off or pitch control system jam, may result in a loss of control of the aeroplane.

* * * * *

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

**DATES:** We must receive comments on this proposed AD by July 25, 2011.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier,

Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; e-mail *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

## Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Andy Rambalakos, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7345; fax (516) 794–5531.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0565; Directorate Identifier 2010–NM–280–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

## Discussion

Transport Canada Civil Aviation, which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2010–38R2, dated March 17, 2011 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> The emergency water dump pulley support bracket assembly, Part Number (P/N) 215–94711–2, has been found cracked or broken on a number of aeroplanes. Failure of the emergency water dump pulley support bracket assembly in combination with other system failures such as an engine failure during take off or pitch control system jam, may result in a loss of control of the aeroplane.
>
> Revision 2 of this AD is issued to ensure that terminating action for this AD is carried out prior to the 2011 fire season.

The required actions include a general visual inspection to determine if either universal solid (round head) rivets or flush rivets of the bracket assembly of the emergency water dump pulley are installed; replacing the solid rivets with flush rivets and installing new stiffeners on the bracket assembly of the emergency water dump pulley, if necessary; a detailed inspection and a liquid penetrant inspection of the stiffeners for cracks, deformations, or signs of corrosion, and replacing the stiffeners with new stiffeners if necessary; and re-installing the bracket assembly of the emergency water dump pulley using radius packers. You may obtain further information by examining the MCAI in the AD docket.

## Relevant Service Information

Bombardier, Inc. has issued Service Bulletin 215–A543, Revision 1, dated June 23, 2010; and Service Bulletin 215–A4424, Revision 2, dated June 23, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

## FAA's Determination and Requirements of This Proposed AD

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

## Differences Between This AD and the MCAI or Service Information

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

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

## Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 6 products of U.S. registry. We also estimate that it would take about 40 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $20,400, or $3,400 per product.

We have received no definitive data that would enable us to provide a cost estimate for the on-condition actions specified in this AD.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

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

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

### List of Subjects in 14 CFR Part 39

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

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Bombardier, Inc.:** Docket No. FAA–2011–0565; Directorate Identifier 2010–NM–280–AD.

**Comments Due Date**

(a) We must receive comments by July 25, 2011.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Bombardier, Inc. Model CL–215–1A10 airplanes, serial numbers 1051 through 1125 inclusive; Model CL–215–6B11 (CL–215T Variant) airplanes, serial numbers 1056 through 1125 inclusive; and Model CL–215–6B11 (CL–415 Variant) airplanes, serial numbers 2001 through 2085 inclusive; certificated in any category.

**Subject**

(d) Air Transport Association (ATA) of America Code 25: Equipment/Furnishings.

**Reason**

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

The emergency water dump pulley support bracket assembly, Part Number (P/N) 215–94711–2, has been found cracked or broken on a number of aeroplanes. Failure of the emergency water dump pulley support bracket assembly in combination with other system failures such as an engine failure during take off or pitch control system jam, may result in a loss of control of the aeroplane.

* * * * *

**Compliance**

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

**Inspections and Corrective Actions**

(g) Within 50 flight cycles or 30 days after the effective date of this AD, whichever occurs first, do a general visual inspection to determine if either universal solid (round head) rivets or flush rivets of the bracket assembly of the emergency water dump pulley are installed, in accordance with the Accomplishment Instruction of Bombardier Service Bulletin 215–A543, Revision 1, dated June 23, 2010 (for Model CL–215–1A10 and CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Service Bulletin 215–A4424, Revision 2, dated June 23, 2010 (for Model CL–215–6B11 (CL–415 Variant) airplanes).

(h) If, during the inspection required by paragraph (g) of this AD, universal solid rivets are determined to be installed: Within 50 flight cycles or 30 days after the effective date of this AD, whichever occurs first, replace the solid rivets with flush rivets, and install new stiffeners on the bracket assembly of the emergency water dump pulley, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 215–A543, Revision 1, dated June 23, 2010 (for Model CL–215–1A10 and CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Service Bulletin 215–A4424, Revision 2, dated June 23, 2010 (for Model CL–215–6B11 (CL–415 Variant) airplanes).

(i) If, during the inspection required by paragraph (g) of this AD, flush rivets are determined to be installed; and for airplanes on which flush rivets are installed in accordance with paragraph (h) of this AD: Within 100 flight cycles or 60 days after the effective date of this AD, whichever occurs first, do a detailed inspection of the stiffeners for cracks, deformation, and signs of corrosion, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 215–A543, Revision 1, dated June 23, 2010 (for Model CL–215–1A10 and CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Service Bulletin 215–A4424, Revision 2, dated June 23, 2010 (for Model CL–215–6B11 (CL–415 Variant) airplanes). Thereafter, at intervals not to exceed 100 flight cycles, repeat the detailed inspections of the stiffeners. If any crack, deformation, or signs of corrosion are found, before further flight, replace the stiffeners with new stiffeners, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 215–A543, Revision 1, dated June 23, 2010 (for Model CL–215–1A10 and CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Service Bulletin 215–A4424, Revision 2, dated June 23, 2010 (for Model CL–215–6B11 (CL–415 Variant) airplanes).

(j) Within 100 flight cycles or 60 days after the effective date of this AD, whichever occurs first, do the actions specified in paragraphs (j)(1) and (j)(2) of this AD. Installation of the radius packers terminates the repetitive detailed inspections of the support bracket assembly of the emergency water dump pulley required by paragraph (i) of this AD.

(1) Do a liquid penetrant inspection of the stiffeners having P/N 215–94711–6 and P/N 215–94711–8 for cracks, deformation, or signs of corrosion, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 215–A543, Revision 1, dated June 23, 2010 (for Model CL–215–1A10 and CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Service Bulletin 215–A4424, Revision 2, dated June 23, 2010 (for Model CL–215–6B11 (CL–415 Variant) airplanes). If any crack, deformation, or sign of corrosion is found, before further flight, replace damaged stiffeners with new stiffeners, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 215–A543, Revision 1, dated June 23, 2010 (for Model CL–215–1A10 and CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Service Bulletin 215–A4424, Revision 2, dated June 23, 2010 (for Model CL–215–6B11 (CL–415 Variant) airplanes).

(2) Re-install the bracket assembly of the emergency water dump pulley using radius packers, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 215–A543, Revision 1, dated June 23, 2010 (for Model CL–215–1A10 and CL–215–6B11 (CL–215T Variant) airplanes); or Bombardier Service Bulletin 215–A4424, Revision 2, dated June 23, 2010 (for Model CL–215–6B11 (CL–415 Variant) airplanes).

**Credit for Actions Accomplished in Accordance With Previous Service Information**

(k) Actions accomplished before the effective date of this AD according to the service bulletins specified in Table 1 of this AD, are considered acceptable for compliance with the corresponding actions specified in this AD.

TABLE 1—SERVICE BULLETINS FOR CREDIT

| Bombardier service bulletin— | Revision— | Dated— |
|---|---|---|
| 215-4424 | Original | January 25, 2010. |
| 215-A4424 | 1 | May 18, 2010. |
| 215-A543 | Original | May 19, 2010. |

**FAA AD Differences**

**Note 1:** This AD differs from the MCAI and/or service information as follows:

(1) Although Canadian Airworthiness Directive CF–2010–38R2, dated March 17, 2011, has a compliance time of "No later than 01 June 2011," for Part II—Terminating Action, this AD has a compliance time of "Within 100 flight cycles or 60 days after the effective date of this AD, whichever occurs first." We have coordinated this difference with Transport Canada Civil Aviation (TCCA).

(2) Although Canadian Airworthiness Directive CF–2010–38R2, dated March 17, 2011, has an initial compliance time of "within 50 flight cycles after the effective date of this AD" for identifying the type of rivet installed, this AD has a compliance time of "within 50 flight cycles or 30 days after the effective date of this AD, whichever occurs first." In addition, the follow-on inspections in paragraph (i) of this AD for airplanes on which flush rivets are determined to be installed, is "within 100 flight cycles or 60 days after the effective date of this AD, whichever occurs first." We have coordinated this difference with TCCA.

**Other FAA AD Provisions**

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

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

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

**Related Information**

(m) Refer to MCAI Canadian Airworthiness Directive CF–2010–38R2, dated March 17, 2011; Bombardier Service Bulletin 215–A543, Revision 1, dated June 23, 2010; and Bombardier Service Bulletin 215–A4424, Revision 2, dated June 23, 2010; for related information.

Issued in Renton, Washington, on June 2, 2011.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2011–14397 Filed 6–9–11; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[REG–137128–08]**

**RIN 1545–BI36**

## Claims for Credit or Refund

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations for filing a claim for credit or refund. The regulations provide guidance to taxpayers generally as to the proper place to file a claim for credit or refund. The regulations are updated to reflect changes made by the enactment of the Tax Reform Act of 1976, the Internal Revenue Service Restructuring and Reform Act of 1998, and the Community Renewal Tax Relief Act of 2000. The regulations further are updated to reflect that the IRS may prescribe additional claim forms.

**DATES:** Written or electronic comments and requests for a public hearing must be received by *September 8, 2011.*

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–137128–08), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–137128–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–137128–08).

**FOR FURTHER INFORMATION CONTACT:** Concerning submission of comments or request for a hearing, *Richard.A.Hurst@irscounsel.treas.gov,* (202) 622–7180 (not a toll-free number); concerning the proposed regulations, Micah A. Levy, (202) 622–3630 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains proposed amendments to 26 CFR part 301 under section 6402 of the Internal Revenue Code (Code). Section 6402 of the Code authorizes the Secretary to make credits or refunds. Section 6511 provides the limitations period within which a taxpayer must file a claim for credit or refund and restricts the ability of the Secretary to issue a credit or refund unless the claim is filed by the taxpayer within that period. Section 7422 prohibits the maintenance of a suit for refund until a claim has been duly filed with the Secretary. Currently, § 301.6402–2(a)(2) provides generally that a claim for credit or refund needs to be filed with the service center serving the internal revenue district in which the tax was paid. The proposed regulations clarify that, unless otherwise directed, the proper place to file a claim for credit or refund is with the service center at which the taxpayer currently would be required to file a tax return for the type of tax to which the claim relates, irrespective of where the tax was paid or was required to have been paid.

This document also removes outdated portions of §§ 301.6402–2 and 301.6402–3 and revises the reference in § 301.6402–4 to the Joint Committee on Taxation threshold referral amount under section 6405.

### Explanation of Provisions

*I. The Proper Place To File a Claim for Credit or Refund*

If a taxpayer is required to file a claim for credit or refund on a particular form, then the claim must be filed in a manner consistent with that form and the related instructions. For example, to correct an amount reported on a Form 1040, "U.S. Individual Income Tax Return," Treasury regulation § 301.6402–3(a)(2) requires that the taxpayer file the claim on a Form 1040X, "Amended U.S. Individual Income Tax Return." Accordingly, a claim for refund of an overpayment of individual income taxes would need to be filed on a Form 1040X at the location specified in the instructions provided for the form. If filing instructions are not otherwise provided, a claim for credit or refund must be filed with the service center at which the taxpayer would be required to file a current tax return for the type of tax to which the claim relates. Section 301.6402–2(a)(2) is revised to clarify that claims should not be filed at a different location based upon where the tax either was paid or was required to have been paid. Nor would it be relevant if the tax was properly paid at a different location in a prior year because the taxpayer had a change in residence.

*II. The Proper Form for Filing a Claim for Credit or Refund*

The IRS has prescribed various forms that must be used to file a claim for credit or refund for a particular tax. For example, as explained in this preamble, an individual taxpayer must use a Form 1040X to file a claim for refund of income tax. The proposed regulations would revise § 301.6402–2(c) to provide that taxpayers must use the form prescribed for filing a particular claim for credit or refund. When there is no alternative form prescribed, a claim for credit or refund is to be filed on a Form 843, "Claim for Refund and Request for Abatement."

*III. Claims for Employment Taxes*

On July 1, 2008, final regulations (TD 9405) relating to employment tax adjustments and employment tax refund claims were published in the **Federal Register** (73 FR 37371). Those final regulations modify the process for making claims for refund of overpayments of employment taxes under section 6402. To file a claim to correct errors discovered on or after January 1, 2009, an employer now uses the form that corresponds to the return being corrected. The new forms correspond with Form 941, "Employer's QUARTERLY Federal Tax Return"; Form 943, "Employer's Annual Federal Tax Return for Agricultural Employees"; Form 944, "Employer's ANNUAL Federal Tax Return"; Form 945, "Annual Return of Withheld Federal Income Tax"; and Form CT–1, "Employer's Annual Railroad Retirement Tax Return." For example, Form 941–X, "Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund," is used by employers instead of Form 843, "Claim for Refund and Request for Abatement." The new "X" forms are used to claim refunds, make adjustments, and request abatements of employment taxes. In addition, § 301.6402–2(d) is revised to provide that when filing a claim for employment taxes, a separate claim must be made for each taxable period. For example, if an employer overpaid social security taxes on Forms 941 filed for the third and fourth quarters in 2009, then the employer must file a separate Form 941–X for each quarter.

*IV. Internal Revenue Districts*

The proposed regulations make technical revisions that remove the reference to "internal revenue districts" in § 301.6402–2(a)(2), because such reference has been made obsolete by the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685. The technical revisions also remove the references to a district director or director of the regional service center in §§ 301.6402–3 and 301.6402–4, as those positions no longer exist within the IRS.

*V. Outdated Provisions*

Treasury Decision 6950, 1968–1 CB 528 (33 FR 5354) (Aug. 4, 1968), revised paragraph (a)(2) of § 301.6402–2 to distinguish between claims filed before and claims filed on or after April 15, 1968. Those revisions provided that claims filed before April 15, 1968 must be filed in the office of the internal revenue officer to whom the tax was paid. For claims filed on or after April 15, 1968, claims were directed to be filed with the service center serving the internal revenue district in which the tax was paid.

Treasury Decision 7410, 1976–1 CB 384 (41 FR 11019) (Mar. 16, 1976), revised paragraph (c) of § 301.6402–2 to distinguish between claims filed before and claims filed on or after July 1, 1976. Those revisions provided that, except for claims for the refund of overpayments of income taxes filed on or after July 1, 1976, all refund claims for taxes, interest, penalties, and additions to tax needed to be filed on Form 843, "Claim for Refund and Request for Abatement." Treasury Decision 7410 also revised paragraphs (a) and (b) of § 301.6402–3 to prescribe different form requirements for claims for the refund of overpayments of income taxes depending on whether the claim was filed before July 1, 1976, or would be filed on or after July 1, 1976.

The regulations are revised to remove the outdated guidance regarding the varying requirements based on these dates.

*VI. Section 6405*

Section 6405 requires the advance referral of a report to the Joint Committee on Taxation regarding specified types of refunds or credits in excess of a threshold amount (currently $2,000,000). Section 1907(a)(1) of the Tax Reform Act of 1976, Public Law 94–455, 90 Stat. 1520, 1835, amended section 6405 to reference the "Joint Committee on Taxation," instead of the "Joint Committee on Internal Revenue Taxation." The proposed regulations would update the reference to the "Joint Committee on Internal Revenue Taxation" in § 301.6402–4 with a reference to the "Joint Committee on Taxation." Section 305(a) of the Community Renewal Tax Relief Act of 2000, Public Law 106–554, 114 Stat. 2763, 2763A–634, section 11834(a) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, 104 Stat. 1388, 1388–560, and section 1210(a) of the Tax Reform Act of 1976, 90 Stat. 1520, 1522, revised the threshold referral amount in section 6405 by replacing $100,000 with $2,000,000. To avoid the need to revise this regulation again to reflect any future change in the threshold amount, the parenthetical reference to the specific amount required for the section 6405 threshold referral is removed.

*Proposed Effective Date*

These rules, when they are promulgated as final regulations, will apply to claims for credit or refund filed on or after the date that the final regulations are published in the **Federal Register**. The rules in these proposed regulations may be relied upon by taxpayers making claims for credit or refund before publication of the Treasury decision.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to the regulations, and, therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small businesses.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and 8 copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of the proposed regulations is Micah A. Levy, Office of the Associate Chief Counsel (Procedure & Administration).

**List of Subjects in 26 CFR Part 301**

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

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

## PART 301—PROCEDURE AND ADMINISTRATION

**Paragraph 1.** The authority citation for part 301 continues to read as follows:

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

**Par. 2.** Section 301.6402–2 is amended by revising paragraphs (a)(2), (b)(2), (c), and (d) and adding paragraph (g) to read as follows:

**§ 301.6402–2 Claims for credit or refund.**

(a) * * *

(2) Except as provided in paragraph (b) of § 301.6091–1 (relating to hand-carried documents), the claim, together with appropriate supporting evidence, generally must be filed with the service center at which the taxpayer currently would be required to file a tax return for the type of tax to which the claim relates. Notwithstanding the preceding sentence, if a taxpayer is required to file a claim for credit or refund on a particular form, then the claim must be filed in a manner consistent with such form and form instructions. If a taxpayer is filing a claim in response to an IRS notice or correspondence, then the claim must be filed in accordance with the specific instructions contained in the notice or correspondence regarding the proper address for filing. As to interest in the case of credits or refunds, see section 6611. See section 7502 for provisions treating timely mailing as timely filing, and section 7503 for the time for filing a claim when the last day falls on Saturday, Sunday, or a legal holiday.

(b) * * *

(2) The IRS does not have the authority to refund on equitable grounds penalties or other amounts legally collected.

(c) *Form for filing claim.* Unless the IRS otherwise has prescribed a particular form on which the claim must be filed, in which case the claim shall be made on such other form, all claims by taxpayers for the refunding of taxes, interest, penalties, and additions to tax shall be made on Form 843, "Claim for Refund and Request for Abatement." For special rules applicable to income taxes, see § 301.6402–3. For provisions relating to credits and refunds of taxes other than income tax, see the regulations relating to the particular tax.

(d) *Separate claims for separate taxable periods.* In the case of income and gift taxes, income tax withheld, taxes under the Federal Insurance Contributions Act, taxes under the Railroad Retirement Tax Act, and taxes under the Federal Unemployment Tax Act, a separate claim shall be made for each return for each taxable period.

* * * * *

(g) *Effective/Applicability date.* This section is applicable on the date that the final regulations are published in the **Federal Register**.

**Par. 3.** Section 301.6402–3 is amended by revising paragraph (a) introductory text, removing paragraph (b), redesignating paragraphs (c), (d), (e) and (f), as (b), (c), (d) and (e), respectively, and revising paragraphs (b) and (e) to read as follows:

**§ 301.6402–3 Special rules applicable to income tax.**

(a) In the case of a claim for credit or refund of income tax—

* * * * *

(b) The filing of a properly executed income tax return shall, in any case in which the taxpayer is not required to show the tax on the form (see section 6014 and the regulations), be treated as a claim for refund and such return shall constitute a claim for refund within the meaning of section 6402 and section 6511 for the amount of the overpayment shown by the computation of the tax made by the Secretary on the basis of the return. Whether such claim is timely filed within the limitations period prescribed by section 6511 will be governed by the date on which the return is considered filed, except that if the requirements of § 301.7502–1 (relating to timely mailing treated as timely filing) are met, the claim shall be considered to have been filed on the date of the postmark stamped on the cover in which the return was mailed.

* * * * *

(e) *Effective/Applicability date.* This section is applicable on the date that the final regulations are published in the **Federal Register**, except that references in paragraph (d) of this section to Form 8805 or other statements required under § 1.1446–3(d)(2) shall apply to partnership taxable years beginning after April 29, 2008.

**Par. 4.** Section 301.6402–4 is revised to read as follows:

**§ 301.6402–4 Payments in excess of amounts shown on return.**

In certain cases, a taxpayer's payments in respect of a tax liability, made before the filing of the return, may exceed the amount of tax shown on the return. For example, such payments may arise in the case of income tax if the estimated tax payments or the credit for income tax withheld at the source on wages exceeds the amount of tax shown on the return, or if the installment payments based on a corporation's estimate of its tax liability on an application for an extension of time to file its return exceeds the tax liability shown on the return subsequently filed. In any case in which the Secretary determines that the payments by the taxpayer (made within the period prescribed for payment and before the filing of the return) are in excess of the amount of tax shown on the return, the Secretary may make credit or refund of such overpayment without awaiting examination of the completed return and without awaiting filing of a claim for refund. The provisions of §§ 301.6402–2 and 301.6402–3 are applicable to such overpayment, and taxpayers should submit claims for refund (if the income tax return is not itself a claim for refund, as provided in § 301.6402–3) to protect themselves in the event the Secretary fails to make such determination and credit or refund. The provisions of section 6405 (relating to reports of refunds in excess of the statutorily prescribed threshold referral amount to the Joint Committee on Taxation) are not applicable to the overpayments described in this section caused by timely payments of tax which exceed the amount of tax shown on a timely filed return.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2011–14465 Filed 6–9–11; 8:45 am]

BILLING CODE 4830–01–P

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[REG–101352–11]**

**RIN 1545–BK00**

## Requirements for Taxpayers Filing Form 5472

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the Treasury Department and the IRS are issuing temporary regulations that remove the duplicate filing requirement for Form 5472, "Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business." Under this requirement, certain corporations that must file Form 5472 must also file a duplicate Form 5472 (including attachments and schedules) with the Internal Revenue Service Center in Philadelphia, PA. Because the IRS has determined that duplicate filing is no longer necessary, the requirement is being removed by the temporary regulations. The text of those temporary regulations also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by September 8, 2011.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–101352–11), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–101352–11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS—REG–101352–11).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations Gregory A. Spring, (202) 435–5265; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Oluwafunmilayo (Funmi) P. Taylor, (202) 622–7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION**

## Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1. The temporary regulations remove the requirement contained in § 1.6038A–2(d) and § 1.6038A–2(e) that a duplicate Form 5472 must be filed with the Internal Revenue Service Center in Philadelphia, PA. The text of the temporary regulations also serves as the text of these regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

## Special Analyses

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

## Comments on Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available at *http://www.regulations.gov* or upon request. A public hearing may be scheduled if requested by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register.**

## Drafting Information

The principal author of these regulations is Gregory A. Spring of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

## List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

## Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

## PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

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

**Par. 2.** Section 1.6038A–1 is amended by revising paragraph (n)(2) to read as follows:

### § 1.6038A–1 General requirements and definitions.

* * * * *

(n) * * *

(2) [The text of the proposed amendment to § 1.6038A–1(n)(2) is the same as the text of § 1.6038A–1T(n)(2) published elsewhere in this same issue of the **Federal Register**].

* * * * *

**Par. 3.** Section 1.6038A–2 is amended by revising paragraphs (d) and (e) to read as follows:

### § 1.6038A–2 Requirement of return.

* * * * *

(d) [The text of the proposed amendment to § 1.6038A–2(d) is the same as the text of § 1.6038A–2T(d) published elsewhere in this issue of the **Federal Register**.]

(e) [The text of the proposed amendment to § 1.6038A–2(e) is the same as the text of § 1.6038A–2T(e) published elsewhere in this issue of the **Federal Register**.]

* * * * *

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2011–14469 Filed 6–9–11; 8:45 am]

BILLING CODE 4830–01–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R03–OAR–2009–0881; FRL–9309–1]**

## Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Requirements for Major Sources Locating in or Impacting a Nonattainment Area in Allegheny County

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Pennsylvania State Implementation Plan (SIP) which was submitted on November 16, 2006 by the Pennsylvania Department of Environmental Protection (PADEP). This change to Allegheny County's Air Pollution Control Rules and Regulations amends the existing requirements for sources locating in or impacting a nonattainment area in Allegheny County by incorporating

Federal modeling requirements. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the EPA views this as a noncontroversial submittal and anticipates no adverse comments. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by July 11, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R03–OAR–2009–0881 by one of the following methods:

A. *http://www.regulations.gov.* Follow the online instructions for submitting comments.

B. *E-mail: cox.kathleen@epa.gov.*

C. *Mail:* EPA–R03–OAR–2009–0881, Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R03–OAR–2009–0881. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

**FOR FURTHER INFORMATION CONTACT:** Paul T. Wentworth, (215) 814–2183, or by e-mail at *wentworth.paul@epa.gov.*

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: May 6, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2011–14231 Filed 6–9–11; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R03–OAR–2011–0286; FRL–9318–2]**

## Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Control of Nitrogen Oxides Emissions From Glass Melting Furnaces

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision pertains to the control of nitrogen oxide ($NO_X$) emissions from glass melting furnaces. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before July 11, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R03–OAR–2011–0286 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2011–0286, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R03–OAR–2011–0286. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity

or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

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

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On July 23, 2010, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to its State Implementation Plan for the control of $NO_X$ from glass melting furnaces.

## I. Background

The SIP revision consists of a regulation to control $NO_X$ emissions from glass melting furnaces. This SIP revision is based on the Ozone Transport Commission (OTC) control measure to reduce $NO_X$ emissions from glass melting furnaces. The OTC members include Pennsylvania, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia, and the District of Columbia. The OTC was created under section 184 of the CAA to establish regulatory programs to reduce ozone precursor emissions, which includes the reduction of $NO_X$ emissions from glass melting furnaces.

## II. Summary of SIP Revision

The SIP revision adds definitions and terms to Title 25 of the Pennsylvania Code (25 Pa. Code) Chapter 121.1, relating to definitions, used in the substantive provision of this SIP revision. In addition, the SIP revision adds a new regulation pertaining to the $NO_X$ emission standards in 25 Pa. Code Chapter 129 (Standard of Sources) sections 129.301 through 129.310 (Control of $NO_X$ Emissions from Glass Melting Furnaces). The new regulation applies to an owner or operator of a glass melting furnace that emits or has the potential to emit $NO_X$ at a rate greater than 50 tons per year in the Commonwealth of Pennsylvania, including the local air pollution control agencies in Philadelphia and Allegheny Counties. The new regulation consists of the following: (1) New definitions and terms; (2) exemptions that the emission requirements do not apply during periods of start-up, shutdown or idling, if the owner or operator complies with the start-up, shutdown and idling requirements; (3) emission requirements which provide the owner or operator of a glass melting furnace to determine allowable $NO_X$ emissions by multiplying the tons of glass pulled by each furnace; (4) start-up requirements where the start-up exemption identifies the control technologies or strategies to be used to minimize emissions; (5) shutdown requirements where the duration as measured from the time the furnace operation drops below 25 percent of the permitted production capacity or fuel use capacity to when all emissions from the furnace cease, will not exceed 20 days; (6) idling requirements that provide the owner or operator operate the emission control system whenever technologically feasible during idling to minimize emissions; (7) compliance determination by installing, operating and maintaining continuous emissions monitoring systems (CEMS); (8) compliance demonstration on a furnace-by-furnace basis, facility-wide emissions averaging basis, or a system-wide emissions averaging basis among glass melting furnaces; and (9) reporting and recordkeeping requirements where the owner or operator calculates and reports the CEMS data and glass production data used to show compliance with the allowable $NO_X$ emissions limitations on a quarterly basis no later than 30 days after the end of the quarter. A detailed summary of EPA's review of and rationale for proposing to approve this SIP revision may be found in the Technical Support Document (TSD) for this action which is available on line at *http://www.regulations.gov,* Docket number EPA–R03–OAR–2011–0286.

## III. Proposed Action

EPA is proposing to approve the Pennsylvania SIP revision for the control of $NO_X$ emissions from glass melting furnaces submitted on July 23, 2010. This regulation will reduce emissions of $NO_X$ from glass melting furnaces. The reduction of $NO_X$ emissions will also help protect the public health from high levels of ozone and fine particular matter ($PM_{2.5}$), of which $NO_X$ is a precursor component. The reduction of $NO_X$ emissions also reduces visibility impairment and acid deposition. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## IV. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to Pennsylvania's control of $NO_X$ emissions from glass melting furnaces, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: May 25, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2011–14455 Filed 6–9–11; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 223

**[Docket No. 100813359–1195–01]**

**RIN 0648–AY96**

## Endangered and Threatened Species; Proposed Protective Regulations for the Gulf of Maine Distinct Population Segment of Atlantic Sturgeon

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

**ACTION:** Proposed rule; request for comments; notice of availability of an environmental assessment.

**SUMMARY:** This proposed rule proposes to extend the Endangered Species Act (ESA) section 9(a)(1)(A) through 9(a)(1)(G) prohibitions to all activities impacting the Gulf of Maine (GOM) Distinct Population Segment (DPS) of Atlantic sturgeon throughout its range except for two types of activities, scientific research and rescue/salvage activities, when those activities occur within the riverine range of the GOM DPS. The ESA section 9 prohibitions are comprehensive and pertain to any person subject to the jurisdiction of the United States. Specifically, section 9 of the ESA prohibits the import, export, taking, possession, sale or offering for sale in interstate or foreign commerce, delivery, receiving of, carrying, transportation, or shipping in interstate or foreign commerce any such species, or violation of any regulation pertaining to such species. On October 6, 2010, we, the National Marine Fisheries Service (NMFS), proposed to list the DPS of Atlantic sturgeon in the GOM as threatened under the ESA. When a species is listed as "threatened" under the ESA, we are required to issue protective regulations under section 4(d) of the ESA. Such protective regulations are ones deemed "necessary and advisable for the conservation of the species" and may include any act prohibited for endangered species under section 9(a)(1) of the ESA. The prohibitions and exceptions proposed in this rule are deemed necessary and advisable for the conservation of this species. We expect that the result of extending such prohibitions will be to protect the GOM DPS of Atlantic sturgeon from direct forms of take, such as physical injury or killing, and from indirect forms of take, such as harm that results from habitat degradation while still allowing scientific research as well as salvage of dead fish and rescue of injured fish by experienced personnel. These actions will help preserve and recover the GOM DPS of Atlantic sturgeon by addressing the negative effects from stressors impeding recovery of the DPS.

**DATES:** Comments on this proposal must be received by August 9, 2011.

**ADDRESSES:** You may submit comments, identified by the RIN No. 0648–AY96, by any of the following methods:

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

• *Fax:* To the attention of Lynn Lankshear at (978) 281–9394.

• *Mail or hand-delivery:* Submit written comments to the Assistant Regional Administrator, Protected Resources Division, NMFS, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930.

*Instructions:* All comments received are a part of the public record and will generally be posted to *http:// www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

We will accept anonymous comments (enter "n/a" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

The proposed rule and other reference materials regarding this determination are available electronically at *http:// www.nero.noaa.gov/prot_res/ atlsturgeon/under* the section titled "What's New" or by submitting a request to the Assistant Regional Administrator, Protected Resources Division, NMFS, Northeast Region, 55 Great Republic Dive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Lynn Lankshear, NMFS, Northeast Region (978) 282–8473, Kimberly Damon-Randall, NMFS, Northeast Region (978) 282–8485 or Lisa Manning, NMFS, Office of Protected Resources (301) 713–1401.

**SUPPLEMENTARY INFORMATION:**

### Background

As described in the **Federal Register** notices published October 6, 2010 (75 FR 61872 and 75 FR 61904), NMFS determined that there are five Atlantic sturgeon DPSs within the United States. Along with the GOM DPS, there are also the New York Bight (NYB), Chesapeake Bay (CB), Carolina, and South Atlantic DPSs. NMFS has determined that listing all of the U.S. Atlantic sturgeon DPSs except the GOM DPS as endangered is warranted.

The prohibitions listed under section 9(a)(1) of the ESA automatically apply when a species is listed as endangered but not when listed as threatened. Section 9 of the ESA prohibits any person subject to the jurisdiction of the United States from: (a) Importing any such species into, or exporting any such species from the U.S.; (b) taking any such species within the U.S. or the U.S. territorial sea; (c) taking any such species upon the high seas; (d)

possessing, selling, delivering, carrying, transporting, or shipping, by any means whatsoever, any such species that was illegally taken; (e) delivering, receiving, carrying, transporting, or shipping in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity, any such species; (f) selling or offering for sale in interstate or foreign commerce any such species; or (g) violating any regulation pertaining to such species or to any threatened species of fish or wildlife. The ESA defines "take" as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term "harm" is defined in the regulations as any act which kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation that results in death or injury of wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, or sheltering (50 CFR 222.102). The term "harm" is used in this proposed rule as defined in the regulations.

In the case of a species listed as threatened, section 4(d) of the ESA requires the Secretary of Commerce (Secretary) to issue such regulations as deemed necessary and advisable to provide for the conservation of the species. The Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1). Whether section 9(a)(1) prohibitions are necessary and advisable for a threatened species is largely dependent on the biological status of the species and the potential impacts of various activities on the species. The proposed rule (75 FR 61872) and Atlantic Sturgeon Status Review (Atlantic Sturgeon Status Review Team (ASSRT), 2007) provided extensive information on the status of the GOM DPS and impacts to Atlantic sturgeon belonging to the GOM DPS. The information is summarized here.

Genetics data and tagging information support the conclusion that the GOM DPS includes all anadromous Atlantic sturgeon whose freshwater range occurs in the watersheds from the Maine/Canadian border southward to include all associated watersheds draining into the Gulf of Maine as far south as Chatham, MA. Within this range, Atlantic sturgeon have been documented from the Penobscot, Kennebec, Androscoggin, Sheepscot, Saco, Piscataqua, and Merrimack rivers. The marine range, including coastal bays and estuaries, of Atlantic sturgeon belonging to the GOM DPS extends from the Bay of Fundy, Canada to the St. Johns River, FL and overlaps throughout with the marine range of Atlantic sturgeon that originate from the other four U.S. DPSs that are proposed to be listed as endangered.

Because Atlantic sturgeon use both riverine waters and the marine environment, they are affected by a multitude of activities. Coast-wide commercial over-harvesting throughout the 19th century and most of the 20th century caused a precipitous decline in Atlantic sturgeon abundance for all of the U.S. Atlantic sturgeon DPSs. A coast-wide moratorium on harvesting Atlantic sturgeon was implemented in 1998 pursuant to Amendment 1 of the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Plan for Atlantic sturgeon (ASMFC, 1998). Retention of Atlantic sturgeon from the U.S. Exclusive Economic Zone (EEZ) was prohibited by NMFS in 1999 (64 FR 9449; February 26, 1999). However, despite these prohibitions on directed fishing for and retention of incidentally caught Atlantic sturgeon, other anthropogenic activities continue to take Atlantic sturgeon. These include incidental bycatch in commercial fisheries, vessel strikes, activities affecting water quality, and habitat disturbances such as dredging. Bycatch, water quality and dredging are primary stressors for the GOM DPS of Atlantic sturgeon (ASSRT, 2007). As described in the proposed rule (75 FR 61872), new analyses suggest that the level of bycatch mortality is not sustainable for the GOM DPS in the long-term (ASMFC, 2007). With respect to habitat, the water quality for coastal waters north of Cape Cod is generally fair to good (EPA, 2008), and the majority of historical Atlantic sturgeon spawning habitat is accessible in all but the Merrimack River of the GOM DPS (ASSRT, 2007). Nevertheless, it is difficult to verify whether Atlantic sturgeon spawning habitat in the GOM DPS is fully functional. In addition, NMFS has not implemented any bycatch reduction measures specifically for Atlantic sturgeon, and existing bycatch reduction measures are inadequate for reducing bycatch of Atlantic sturgeon in federally regulated fisheries. NMFS does not have the authority or discretion to require action to reduce the effects of in-water projects (e.g., dredging) specifically for Atlantic sturgeon and there are no specific regulations requiring action(s) to reduce effects of in-water projects to Atlantic sturgeon. NMFS has limited authority and discretion by which to regulate vessel activities in areas where Atlantic sturgeon occur.

Comprehensive information on current abundance for the GOM DPS of Atlantic sturgeon does not exist (ASSRT, 2007). However, surveys have provided qualitative information on Atlantic sturgeon abundance for the GOM DPS, including river-specific information on abundance, trends, evidence of spawning, and/or documentation of multiple year-classes. For example, new evidence of Atlantic sturgeon year-round presence in the Saco River, where they have not been observed for many years, suggests that the numbers of Atlantic sturgeon in the GOM DPS may be increasing. Additionally, the catch-per-unit effort (CPUE) of subadult Atlantic sturgeon during gill net surveys in the Kennebec River increased considerably from 1977–2000 (1977 B 1981 CPUE = 0.30 versus 1998 B 2000 CPUE = 7.43) while the CPUE of adult Atlantic sturgeon showed a slight increase over the same time period (1977–1981 CPUE = 0.12 versus 1998–2000 CPUE = 0.21) (Squiers, 2004).

The Kennebec River is currently the only known spawning river for the GOM DPS. Spawning likely occurs in the Penobscot River, and Atlantic sturgeon that use other historical spawning rivers may represent additional spawning groups (ASSRT, 2007). However, there is, as yet, no evidence that Atlantic sturgeon of the GOM DPS spawn in any river other than the Kennebec River (ASSRT, 2007).

Protecting the GOM DPS of Atlantic sturgeon from direct forms of take, such as physical injury or killing, whether incidental or intentional, will help preserve and recover the DPS's remaining subpopulations. Protecting the GOM DPS of Atlantic sturgeon from indirect forms of take, such as harm that results from habitat degradation, will likewise help preserve the DPS's subpopulations and also decrease synergistic, negative effects from other stressors impeding recovery of the DPS. We therefore propose to extend the ESA section 9(a)(1)(A) through 9(a)(1)(G) prohibitions to all activities impacting the GOM DPS throughout its range except for two types of activities, scientific research and rescue/salvage activities, when those activities occur within the riverine range of the GOM DPS. Specifically, we propose to exempt from the section 9(a)(1)(B) take prohibitions: (a) Scientific research of Atlantic sturgeon belonging to the GOM DPS when conducted in the manner specified in this proposed rule; and, (b) salvaging dead and aiding/resuscitating live Atlantic sturgeon belonging to the GOM DPS by NMFS personnel or their designated agents as specified in this

proposed rule. NMFS is proposing to exempt these activities from the ESA section 9 take prohibitions only when these activities occur within the riverine range of the GOM DPS to ensure that only Atlantic sturgeon belonging to the GOM DPS are taken. We have determined that exempting these activities as specified is necessary and advisable for the conservation of this DPS.

**Identification of Activities That Would Constitute a Violation of Section 9 of the ESA**

On July 1, 1994 (59 FR 34272), NMFS and the U.S. Fish and Wildlife Service (collectively, the "Services") published a policy committing us to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the species range.

Based upon available information, we believe that the activities that may take Atlantic sturgeon belonging to the GOM DPS include, but are not limited to: (1) Commercial and recreational fisheries; (2) scientific research and monitoring of Atlantic sturgeon, (3) emergency rescue/salvage of Atlantic sturgeon; (4) scientific research and monitoring directed at other species; (5) habitat altering activities affecting passage of adult sturgeon to and from spawning areas and availability of habitat for egg, larval or juvenile stages; (6) entrainment and impingement of all life stages of GOM DPS sturgeon during the operation of water diversions, dredging projects, and power plants; (7) activities impacting water quality for all life stages of GOM DPS sturgeon such as discharge, dumping, or applications of toxic chemicals, pollutants, or pesticides into waters or areas that contain GOM DPS sturgeon; (8) vessel strikes; and, (9) introduction or release of non-native species that are likely to alter the habitats of, or to compete for space or food, with GOM DPS sturgeon.

This list is not exhaustive. It is intended to provide examples of the types of activities that are most likely to result in take of GOM DPS Atlantic sturgeon and a violation of this proposed rule (unless within the specific exemptions proposed by this rule). Whether a take results from a particular activity is dependent upon the facts and circumstances of each incident. The fact that an activity may fall within one of these categories does not mean that the specific activity will cause a take. Due to such factors as location and scope, specific actions may not result in direct or indirect adverse effects on the species. Further, an activity not listed here may in fact result in a take. Questions regarding whether specific activities would constitute a take prohibited by this rule, and general inquiries regarding prohibitions and permits, should be directed to NMFS—Northeast Regional Office (see **ADDRESSES**).

**Activities Affecting the GOM DPS That Do Not Violate Section 9 Including Exemptions**

Section 9(a)(1)(A), 10(a)(1)(A), and 10(a)(1)(B) of the ESA provide the authority to grant exemptions to the section 9 prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may authorize exemptions to any of the section 9 prohibitions and may be issued to Federal and non-Federal entities conducting research or conservation activities that involve directed (i.e., intentional) take of listed species. Section 10(a)(1)(B) take permits may be issued to non-Federal entities performing activities that may incidentally take listed species in the course of an otherwise legal activity. These section 10 permits are mechanisms for providing exemptions to the section 9(a)(1)(B) prohibitions should the GOM DPS become listed, and impacts on the GOM DPS from actions in compliance with such permits would not constitute violations of this proposed rule.

Likewise, should the GOM DPS become listed, federally funded or approved activities that incidentally take Atlantic sturgeon belonging to the GOM DPS would not constitute violations of this proposed rule when the activities are conducted in accordance with an incidental take statement issued through a biological opinion provided by NMFS pursuant to section 7 of the ESA. Section 7 of the ESA requires all Federal agencies to consult with NMFS if actions they fund, authorize, or carry out may affect any ESA-listed species under NMFS jurisdiction. Section 7 authorizes NMFS to issue an incidental take statement with a biological opinion if NMFS has determined that the activity may adversely affect, but will not jeopardize, the continued existence of the listed species. Therefore, if this rule and the proposed rule to list the GOM DPS are finalized, incidental take of GOM DPS Atlantic sturgeon resulting from federally funded, authorized, or implemented activities would not violate the section 9(a)(1)(B) or 9(a)(1)(C) take prohibitions, provided the activities are conducted in accordance with an incidental take statement and all reasonable and prudent measures and terms and conditions to minimize the effects of the taking on the listed species.

As described above, we have determined that in certain circumstances, extending the ESA section 9(a)(1)(B) take prohibitions to the GOM DPS of Atlantic sturgeon is not necessary and advisable. We are proposing two exemptions to these prohibitions for activities that provide for the conservation of the GOM DPS: (1) Scientific research conducted on GOM DPS Atlantic sturgeon within the riverine portion of its range and in accordance with accepted NMFS protocol(s); and, (2) salvage of dead and recovery of live stranded or injured GOM DPS Atlantic sturgeon found within the riverine range of the GOM DPS. These exemptions are described in more detail rule in later sections (see "Exemption for Scientific Research" and "Salvage and Recovery" below).

The prohibitions of section 9(a)(1)(B) apply to all other activities that do not meet the specific exemptions for scientific research, salvage and recovery as described in this proposed rule. All other prohibitions of sections 9(a)(1)(A) and 9(a)(1)(C) through 9(a)(1)(G) would apply to the GOM DPS unless authorized under a section 10 permit or through consultation under section 7 as previously described.

In determining that it is not necessary and advisable to apply ESA section 9 take prohibitions on the certain activities described here, we recognize that new information may require a reevaluation of that conclusion at any time. For any of the exemptions from the prohibitions described in this proposed rule, we will periodically evaluate the activity's effect on the conservation of the GOM DPS of Atlantic sturgeon. We will impose take prohibitions on the activities previously exempted through rulemaking if we determine that it is necessary and advisable for the conservation of the species.

**Exemption for Scientific Research**

Adult and subadult Atlantic sturgeon that originate from different rivers mix in the marine environment (Stein *et al.,* 2004; USFWS, 2004), and are visually indistinguishable from each other regardless of the river or DPS of origin. However, mixing is not known to occur within the riverine environment. Atlantic sturgeon use the riverine environment for spawning and are intolerant of saline environments from the egg stage through the first year of life

(Van Eenennaam *et al.,* 1996; Niklitschek, 2001). Thus, the spawning adults must enter the riverine environment to spawn. Genetic analyses and other information support that Atlantic sturgeon originating from the Kennebec River are part of a discrete population segment (ASSRT, 2007). This means that straying of Atlantic sturgeon from other Atlantic sturgeon DPSs into riverine waters of the GOM DPS of Atlantic sturgeon does not typically occur and is unlikely to occur. Therefore, Atlantic sturgeon that occur in riverine waters of the GOM DPS are considered GOM DPS Atlantic sturgeon.

To ensure that the proposed exemption would result in the taking of only GOM DPS Atlantic sturgeon, we are proposing that the scientific research exemption to the section 9(a)(1)(B) take prohibitions apply only to Atlantic sturgeon found within the riverine range of the GOM DPS (Table 1). Within-river boundaries for the proposed exemptions were selected using reported salinity data, threshold salinities of less than 20 ppt (highest reported value for bottom salinity was used, when available), and identification of easily recognizable landmarks, such as a bridge, located at or upstream of the location where the referenced salinity measurement was taken. For example, for the Kennebec River (and Androscoggin, which flows into the Kennebec above the salinity-based cutoff point), the location where salinity is unlikely to exceed 20 ppt was determined using Mayer *et al.* (1996), who reported a maximum salinity of 19.38 at 15 m depth in September 1994 at a sampling station approximately 5 km downstream of the U.S. Route 1 bridge crossing in Bath, ME. In order to clearly demarcate the area in which the proposed exemptions would apply, the U.S. Route 1 Bridge in Bath, ME is proposed as the exemption boundary. The exemption to the section 9(a)(1) prohibitions for scientific research would apply upstream of this boundary; whereas downstream, the exemption would not apply. Exemption boundaries for other river systems within the range of the GOM DPS were determined using similar methodology. Latitude and longitude are also provided for points on either side of each river. The straight line between the two points can be used to help identify the exemption boundary.

TABLE 1—EXEMPTION BOUNDARY FOR EACH NAMED RIVER. THE EXEMPTIONS APPLY TO WATERS UPSTREAM OF THE EXEMPTION BOUNDARY. LATITUDE AND LONGITUDE ARE PROVIDED FOR A SINGLE POINT ON EITHER SIDE OF EACH RIVER TO HELP IDENTIFY THE EXEMPTION BOUNDARY. THE REPORTED SALINITIES AND THE DATA SOURCES USED TO IDENTIFY EXEMPTED WATERS ARE INDICATED.

| River | Exemption boundary | Right and left bank points | Salinity (ppt) and source |
|---|---|---|---|
| Merrimack | U.S. Rt. 1 Bridge Newburyport, MA | 42.813848N, 70.874524W<br>42.817869N, 70.870277W | 20.74; EPA NCA. |
| Piscataqua | Leigh's Mill Pond South Berwick, ME | 43.218014N, 70.813416W<br>43.217966N, 70.811286W | 17.9; EPA NCA. |
| Saco | Main St. Bridge Biddeford, ME (2 spans). | 43.492736N, 70.449813W<br>43.493564N, 70.448071W<br>43.495848N, 70.447886W<br>43.496733N, 70.446901W | 20; Gupta *et al.,* 1994. |
| Kennebec | U.S. Rt. 1 Bridge Bath, ME | 43.911797N, 69.813828W<br>43.911835N, 69.802635W | 19.38; Mayer *et al.,* 1996. |
| Androscoggin | U.S. Rt. 1 Bridge Bath, ME | 43.911797N, 69.813828W<br>43.911835N, 69.802635W | 19.38; Mayer *et al.,* 1996. |
| Sheepscot | Sheepscot Rd Bridge Newcastle, ME | 44.05154N, 69.613313W<br>44.049814N, 69.609584W | 19.38; Mayer *et al.,* 1996. |
| Penobscot | Cove Brook Winterport, ME | 44.693549N, 68.849642W<br>44.696325N, 68.831188W | 0–26.7[1]; Goulette, 2004. |

[1] Source Goulette (2004, unpub. data) reported a maximum bottom salinity of 26.7 ppt during low flows at Bald Hill Cove in Winterport, ME. However, because this value was significantly higher than the next highest reported bottom salinity (17 ppt) and was measured during very low flow conditions, NMFS considered it to be an outlier.

Many important aspects of Atlantic sturgeon life history are still unknown (Murawski and Pacheco, 1977; Van den Avyle, 1983; Smith and Dingley, 1984; Smith and Clugston, 1997; Bain, 1997; Bemis and Kynard, 1997; Kynard and Horgan, 2002; ASSRT 2007). Scientific research (including monitoring) is vital for improving our understanding of the status and risks facing Atlantic sturgeon, and providing critical information for assessing the effectiveness of current and future management practices. Research activities aid in the conservation of listed species by furthering our understanding of the species' life history and biological requirements. We recognize, however, that many scientific research activities involve take and may pose some level of risk to individuals or to the species. Therefore, it is necessary for research activities to be carried out in a manner that minimizes the adverse impacts of the activities on individuals and the species while obtaining crucial information that will benefit the species.

Properly planned and implemented research and assessment are critical to minimizing the risks and maximizing the conservation benefit of the research. Guidelines developed by sturgeon researchers in cooperation with NMFS for Atlantic and other sturgeon species have helped facilitate standardization of research protocols while minimizing risk to the species as a result of handling and sampling. In 2000, Moser *et al.* developed guidelines for shortnose and Atlantic sturgeons that described the most acceptable methods (i.e., minimizing stress and mortality) at that time for short-term holding, identification and measurement, tagging, tissue sampling, gastric lavage, and collection. In 2007, NMFS provided funding to the ASMFC to co-host a workshop in order to identify necessary activities, techniques and methodologies for updating Moser *et al.* (2000), which was intended to be a 'living document' to be revised as new or refined techniques were developed. As a result of this workshop, a subgroup of sturgeon researchers was formed to write a comprehensive document, subject to peer review, describing research protocols and techniques specifically for Atlantic sturgeon. The resulting document, titled "Atlantic

Sturgeon Research Techniques" (Damon-Randall *et al.,* 2010), is intended as a guide that describes the purpose and application of common Atlantic sturgeon research techniques. A second document, titled "A Protocol for Use of Shortnose, Atlantic, Gulf, and Green Sturgeons" (Kahn and Mohead, 2010), was also developed by NMFS to provide a comprehensive review of safe, standardized research practices for the multiple sturgeon species under NMFS's jurisdiction. This document was intended as a guide to assist researchers in applying for appropriate research permits and includes safe handling and sampling protocols in cases where Atlantic sturgeon co-occur with other ESA-listed fishes (e.g. shortnose sturgeon). As described in more detail below, any research activities exempted under this proposed rule would first be required to undergo review by NMFS to ensure consistency with recommended protocols.

Technologies and methods for research that do not require capture of individual sturgeon are becoming more widely available (e.g., side-scan sonar, Didson, in-water detection technology). These technologies have been shown to be effective at providing needed information on, among other things, Atlantic sturgeon habitat use and abundance, while eliminating the likelihood of injury or mortality to the sturgeon that can result from capture and handling. Technological advances are also making it possible to use non-invasive methods (e.g., ultrasound) in place of invasive methods (e.g., laparoscopy) for sturgeon research, thus reducing the risk of harm to the sturgeon even when capture and handling is necessary. Damon-Randall *et al.* (2010) includes a recommendation on using passive techniques such as sonar, video, and a combination of both whenever possible. These non-invasive techniques have not been shown to negatively affect Atlantic sturgeon behavior (i.e., do not cause harm), may increase the likelihood of successfully obtaining data, reduce the effort needed to achieve the research objectives, and reduce the potential for gear loss (e.g., nets used for capturing sturgeon).

As described above, the collection of needed scientific information provides a conservation benefit to ESA-listed species. The permitting process (see 50 CFR parts 222, 223 and 224) is intended to ensure that, in the course of conducting bona-fide research, work is conducted in a manner that minimizes harm (including injury and death) to the species and individual animals. However, research of the GOM DPS that is already in progress may potentially be impeded if researchers are required to suspend work and obtain a section 10(a)(1)(A) permit, given that permit processing times can take 90 days or more, and that NMFS cannot process and finalize a permit request until publication of a final rule listing the GOM DPS under the ESA. Delay or interruption of research could negatively affect the ability to maintain time-series data and acquisition of information necessary for the survival and recovery of the species. Therefore, we conclude that it is not necessary and advisable to impose the ESA-take prohibitions on research that results in take, but not harm, of Atlantic sturgeon belonging to the GOM DPS under certain specified conditions.

To comply with the research exemption proposed in this rule, researcher(s) would be required to submit a notice to NMFS's Northeast Regional Administrator (RA) at least 60 days prior to the commencement of such research, providing: (a) A statement describing the purpose of the research; (b) a detailed description of the study design, including all techniques and methodologies for sampling, and the data to be collected; (c) a list of the researchers performing the proposed research activities, including information demonstrating the level of experience for each of the technologies/methods to be used and the institution to which each is affiliated; (d) an estimate of the total take anticipated from such research by life stage; and, (e) the time period and specific location(s) of the research. To ensure that Atlantic sturgeon belonging to the GOM DPS, Atlantic sturgeon belonging to other DPSs, or any other ESA-listed species are not harmed as a result of this exemption to the 9(a)(1)(B) take prohibitions, and to monitor and enforce the use of this exemption, research activities: (a) Must be conducted in accordance with NMFS-approved methods for Atlantic sturgeon or use technologies that do not require capture or handling of Atlantic sturgeon; (b) must be directed at Atlantic sturgeon of the GOM DPS and not be incidental to research of another species; (c) must be conducted within the riverine range of the GOM DPS as specified in this rule; (d) must be intended as involving only non-lethal take; (e) must not take Atlantic sturgeon for artificial spawning or enhancement activities; (f) must comply with all other laws, including state permits, if applicable; and, (g) must be conducted by researchers with documented experience conducting the proposed methodologies/techniques on Atlantic sturgeon or another sturgeon species. Once the RA receives information for scientific research as described above, the RA will review the information and respond to the researcher(s) with a letter acknowledging that the research meets the exemption to the take prohibitions applied to Atlantic sturgeon GOM DPS, or a letter informing the researcher(s) that the exemption does not apply to the proposed research. The RA's letter is not a permit, and the letter does not provide authorization to conduct the research. Rather, the letter is intended as an acknowledgement that the specified research is or is not consistent with the exemption to the take prohibitions for scientific research provided in this rule. In order to give researchers enough time to submit a letter to the RA, we propose that ESA section 9 take prohibitions not apply to the scientific research that would otherwise fall under the exemption until two months after publication of a final section 4(d) rule.

The researcher(s) must provide a report of the research results to the RA no later than 60 days following completion or termination of the research activity, including the total take (by life stage) and the method of take (e.g., harassment, capture, handling, etc.). For multi-year studies, researchers must provide an annual report to the RA summarizing the results to date, including the number of Atlantic sturgeon takes (by life stage) and the method of take (e.g., harassment, capture, handling, etc.). The research must be immediately suspended and the RA notified if any aspect of the research results in or is believed to have resulted in take causing harm (i.e., injury or death) to any Atlantic sturgeon belonging to the GOM DPS, or take (with or without causing harm) of any other ESA-listed species for which the researcher does not have an incidental take permit issued in accordance with Section 10(a)(1)(B).

**Salvage and Recovery**

To ensure that only Atlantic sturgeon listed as threatened would be affected, this proposed exemption would apply only to Atlantic sturgeon found within the riverine range of the GOM DPS (Table 1) given the overlap in distribution of all five U.S. DPSs within marine waters.

Atlantic sturgeon carcasses and live, stranded sturgeon can provide pertinent life history data and information on activities affecting the GOM DPS. Collection of samples, as appropriate, from carcasses and live stranded or injured sturgeon can also help reduce the need for the intentional capture of Atlantic sturgeon for scientific research.

Therefore, salvage of dead Atlantic sturgeon and recovery of live, stranded Atlantic sturgeon belonging to the GOM DPS affords a conservation benefit to the species by providing valuable data without putting the DPS at further risk.

In order to obtain the most information, carcasses must be collected and transported as quickly as possible to an appropriate facility. Similarly, prompt attention to a live, stranded or injured sturgeon will increase its chances of survival. NMFS does not have sufficient personnel throughout the riverine range of the GOM DPS to respond promptly to all Atlantic sturgeon salvage and recovery events. NMFS does, however, work cooperatively with the U.S. Fish and Wildlife Service (FWS) and state wildlife agencies for salvage and recovery events involving other protected species including shortnose sturgeon, sea turtles and marine mammals. Some exemptions to the ESA take prohibitions for salvage or to aid a sick or injured animal already exist for some of these species. Therefore, we propose a similar exemption from the take prohibitions of section 9(a)(1)(B) for any agent or employee of NMFS, FWS, or any other Federal land or water management agency, or any agent or employee of a state agency responsible for fish and wildlife who is designated by his or her agency for such purposes, when acting in the course of his or her official duties to take Atlantic sturgeon belonging to the GOM DPS without a permit if such taking is necessary to salvage a dead specimen, which may be useful for scientific study; dispose of a dead specimen; or aid a sick, injured, or stranded specimen. Whenever possible, live specimens must be returned to their aquatic environment as soon as possible. This exception to the take prohibitions would only apply if the action is reported to the NMFS Northeast Regional Administrator within 30 days of occurrence of the event.

## References Cited

A complete list of the references used in this proposed rule is available upon request (see **ADDRESSES**).

## Classification

### *National Environmental Policy Act (NEPA)*

Whenever a species is listed as threatened, the ESA requires that we issue such regulations as we deem necessary and advisable to provide for its conservation. Accordingly, the promulgation of ESA section 4(d) protective regulations is subject to the requirements of NEPA, and we have prepared a draft Environmental Assessment (EA) analyzing the proposed 4(d) regulations and alternatives. We are seeking comment on the draft EA, which is available on the Federal eRulemaking Portal Web site (*http://www.regulations.gov*) or upon request (see **DATES** and **ADDRESSES**, above).

### *Executive Order (E.O.) 12866*

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

### *Regulatory Flexibility Act*

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

The proposed action would establish protective regulations for the Gulf of Maine Distinct Population Segment (GOM DPS) of Atlantic sturgeon. NMFS has proposed to list the GOM DPS of Atlantic sturgeon as threatened, and to list four other Atlantic sturgeon DPSs as endangered (75 FR 61872 and 75 FR 61904; October 6, 2010). All five DPSs share the same marine range, but each DPS has a unique riverine range.

The prohibitions under section 9(a)(1) of the ESA apply automatically when a species is listed as endangered but not when a species is listed as threatened. In the case of threatened species, section 4(d) of the ESA leaves it to the Secretary's discretion whether and to what extent to extend the section 9 prohibitions of the ESA and directs the agency to issue regulations it considers necessary and advisable for the conservation of the species. Protecting the GOM DPS of Atlantic sturgeon from direct forms of take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these) and indirect forms of take, such as harm that results from habitat degradation, will help preserve and recover the DPS. However, applying the section 9(a)(1) prohibitions to all forms of take for GOM DPS Atlantic sturgeon could impede necessary scientific research given the lengthy processing time to acquire a section 10(a)(1)(A) scientific research permit. Scientific research activities aid in the conservation of listed species by furthering our understanding of the species' life history and biological requirements. Collection of samples, as appropriate, from carcasses and live stranded or injured sturgeon can also help reduce the need for the intentional capture of Atlantic sturgeon for scientific research. Therefore, we propose to extend the ESA section 9(a)(1)(A) through 9(a)(1)(G) prohibitions to all activities impacting the GOM DPS throughout its range except for: (1) Scientific research conducted on GOM DPS Atlantic sturgeon within the riverine portion of its range and in accordance with accepted NMFS protocol(s); and, (2) salvage of dead and recovery of live stranded or injured GOM DPS Atlantic sturgeon found within the riverine range of the GOM DPS.

Within the marine range of the GOM DPS of Atlantic sturgeon, the section 9(a)(1) prohibitions proposed by this action are the same as the prohibitions that will automatically apply to the same area upon listing of any of the other four DPSs as endangered. Therefore, the entities affected by this action are those which conduct the activities exempted from the section 9 prohibitions for GOM DPS Atlantic sturgeon. These are Federal and state agencies, research institutions and universities which conduct scientific research, salvage, and recovery activities for Atlantic sturgeon within the river range of the GOM DPS. The only impact to these entities would be that scientific research, salvage of dead and recovery of live injured GOM DPS Atlantic sturgeon in the river portion of its range could take place without a section 10(a)(1)(A) permit. This action would not impose any additional economic impacts on these affected entities.

As a result, an initial regulatory flexibility analysis is not required and has not been prepared.

### *Paperwork Reduction Act (PRA)*

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been submitted to OMB for review and approval. Public reporting burden per response for this collection of information is estimated to average: (1) 40 hours to prepare reports on research of GOM DPS Atlantic sturgeon; and (2) 5 hours to prepare reports on emergency rescue, salvage or disposal of GOM DPS Atlantic sturgeon. These estimates include the time for reviewing instructions, searching existing data

sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. We invite comments regarding these burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503 (*Attention:* NOAA Desk Officer).

*Information Quality Act*

The Information Quality Act directed the Office of Management and Budget to issue government wide guidelines that "provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by federal agencies." Under the NOAA guidelines, this action is considered a Natural Resource Plan. It is a composite of several types of information from a variety of sources. Compliance of this document with NOAA guidelines is evaluated below.

- *Utility:* The information disseminated is intended to describe a management action and the impacts of that action. The information is intended to be useful to state and Federal agencies, non-governmental organizations, industry groups and other interested parties so they can understand the management action, its effects, and its justification.
- *Integrity:* No confidential data were used in the analysis of the impacts associated with this document. All information considered in this document and used to analyze the proposed action, is considered public information.
- *Objectivity:* The NOAA Information Quality Guidelines standards for Natural Resource Plans state that plans be presented in an accurate, clear, complete, and unbiased manner. NMFS strives to draft and present proposed management measures in a clear and easily understandable manner with detailed descriptions that explain the decision making process and the implications of management measures on natural resources and the public. This document was reviewed by a variety of biologists, policy analysts, and NOAA attorneys.

*E.O. 13132—Federalism*

In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, this proposed rule will be given to the relevant state agencies in each state in which Atlantic sturgeon belonging to the GOM DPS occurs as well as the ASMFC, and they will be invited to comment. We intend to continue engaging in informal and formal contacts with the States and ASMFC, and other affected local or regional entities, giving careful consideration to all written and oral comments received.

*E.O. 12898—Environmental Justice*

E.O. 12898 requires that Federal actions address environmental justice in decision-making process. In particular, the environmental effects of the actions should not have a disproportionate effect on minority and low-income communities. The proposed protective regulations are not expected to have a disproportionately high effect on minority populations or low-income populations.

*Coastal Zone Management Act (16 U.S.C. 1451 et seq.)*

Section 307(c)(1) of the Federal Coastal Zone Management Act of 1972 requires that all Federal activities that affect any land or water use or natural resource of the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. NMFS has determined that this action is consistent to the maximum extent practicable with the enforceable policies of approved Coastal Zone Management Programs of each of the states within the range of the GOM DPS. Letters documenting NMFS's determination, along with the proposed rule, have been sent to the coastal zone management program offices in each affected state. A list of the specific state contacts and a copy of the letters are available upon request.

**List of Subjects in 50 CFR Part 223**

Endangered and threatened species, Exports, Imports, Transportation.

Dated: June 6, 2011.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 223 is proposed to be amended as follows:

## PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

**Authority:** 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

2. In subpart B, add § 223.211 to read as follows:

**§ 223.211 Atlantic sturgeon.**

(a) *Prohibitions.* The prohibitions of sections 9(a)(1)(A) through 9(a)(1)(G) of the ESA (16 U.S.C. 1538) relating to endangered species apply to the threatened Gulf of Maine Distinct Population Segment (GOM DPS) of Atlantic sturgeon listed in § 223.102(c)(30).

(b) *Exemptions.* Exemptions to the take prohibitions described in section 9(a)(1)(B) of the ESA (16 U.S.C. 1538(a)(1)(B)) applied in paragraph (a) of this section to the threatened GOM DPS listed in § 223.102(c)(30) are described in paragraphs (b)(1) and (2) of this section.

(1) *Scientific research exemption.* The prohibitions of paragraph (a) of this section relating to the threatened GOM DPS listed in § 223.102(c)(30) do not apply to ongoing or future scientific research if:

(i) The scientific research is conducted in accordance with NMFS-approved methods for Atlantic sturgeon or uses technologies that do not require capture or handling of Atlantic sturgeon;

(ii) The research is directed at Atlantic sturgeon of the GOM DPS and is not incidental to research of another species;

(iii) The research is conducted upstream of the U.S. Route 1 Bridge at Newburyport, MA on the Merrimack River, upstream of Leigh's Mill Pond, South Berwick, ME on the Piscataqua River, upstream of the Main Street Bridge, Biddeford, ME on the Saco River, upstream of the U.S. Route 1 Bridge at Bath, ME on the Kennebec River, upstream of the Sheepscot Road Bridge at Newcastle, ME on the Sheepscot River, or upstream of Cove Brook at Winterport, ME on the Penobscot River (i.e., within the riverine range of the GOM DPS);

(iv) The research is conducted in compliance with all other laws, including state permits, if applicable;

(v) The research is conducted by researchers with documented experience conducting the proposed methodologies/techniques on Atlantic sturgeon or another sturgeon species;

(vi) Researchers make every effort to ensure that take is non-lethal;

(vii) Take does not involve artificial spawning or enhancement activities;

(viii) The researcher provides the following to the NMFS Northeast Regional Administrator at least 60 days prior to the commencement of such research (or, for ongoing research, within 60 days of issuance of a final

rule): a description of the study objectives and justification; a summary of the study design and methodology; a list of the researchers who will perform the study, including information demonstrating prior experience with Atlantic sturgeon or another sturgeon species for each of the technologies/methods to be used; the institution to which each participating researcher is affiliated; an estimate of the total take (by life stage) anticipated from the study; and the time period and location of the research;

(ix) Reports that include the total take (by life stage) and the method of taking (e.g., harassment, capture, handling) are provided to the NMFS Northeast Regional Administrator no later than 60 days following completion or termination of the research activity, or annually for multi-year studies; and

(x) The researcher(s) immediately suspend field studies and report to the NMFS Northeast Regional Administrator if any aspect of the research results in or is believed to have resulted in take causing injury or mortality of any Atlantic sturgeon belonging to the GOM DPS, or take (with or without causing injury or mortality) of any other ESA-listed species for which the researcher does not have an incidental take permit issued in accordance with section 10(a)(1)(B) of the ESA.

(2) *Salvage and Recovery Exemption.* The prohibitions of paragraph (a) of this section relating to the threatened GOM DPS of Atlantic sturgeon listed in § 223.102(c)(30) do not apply to Atlantic sturgeon salvage and rescue activities performed by persons described in paragraph (b)(2)(i) of this section, that include disposing of dead fish, salvaging dead Atlantic sturgeon for use in scientific studies or aiding sick, injured, or stranded Atlantic sturgeon, if:

(i) The activity is conducted by an employee of NMFS, the U.S. Fish and Wildlife Service, any other Federal land or water management agency, or any agent or employee of a state agency responsible for fish and wildlife who is designated by his or her agency for such purposes, when acting in the course of his or her official duties;

(ii) The activity is conducted in compliance with all other laws, including state permits, if applicable;

(iii) The activity is conducted upstream of the U.S. Route 1 Bridge at Newburyport, MA on the Merrimack River, upstream of Leigh's Mill Pond, South Berwick, ME on the Piscataqua River, upstream of the Main Street Bridge, Biddeford, ME on the Saco River, upstream of the U.S. Route 1 Bridge at Bath, ME on the Kennebec River, upstream of the Sheepscot Road Bridge at Newcastle, ME on the Sheepscot River, or upstream of Cove Brook at Winterport, ME on the Penobscot River (i.e., within the riverine range of the GOM DPS);

(iv) Live specimens are returned to their natural environment as soon as the sturgeon is no longer in danger (i.e., sick or injured); and

(v) The Northeast Regional Administrator is notified within 30 days after such an event whether the activity was a salvage or recovery, the individual(s) who salvaged or recovered the sturgeon, his or her agency affiliation, and the disposition of the specimen.

[FR Doc. 2011–14454 Filed 6–9–11; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register
Vol. 76, No. 112
Friday, June 10, 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

### Agricultural Marketing Service

**[Document Number AMS–FV–09–0067; FV–09–330]**

### United States Standards for Grades of Processed Raisins

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice and withdrawal.

**SUMMARY:** The Agricultural Marketing Service (AMS), of the United States Department of Agriculture (USDA) is withdrawing a notice soliciting comments on its proposed revision to the United States Standards for Grades of Processed Raisins. Based on the petitioner's request to withdraw their petition, the agency has decided not to proceed with this action.

**DATES:** *Effective Date:* June 10, 2011.

**FOR FURTHER INFORMATION CONTACT:** Myron Betts, Inspection and Standardization Section, Processed Products Branch (PPB), Fruit and Vegetable Programs (FV), AMS, USDA, 1400 Independence Avenue, SW., Room 0709, South Building; STOP 0247, Washington, DC 20250; *Telephone:* (202) 720–5021 or fax (202) 690–1527; or e-mail: *Myron.Betts@ams.usda.gov.* The United States Standards for Grades of Processed Raisins are available by accessing the AMS Web site on the Internet at *http://www.ams.usda.gov/processedinspection.*

### Background

On February 2, 2005, AMS received a petition from the Raisin Administrative Committee (RAC), requesting revision to the United States Standards for Grades of Processed Raisins. These standards are issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627).

The petitioner requested that AMS revise the United States Standards for Grades of Processed Raisins, Type I, Seedless Raisins. The revision would add a third sub-type, "Vine-dried (without the application of drying chemicals or materials)" and change the existing sub-type for "Dipped, Vine-dried or similarly processed raisins" to "Dipped, Vine-dried, treated with drying chemicals or materials".

On February 28, 2006, AMS published an advance notice of proposed rulemaking in the **Federal Register** (Vol. 71 39), [Docket No. FV–06–331] soliciting comments on the petition to revise the United States Standards for Grades of Processed Raisins. Between March 2007 and April 2010, AMS circulated a discussion draft to RAC which included a similar proposed revision to Type III, Raisins with Seeds. AMS did not receive any comments.

On July 21, 2010, AMS asked the RAC if they would like to adopt the proposed changes or withdraw the petition. The RAC could not agree on the discussion draft language.

In September 2010, AMS notified the RAC of its plan to withdraw the action to revise the United States Standards for Grades of Processed Raisins. The RAC agreed to bring up the issue again during their October 5, 2010, meeting. In October 2010 the RAC informed AMS that they had interest in keeping the process on the proposed revision open.

In March 2011, the RAC requested that the proposed change to the United States Standards for Grades of Processed Raisins be withdrawn.

AMS has decided not to proceed further with the proposed revision to the United States Standards for Grades of Processed Raisins and it is hereby withdrawn.

**Authority:** 7 U.S.C. 1621–1627.

Dated: June 7, 2011.

**Ellen King,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–14484 Filed 6–9–11; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. APHIS–2011–0050]**

### Notice of Request for Extension of Approval of an Information Collection; Animal Welfare

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Extension of approval of an information collection; comment request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request extension of approval of an information collection associated with Animal Welfare Act regulations for the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and intermediate handlers.

**DATES:** We will consider all comments that we receive on or before August 9, 2011.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2011–0050* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send one copy of your comment to Docket No. APHIS–2011–0050, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2011–0050.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

*Other Information:* Additional information about APHIS and its

programs is available on the Internet at *http://www.aphis.usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** For information on the Animal Welfare Act regulations, contact Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road, Unit 84, Riverdale, MD 20737; (301) 734–7833. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

**SUPPLEMENTARY INFORMATION:**

*Title:* Animal Welfare.

*OMB Number:* 0579–0036.

*Type of Request:* Extension of approval of an information collection.

*Abstract:* Under the Animal Welfare Act (AWA or Act) (7 U.S.C. 2131 *et seq.*), the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and intermediate handlers. The Secretary of Agriculture has delegated the authority for enforcement of the AWA to the Animal and Plant Health Inspection Service (APHIS).

The regulations in 9 CFR parts 1 through 3 were promulgated under the AWA to ensure the humane handling, care, treatment, and transportation of regulated animals under the Act. The regulations in 9 CFR part 2 require documentation of specified information by dealers, research institutions, exhibitors, carriers (including foreign air carriers), and intermediate handlers. The regulations in 9 CFR part 2 also require that facilities that use animals for regulated purposes obtain a license or register with the U.S. Department of Agriculture (USDA). Before being issued a USDA license, individuals are required to undergo prelicense inspections; once licensed, a licensee must periodically renew the license.

To help ensure compliance with the AWA regulations, APHIS performs unannounced inspections of regulated facilities. A significant component of the inspection process is review of records that must be established and maintained by regulated facilities. The information contained in these records is used by APHIS inspectors to ensure that dealers, research facilities, exhibitors, intermediate handlers, and carriers comply with the Act and regulations.

Facilities must make and maintain records that contain official identification for all dogs and cats and certification of those animals received from pounds, shelters, and private individuals. These records are used to ensure that stolen pets are not used for regulated activities. Dealers, exhibitors, and research facilities that acquire animals from nonlicensed persons are required to have the owners of the animals sign a certification statement verifying the owner's exemption from licensing under the Act. Records must also be maintained for animals other than dogs and cats when the animals are used for purposes regulated under the Act.

Research facilities must also make and maintain additional records for animals covered under the Act that are used for teaching, testing, and experimentation. This information is used by APHIS personnel to review the research facility's animal care and use program.

APHIS needs the reporting and recordkeeping requirements contained in 9 CFR part 2 to enforce the Act and regulations. APHIS also uses the collected information to provide a mandatory annual report of animal welfare activities to Congress.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

*Estimate of burden:* The public reporting burden for this collection of information is estimated to average 0.9502381 hours per response.

*Respondents:* Dealers, research facilities, exhibitors, carriers, and intermediate handlers; persons exempt from licensing under the AWA.

*Estimated annual number of respondents:* 9,985.

*Estimated annual number of responses per respondent:* 9.6081822.

*Estimated annual number of responses:* 95,937.

*Estimated total annual burden on respondents:* 91,163 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 6th day of June 2011.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2011–14426 Filed 6–9–11; 8:45 am]

**BILLING CODE 3410–34–P**

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. APHIS–2011–0045]**

### Notice of Revision and Request for Extension of Approval of an Information Collection; Swine Health Protection

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Revision and extension of approval of an information collection; comment request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to revise an information collection associated with regulations to prevent the interstate spread of swine diseases and to request extension of approval of the information collection to protect swine health.

**DATES:** We will consider all comments that we receive on or before August 9, 2011.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2011–0045* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send one copy of your comment to Docket No. APHIS–2011–0045, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD

20737–1238. Please state that your comment refers to Docket No. APHIS–2011–0045.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** For information on the swine health protection program, contact Dr. Dave Pyburn, Staff Veterinarian, Aquaculture, Swine, Equine, and Poultry Programs, VS, APHIS, 210 Walnut Street, Room 891, Des Moines, IA 50309; (515) 284–4122. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

**SUPPLEMENTARY INFORMATION:**

*Title:* Swine Health Protection.

*OMB Number:* 0579–0065.

*Type of Request:* Revision and extension of approval of an information collection.

*Abstract:* Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is authorized, among other things, to prohibit or restrict the interstate movement of animals and animal products to prevent the dissemination within the United States of animal diseases and pests of livestock and to conduct programs to detect, control, and eradicate pests and diseases of livestock.

The Swine Health Protection Act (the Act) prohibits the feeding of garbage to swine unless the garbage has been treated to kill disease organisms. Untreated garbage is one of the primary media through which numerous infectious and communicable diseases can be transmitted to swine. APHIS' regulations promulgated under the Act, which are located at 9 CFR part 166, require that, before garbage may be fed to swine, it must be treated at a facility holding a valid permit to treat the garbage and must be treated according to the regulations.

APHIS requires certain information in order to license (issue a permit to) a facility to operate and in order to monitor the facility for compliance with the regulations. This information is collected from applications for a license to operate a garbage treatment facility, records of the destination and date of removal of all food waste or garbage from the treatment facility, and food waste reports. With this information, we are able to carefully monitor garbage treatment facilities to ensure that they are meeting our requirements. We are revising the current collection by adding an activity for tracking of cancellation of licenses by licensees and no longer requiring licensees to acknowledge receipt of the Act and regulations. The information provided by the combined activities is critical in preventing the interstate spread of various swine diseases and, therefore, plays a vital role in our swine health protection program.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

*Estimate of burden:* The public reporting burden for this collection of information is estimated to average 0.8802 hours per response.

*Respondents:* Owners/operators (licensees) of garbage treatment facilities, State animal health authorities, and herd owners.

*Estimated annual number of respondents:* 1,715.

*Estimated annual number of responses per respondent:* 7.5009.

*Estimated annual number of responses:* 12,864.

*Estimated total annual burden on respondents:* 11,323 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 6th day of June 2011.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2011–14427 Filed 6–9–11; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. APHIS–2011–0042]**

### Notice of Request for Extension of Approval of an Information Collection; Interstate Movement of Sheep and Goats

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Extension of approval of an information collection; comment request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the interstate movement of sheep and goats to control the spread of scrapie.

**DATES:** We will consider all comments that we receive on or before August 9, 2011.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2011–0042* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send one copy of your comment to Docket No. APHIS–2011–0042, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2011–0042.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW.,

Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** For information on regulations for the interstate movement of sheep and goats to control the spread of scrapie, contact Dr. Michele April, Senior Staff Veterinarian, National Surveillance Unit, CEAH, VS, APHIS, 4700 River Road, Unit 200, Riverdale, MD 20737; (301) 734–6954. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

**SUPPLEMENTARY INFORMATION:**

*Title:* Interstate Movement of Sheep and Goats.

*OMB Number:* 0579–0258.

*Type of Request:* Extension of approval of an information collection.

*Abstract:* Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is authorized, among other things, to prohibit or restrict the interstate movement of animals and animal products to prevent the dissemination within the United States of animal diseases and pests of livestock and to conduct programs to detect, control, and eradicate pests and diseases of livestock.

Scrapie is a progressive, degenerative, and eventually fatal disease affecting the nervous system of sheep and goats. Its control is complicated because the disease has an extremely long incubation period without clinical signs of disease and no known treatment.

APHIS regulations in 9 CFR part 71 restrict the interstate movement of sheep and goats to control the spread of scrapie and include provisions for livestock facilities that handle sheep or goats in interstate commerce to be approved by APHIS. These requirements are intended to ensure that such facilities are constructed and operated in a manner that will help prevent the spread of scrapie and involve information collection activities, including an Approval of Livestock and Facilities Agreement and recordkeeping.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

*Estimate of burden:* The public reporting burden for this collection of information is estimated to average 0.52667 hours per response.

*Respondents:* Owners of livestock facilities that handle sheep and goats moving interstate; State animal health officials.

*Estimated annual number of respondents:* 200.

*Estimated annual number of responses per respondent:* 2.25.

*Estimated annual number of responses:* 450.

*Estimated total annual burden on respondents:* 237 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 6th day of June 2011.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2011–14428 Filed 6–9–11; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Shoshone Resource Advisory Committee Agency

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Shoshone Resource Advisory Committee (Committee) will hold a conference call on June 28, 2011. 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 conference call is to welcome two new members and review the second set of project submittals.

**DATES:** The conference call will be held June 28, 2011, at 9 a.m.

**ADDRESSES:** The meeting will be held via conference call.

**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. Members of the public who wish to participate may do so by calling Olga Troxel, Resource Advisory Committee Coordinator, for conference call information. The following business will be conducted: (1) Welcome two new members, and (2) Review second set of project submittals. 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: May 16, 2011.

**Joseph G. Alexander,**

*Forest Supervisor.*

[FR Doc. 2011–14111 Filed 6–9–11; 8:45 am]

**BILLING CODE 3410–11–M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Newspapers Used for Publication of Legal Notices by the Intermountain Region; Utah, Idaho, Nevada, and Wyoming

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice lists the newspapers that will be used by the ranger districts, forests and regional office of the Intermountain Region to publish legal notices required under 36 CFR parts 215, 218, and 219. The intended effect of this action is to inform interested members of the public which newspapers the Forest Service will use to publish notices of proposed

actions and notices of decision. This will provide the public with constructive notice of Forest Service proposals and decisions, provide information on the procedures to comment or appeal, and establish the date that the Forest Service will use to determine if comments or appeals were timely.

**DATES:** Publication of legal notices in the listed newspapers will begin on or after June 2011. The list of newspapers will remain in effect until October 2011, when another notice will be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Claire Huking, Regional Appeals Coordinator, Intermountain Region, 324 25th Street, Ogden, UT 84401, and phone (801) 625–5146.

**SUPPLEMENTARY INFORMATION:** The administrative procedures at 36 CFR part 215, 218, and 219 require the Forest Service to publish notices in a newspaper of general circulation. The content of the notices is specified in 36 CFR 215, 218 and 219. In general, the notices will identify: the decision or project, by title or subject matter; the name and title of the official making the decision; how to obtain additional information; and where and how to file comments or appeals. The date the notice is published will be used to establish the official date for the beginning of the comment or appeal period. The newspapers to be used are as follows:

**Regional Forester, Intermountain Region**

Regional Forester decisions affecting National Forests in Idaho: *Idaho Statesman*
Regional Forester decisions affecting National Forests in Nevada: *Reno Gazette-Journal*
Regional Forester decisions affecting National Forests in Wyoming: *Casper Star-Tribune*
Regional Forester decisions affecting National Forests in Utah: *Salt Lake Tribune*
Regional Forester decisions that affect all National Forests in the Intermountain Region: *Salt Lake Tribune*

**Ashley National Forest**

Ashley Forest Supervisor decisions: *Vernal Express*
District Ranger decisions for Duchesne, Roosevelt: *Uintah Basin Standard*
Flaming Gorge District Ranger for decisions affecting Wyoming: *Rocket Miner*
Flaming Gorge and Vernal District Ranger for decisions affecting Utah: *Vernal Express*

**Boise National Forest**

Boise Forest Supervisor decisions: *Idaho Statesman*
Cascade District Ranger decisions: *McCall Star-News*
Emmett District Ranger decisions: *Messenger-Index*
District Ranger decisions for Idaho City and Mountain Home: *Idaho Statesman*
Lowman District Ranger decisions: *Idaho World*

**Bridger-Teton National Forest**

Bridger-Teton Forest Supervisor and District Ranger decisions: *Casper Star-Tribune*

**Caribou-Targhee National Forest**

Caribou-Targhee Forest Supervisor decisions for the Caribou portion: *Idaho State Journal*
Caribou-Targhee Forest Supervisor decisions for the Targhee portion: *Post Register*
District Ranger decisions for Ashton, Dubois, Island Park, Palisades and Teton Basin: *Post Register*
District Ranger decisions for Montpelier, Soda Springs and Westside: *Idaho State Journal*

**Dixie National Forest**

Dixie Forest Supervisor decisions: *Daily Spectrum*
District Ranger decisions for Cedar City, Escalante, Pine Valley and Powell: *Daily Spectrum*
Fremont (formerly Teasdale) District Ranger decisions: *Richfield Reaper*

**Fishlake National Forest**

Fishlake Forest Supervisor and District Ranger decisions: *Richfield Reaper*

**Humboldt-Toiyabe National Forest**

Humboldt-Toiyabe Forest Supervisor decisions that encompass all or portions of both the Humboldt and Toiyabe National Forests: *Reno Gazette-Journal*
Humboldt-Toiyabe Forest Supervisor decisions for the Humboldt portion: *Elko Daily Free Press*
Humboldt-Toiyabe Forest Supervisor decisions for the Toiyabe portion: *Reno Gazette-Journal*
Austin District Ranger decisions: *The Battle Mountain Bugle*
Bridgeport and Carson District Ranger decisions: *Reno Gazette-Journal*
Ely District Ranger decisions: *The Ely Times*
District Ranger decisions for Jarbidge, Mountain City and Ruby Mountains: *Elko Daily Free Press*
Santa Rosa District Ranger decisions: *Humboldt Sun*
Spring Mountains National Recreation Area District Ranger decisions: *Las Vegas Review Journal*
Tonopah District Ranger decisions: *Tonopah Times Bonanza-Goldfield News*

**Manti-Lasal National Forest**

Manti-LaSal Forest Supervisor decisions: *Sun Advocate*
Ferron District Ranger decisions: *Emery County Progress*
Moab District Ranger decisions: *Times Independent*
Monticello District Ranger decisions: *San Juan Record*
Price District Ranger decisions: *Sun Advocate*
Sanpete District Ranger decisions: *Sanpete Messenger*

**Payette National Forest**

Payette Forest Supervisor decisions: *Idaho Statesman*
Council District Ranger decisions: *Adams County Record*
District Ranger decisions for Krassel, McCall and New Meadows: *Star News*
Weiser District Ranger decisions: *Signal American*

**Salmon-Challis National Forest**

Salmon-Challis Forest Supervisor decisions for the Salmon portion: *The Recorder-Herald*
Salmon-Challis Forest Supervisor decisions for the Challis portion: *The Challis Messenger*
District Ranger decisions for Lost River, Middle Fork and Challis-Yankee Fork: *The Challis Messenger*
District Ranger decisions for Leadore, North Fork and Salmon-Cobalt: *The Recorder-Herald*

**Sawtooth National Forest**

Sawtooth Forest Supervisor decisions: *The Times News*
District Ranger decisions for Fairfield and Minidoka: *The Times News*
Ketchum District Ranger decisions: *Idaho Mountain Express*
Sawtooth National Recreation Area: *The Challis Messenger*

**Uinta-Wasatch-Cache National Forest**

Forest Supervisor decisions for the Uinta portion, including the Vernon Unit: *Provo Daily Herald*
Forest Supervisor decisions for the Wasatch-Cache portion: *Salt Lake Tribune*
Forest Supervisor decisions for the entire Uinta-Wasatch-Cache: *Salt Lake Tribune*
District Ranger decisions for the Heber-Kamas, Pleasant Grove, and Spanish Fork Ranger Districts: *Provo Daily Herald*

District Ranger decisions for Evanston and Mountain View: *Uinta County Herald*
District Ranger decisions for Salt Lake: *Salt Lake Tribune*
District Ranger decisions for Logan: *Logan Herald Journal*
District Ranger decisions for Ogden: *Standard Examiner*

Dated: June 3, 2011.

**Marlene Finley,**

*Deputy Regional Forester.*

[FR Doc. 2011–14395 Filed 6–9–11; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

**[Docket No. NRCS–2011–0015]**

### Intention To Revise a Currently Approved Information Collection

**AGENCY:** Natural Resources Conservation Service (NRCS), United States Department of Agriculture (USDA).

**ACTION:** Notice of re-opening of public comment period.

**SUMMARY:** On December 7, 2010, NRCS published in the **Federal Register** a Notice and request for comments to a currently approved information collection package with a public comment period closing on January 6, 2011. The Notice announced NRCS' intention to revise a currently approved information collection, Long-Term Contracting, to clarify for the public information that is no longer included in the collection. NRCS is hereby re-opening the public comment period for the Notice.

**DATES:** Comments to the Notice published in the **Federal Register** on December 7, 2010 (75 FR 75959) must be received on or before August 9, 2011

**ADDRESSES:** You may send comments using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending comments electronically.
- *Mail:* Paperwork Reduction Act Comments, NRCS, P.O. Box 2890, Washington, DC 20013.

**FOR FURTHER INFORMATION CONTACT:** Phyllis Watkins, Department of Agriculture, Natural Resources Conservation Service, Acting Forms Manager, 1400 Independence Avenue, SW., Room 4235 South Building, Washington, DC 20250; Telephone: (202) 720–3770.

Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at: (202) 720–2600 (voice and TDD).

**SUPPLEMENTARY INFORMATION:** On December 7, 2010, NRCS published in the **Federal Register** a Notice and request for comments to a currently approved information collection package for Long-Term Contracting. The Notice clarified for the public information that is no longer included in the collection. The public comment period closed on January 6, 2011. NRCS is hereby re-opening the public comment period for the Notice. Interested parties should refer to Table C in the December 7, 2010, Notice (75 FR 75959) for a summary of the burden for requirements under the Paperwork Reduction Act.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden hours (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 included in the request for Office of Management and Budget approval of this information collection, and will become a matter of public record.

Signed this 3rd day of June 2011, in Washington, DC.

**Dave White,**

*Chief, Natural Resources Conservation Service.*

[FR Doc. 2011–14443 Filed 6–9–11; 8:45 am]

**BILLING CODE 3410–16–P**

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Announcement of Grant Application Deadlines and Funding Levels

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of funds availability.

**SUMMARY:** The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture (USDA), announces its Public Television Digital Transition Grant Program application window for fiscal year (FY) 2011. The FY 2011 funding for the Public Television Station Digital Transition Grant Program is $4,491,000.

**DATES:** You may submit completed applications for grants on paper or electronically according to the following deadlines:

- Paper copies must carry proof of shipping no later than July 25, 2011 to be eligible for FY 2011 grant funding. Late applications are not eligible for FY 2011 grant funding.
- Electronic copies must be received by July 25, 2011 to be eligible for FY 2011 grant funding. Late applications are not eligible for FY 2011 grant funding.

**ADDRESSES:** You may obtain the application guide and materials for the Public Television Station Digital Transition Grant Program at the following sources:

1. The Internet at *http://www.rurdev.usda.gov/UTP_DTV.html*
2. You may also request the application guide and materials from RUS by contacting the appropriate individual listed in Section VII of the **SUPPLEMENTARY INFORMATION** section of this notice.

*Completed applications may be submitted the following ways:*

1. *Paper:* Submit completed paper applications for grants to the Telecommunications Program, Rural Utilities Service, 1400 Independence Ave., SW., Room 2844, STOP 1550, Washington, DC 20250–1550. Applications should be marked "Attention: Acting Director, Advanced Services Division."
2. *Electronic:* Submit electronic grant applications to Grants.gov at the following Web address: *http://www.grants.gov/* (Grants.gov), and follow the instructions you find on that Web site.

**FOR FURTHER INFORMATION CONTACT:** Gary B. Allan, Chief, Universal Services Branch, Advanced Services Division, Telecommunications Program, Rural Utilities Service, telephone: 202–690–4493, fax: 202–720–1051.

**SUPPLEMENTARY INFORMATION:**

#### Overview

*Federal Agency:* Rural Utilities Service (RUS).

*Funding Opportunity Title:* Public Television Station Digital Transition Grant Program.

*Announcement Type:* Initial announcement.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 10.861.

*Dates:* Deadline for completed grant applications submitted electronically or on paper.

**Items in Supplementary Information**

I. Funding Opportunity: Brief introduction to the Public Television Station Digital Transition Grant Program.

II. Award Information: Maximum amounts.

III. Eligibility Information: Who is eligible, what kinds of projects are eligible, what criteria determine basic eligibility.

IV. Application and Submission Information: Where to get application materials, what constitutes a completed application, how and where to submit applications, deadlines, items that are eligible.

V. Application Review Information: Considerations and preferences, scoring criteria, review standards, selection information.

VI. Award Administration Information: Award notice information, award recipient reporting requirements.

VII. Agency Contacts: Web, phone, fax, email, contact name.

## I. Funding Opportunity

As part of the nation's transition to digital television, the Federal Communications Commission (FCC) required all television broadcasters to have converted their transmitters to broadcast digital signals by June 12, 2009. While stations must broadcast their main transmitter signal in digital, many rural stations have yet to complete a full digital transition of their stations across all equipment. Rural stations often have translators serving small or isolated areas and some of these have not completed the transition to digital. Because the FCC deadline did not apply to translators, they are allowed to continue broadcasting in analog. Some rural stations also have not fully converted their production and studio equipment to digital, which has impaired their ability to provide the same quality local programming that they provided in analog. The digital transition has also created some service gaps where households that received an analog signal are now unable to receive a digital signal. For rural households the digital transition has meant in some cases diminished over-the-air public television service. These rural households are the focus of the Agency's Public Television Station Digital Transition Grant Program.

Most applications to the Public Television Station Digital Transition Grant Program have sought assistance towards the goal of replicating analog coverage areas through transmitter and translator transitions. The first priority has been to initiate digital broadcasting from their main transmitters. As many stations have completed the digital transition of their transmitters, the focus has shifted to power upgrades and translators, as well as digital program production equipment and multicasting/datacasting equipment. There are some rural stations that may need to install translators to provide fill-in service to areas that previously received analog but are now unable to receive digital. In FY 2010, 14 awards were made for the following: Translators, studio and production equipment, master control equipment, and microwave equipment. When compared with the first few years of the program, as the digital transition progresses, more applications were received for translators and master control and production equipment, than for transmitters. Some stations may not have achieved full analog parity in program management and creation even after the June 12, 2009, deadline. Continuation of reliable public television service to all current patrons understandably is still the focus for many broadcasters.

It is important for public television stations to be able to tailor their programs and services (e.g., education services, public health, homeland security, and local culture) to the needs of their rural constituents. If public television programming is lost, many school systems may be left without educational programming they count on for curriculum compliance.

This notice has been formatted to conform to a policy directive issued by the Office of Federal Financial Management (OFFM) of the Office of Management and Budget (OMB), published in the **Federal Register** on June 23, 2003, (68 FR 37370). This Notice does not change the Public Television Station Digital Transition Grant Program regulation (7 CFR part 1740).

## II. Award Information

*A. Available Funds for Grants*

1. The amount available for grants for FY 2011 is $4,491,000. The maximum amount for grants under this program is $750,000 per public television station per year.

2. Assistance instrument: Grant documents appropriate to the project will be executed with successful applicants prior to any advance of funds.

*B. Public Television Station Digital Transition Grants Cannot be Renewed*

Award documents specify the term of each award, and due to uncertainties in regulatory approvals of digital television broadcast facilities, the Agency will consider a one-time request to extend the period during which grant funding is available.

## III. Eligibility Information

*A. Who is eligible for grants? (See 7 CFR 1740.3.)*

1. Public television stations which serve rural areas are eligible for Public Television Station Digital Transition Grants. A public television station is a noncommercial educational television broadcast station that is qualified for Community Service Grants by the Corporation for Public Broadcasting under section 396(k) of the Communications Act of 1934.

2. Individuals are not eligible for Public Television Station Digital Transition Grant Program financial assistance directly.

*B. What are the basic eligibility requirements for a project?*

1. Grants shall be made to perform digital transitions of television broadcasting serving rural areas. Grant funds may be used to acquire, lease, and/or install facilities and software necessary to the digital transition. Specific purposes include:

a. Digital transmitters, translators, and repeaters, including all facilities required to initiate DTV broadcasting. All broadcast facilities acquired with grant funds shall be capable of delivering DTV programming and HDTV programming, at both the interim and final channel and power authorizations. There is no limit to the number of transmitters or translators that may be included in an application;

b. Power upgrades of existing DTV transmitter equipment, including replacement of existing low-power digital transmitters with digital transmitters capable of delivering the final authorized power level;

c. Studio-to-transmitter links;

d. Equipment to allow local control over digital content and programming, including master control equipment;

e. Digital program production equipment, including cameras, editing, mixing and storage equipment;

f. Multicasting and datacasting equipment;

g. Cost of the lease of facilities, if any, for up to three years; and,

h. Associated engineering and environmental studies necessary to implementation.

2. Matching contributions: There is no requirement for matching funds in this program (see 7 CFR 1740.5).

3. The following are not eligible for grant funding (see 7 CFR 1740.7):

a. Funding for ongoing operations or for facilities that will not be owned by the applicant, except for leased facilities as provided above;

b. Costs of salaries, wages, and employee benefits of public television

station personnel unless they are for construction or installation of eligible facilities;

c. Portions of a project that have been funded by any other source;

d. Items bought or built prior to the application deadline specified in this Notice of Solicitation of Applications.

*C. Summary Discussion of a Completed Application*

See paragraph IV.B of this notice for a summary discussion of the items that make up a completed application. You will find more complete information in the FY 2011 Public Television Digital Transition Grant Program Application Guide. You may also refer to 7 CFR 1740.9 for completed grant application items.

**IV. Application and Submission Information**

*A. Where To Get Application Information*

The application guide, copies of necessary forms and samples, and the Public Television Station Digital Transition Grant Program regulation are available from these sources:

1. The Internet: *http://www.rurdev.usda.gov/UTP_DTV.html,* or *http://www.grants.gov*.

2. The RUS Advanced Services Division, for paper copies of these materials: (202) 690–4493.

*B. What constitutes a completed application?*

1. Detailed information on each item required can be found in the Public Television Station Digital Transition Grant Program regulation and application guide. Applicants are strongly encouraged to read and apply both the regulation and the application guide. This Notice does not change the requirements for a completed application specified in the program regulation. The program regulation and application guide provide specific guidance on each of the items listed and the application guide provides all necessary forms and sample worksheets.

2. A completed application must include the following documentation, studies, reports and information in form satisfactory to RUS. Applications should be prepared in conformance with the provisions in 7 CFR part 1740, subpart A, and applicable USDA regulations including 7 CFR parts 3015, 3016, and 3019. Applicants must use the application guide for this program containing instructions and all necessary forms, as well as other important information, in preparing their application. Completed applications must include the following:

a. An application for Federal assistance, Standard Form 424.

b. An executive summary, not to exceed two pages, describing the public television station, its service area and offerings, its current digital transition status, and the proposed project.

c. Evidence of the applicant's eligibility to apply under this Notice, demonstrating that the applicant is a Public Television Station as defined in this Notice, and that it is required by the FCC to perform the digital transition.

d. A spreadsheet showing the total project cost, with a breakdown of items sufficient to enable RUS to determine individual item eligibility.

e. A coverage contour map showing the digital television coverage area of the application project. This map must show the counties (or county) comprising the Core Coverage Area by shading and by name. Partial counties included in the applicant's Core Coverage Area must be identified as partial and must contain an attachment with the applicant's estimate of the percentage that its coverage contour comprises of the total area of the county (In the Application Guide, see Section D. Scoring Documentation). If the application is for a translator, the coverage area may be estimated by the applicant through computer modeling or some other reasonable method, and this estimate is subject to acceptance by RUS.

f. The applicant's estimate of its Rurality score, supported by a worksheet showing the population of its Core Coverage Area, and the urban and rural populations within the Core Coverage Area. The data source for the urban and rural components of that population must be identified. If the application includes computations made by a consultant or other organization outside the public television station, the application shall state the details of that collaboration.

g. The applicant's estimate of its Economic Need score, supported by a worksheet showing the National School Lunch Program eligibility levels for all school districts within the Core Coverage Area and averaging these eligibility percentages. The application must include a statement from the state or local organization that administers the NSLP program certifying that the school district scores used in the computations are accurate. Applicants are to use the most recent data available. Some official NSLP data is posted on state and/or local government Web sites, in which case a printout of the data may be provided as long as it documents the Web site source.

h. A presentation not to exceed five pages demonstrating the Critical Need for the project.

i. Evidence that the FCC has authorized the initiation of digital broadcasting at the project sites. In the event that an FCC construction permit has not been issued for one or more sites, RUS may include those sites in the grant, and make advance of funds for that site conditional upon the submission of a construction permit.

j. Compliance with other Federal statutes. The applicant must provide evidence or certification that it is in compliance with all applicable Federal statutes and regulations, including, but not limited to the following (Sample certifications are provided in the application guide.):

(1) Equal Opportunity and Nondiscrimination;

(2) Architectural barriers;

(3) Flood hazard area precautions;

(4) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(5) Drug-Free Workplace Act of 1998 (41 U.S.C. 701);

(6) Debarment, Suspension; and Other Responsibility Matters—Primary Covered Transactions;

(7) Lobbying for Contracts, Grants, Loans, and Cooperative Agreements Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

k. Environmental impact and historic preservation. The applicant must provide details of the digital transition's impact on the environment and historic preservation, and comply with 7 CFR Part 1794, which contains the Agency's policies and procedures for implementing a variety of federal statutes, regulations, and executive orders generally pertaining to the protection of the quality of the human environment. This must be contained in a separate section entitled "Environmental Impact of the Digital Transition," and must include the Environmental Questionnaire/Certification, available from RUS, describing the impact of its digital transition. Submission of the Environmental Questionnaire/Certification alone does not constitute compliance with 7 CFR part 1794.

3. DUNS Number. As required by the OMB, all applicants for grants must supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying. The Standard Form 424 (SF–424) contains a field for you to use when supplying your DUNS number. Obtaining a DUNS number costs nothing and requires a short telephone call to Dun and Bradstreet. Please see *http://www.grants.gov/*

*applicants/request_duns_number.jsp* for more information on how to obtain a DUNS number or how to verify your organization's number.

4. Central Contractor Registration (CCR).

a. In accordance with 2 CFR part 25, applicants, whether applying electronically or by paper, must be registered in the CCR prior to submitting an application. Applicants may register for the CCR at *https://www.uscontractorregistration.com/or* by calling 1–877–252–2700. Completing the CCR registration process takes up to five business days, and applicants are strongly encouraged to begin the process well in advance of the deadline specified in this notice.

b. The CCR registration must remain active, with current information, at all times during which an entity has an application under consideration by an agency or has an active Federal Award. To remain registered in the CCR database after the initial registration, the applicant is required to review and update, on an annual basis from the date of initial registration or subsequent updates, its information in the CCR database to ensure it is current, accurate and complete.

*C. How many copies of an application are required?*

1. Applications submitted on paper: Submit the original application and two (2) copies to RUS.

2. Electronically submitted applications: The additional paper copies for RUS are not necessary if you submit the application electronically through *http://www.grants.gov*.

*D. How and where to submit an application?*

Grant applications may be submitted on paper or electronically.

1. Submitting applications on paper.

a. Address paper applications for grants to the Telecommunications Program, RUS, 1400 Independence Ave., SW., Room 2844, STOP 1550, Washington, DC 20250–1550. Applications should be marked "Attention: Acting Director, Advanced Services Division."

b. Paper applications must show proof of mailing or shipping consisting of one of the following:

(i) A legibly dated postmark applied by the U. S. Postal Service;

(ii) A legible mail receipt with the date of mailing stamped by the USPS; or

(iii) A dated shipping label, invoice, or receipt from a commercial carrier.

c. Non-USPS-applied postage dating, i.e. dated postage meter stamps, do not constitute proof of the date of mailing.

d. Due to screening procedures at the Department of Agriculture, packages arriving via the USPS are irradiated, which can damage the contents. RUS encourages applicants to consider the impact of this procedure in selecting their application delivery method.

2. Electronically submitted applications.

a. Applications will not be accepted via facsimile machine transmission or electronic mail.

b. Electronic applications for grants will be accepted if submitted through the Federal government's Grants.gov initiative at *http://www.grants.gov*.

c. How to use Grants.gov:

(i) Navigate your Web browser to *http://www.grants.gov*.

(ii) Follow the instructions on that Web site to find grant information.

(iii) Download a copy of the application package.

(iv) Complete the package off-line.

(v) Upload and submit the application via the Grants.gov Web site.

d. Grants.gov contains full instructions on all required passwords, credentialing and software.

e. RUS encourages applicants who wish to apply through Grants.gov to submit their applications in advance of the deadline. Difficulties encountered by applicants filing through Grants.gov will not justify filing deadline extensions.

f. If a system problem occurs or you have technical difficulties with an electronic application, please use the customer support resources available at the Grants.gov Web site.

*E. Deadlines*

1. Paper applications must be postmarked and mailed, shipped, or sent overnight no later than July 25, 2011 to be eligible for FY 2011 grant funding. Late applications are not eligible for FY 2011 grant funding.

2. Electronic grant applications must be received by July 25, 2011 to be eligible for FY 2011 funding. Late applications are not eligible for FY 2011 grant funding.

## V. Application Review Information

*A. Criteria*

1. Grant applications are scored competitively and subject to the criteria listed below.

2. Grant application scoring criteria are detailed in 7 CFR 1740.8. There are 100 points available, broken down as follows:

a. The Rurality of the Project (up to 50 points);

b. The Economic Need of the Project's Service Area (up to 25 points); and

c. The Critical Need for the project, and of the applicant, including the benefits derived from the proposed service (up to 25 points).

*B. Review Standards*

1. All applications for grants must be delivered to RUS at the address and by the date specified in this notice to be eligible for funding. RUS will review each application for conformance with the provisions of this part. RUS may contact the applicant for additional information or clarification.

2. Incomplete applications as of the deadline for submission will not be considered. If an application is determined to be incomplete, the applicant will be notified in writing and the application will be returned and will not be considered for FY 2011 funding.

3. Applications conforming with this part will be evaluated competitively by a panel of RUS employees selected by the Administrator of RUS, and will be awarded points as described in the scoring criteria in 7 CFR 1740.8. Applications will be ranked and grants awarded in rank order until all grant funds are expended.

4. Regardless of the score an application receives, if the RUS determines that the Project is technically or financially infeasible, the Agency will notify the applicant, in writing, and the application will be returned and will not be considered for FY 2011 funding.

*C. Scoring Guidelines*

1. The applicant's estimated scores in Rurality and Economic Need will be checked and, if necessary, corrected by RUS.

2. The Critical Need score will be determined by RUS based on information presented in the application. The critical need score is a subjective score based on the reviewer's assessment of the supporting arguments made in the application. The score aims to assess how the specific digital transition purpose fits with the unique need of the television station as it moves all of its equipment through the digital transition. This score is intended to capture from the rural public's standpoint the necessity and usefulness of the proposed project.

This scoring category will also recognize that at a specific time, some transition purposes are perceived to be more essential than others and that, over time, that perception changes. For example, during the transition from analog to digital transmitters, which concluded on June 12, 2009, a first time transition of a primary transmitter was

the most essential project that could be undertaken for most stations and would have been scored accordingly. Now that all transmitters have completed the transition to digital, the focus may shift to some of the other eligible purposes such as translators, studio and production equipment, and master control equipment. But what equipment specifically is most essential may vary from station to station. Just to name one example, local production equipment can be a high priority especially if it produces an areas' only local news or if the station has been historically active in producing local programming. In addition to being a subjective score, the critical need score is also relative in the sense that each application is scored in comparison to other applications in the competition. These various factors explain why a similar application may receive a different critical need score in different years of this program.

## VI. Award Administration Information

*A. Award Notices*

The Agency generally notifies applicants whose projects are selected for awards by faxing an award letter. The Agency follows the award letter with a grant agreement that contains all the terms and conditions for the grant. A copy of the standard agreement is posted on the RUS Web site at *http://www.rurdev.usda.gov/UTP_DTVResources.html.* An applicant must execute and return the grant agreement, accompanied by any additional items required by the grant agreement.

*B. Administrative and National Policy Requirements*

The items listed in the program regulation at 7 CFR 1740.9(j) implement the appropriate administrative and national policy requirements.

*C. Reporting*

1. All recipients of Public Television Station Digital Transition Grant Program financial assistance must provide semiannual performance activity reports to RUS until the project is complete and the funds are expended. A final performance report is also required; the final report may serve as the last semiannual report. The final report must include an evaluation of the success of the project.

2. Recipient and Subrecipient Reporting.

The applicant must have the necessary processes and systems in place to comply with the reporting requirements for first-tier sub-awards and executive compensation under the Federal Funding Accountability and Transparency Act of 2006 in the event the applicant receives funding unless such applicant is exempt from such reporting requirements pursuant to 2 CFR part 170, § 170.110(b). The reporting requirements under the Transparency Act pursuant to 2 CFR part 170 are as follows:

a. First Tier Sub-Awards of $25,000 or more in non-Recovery Act funds (unless they are exempt under 2 CFR part 170) must be reported by the Recipient to *http://www.fsrs.gov* no later than the end of the month following the month the obligation was made.

b. The Total Compensation of the Recipient's Executives (5 most highly compensated executives) must be reported by the Recipient (if the Recipient meets the criteria under 2 CFR part 170) to *http://www.ccr.gov* by the end of the month following the month in which the award was made.

c. The Total Compensation of the Subrecipient's Executives (5 most highly compensated executives) must be reported by the Subrecipient (if the Subrecipient meets the criteria under 2 CFR part 170) to the Recipient by the end of the month following the month in which the sub-award was made.

3. Systems Necessary To Meet Reporting Requirements.

The applicant must have the necessary processes and systems in place to comply with the reporting requirements for first-tier sub-awards and executive compensation under the Federal Funding Accountability and Transparence Act of 2006 in the event the applicant receives funding unless such applicant is exempt from such reporting requirements pursuant to 2 CFR part 170, § 170.110(b).

## VII. Agency Contacts

A. *Web site: http://www.usda.gov/rus/*. The Web site maintains up-to-date resources and contact information for the Public Television Station Digital Transition Grant Program.

B. *Phone:* 202–690–4493.

C. *Fax:* 202–720–1051.

D. *Main point of contact:* Gary B. Allan, Chief, Universal Services Branch, Advanced Services Division, Telecommunications Program, RUS, telephone: 202–690–4493, fax: 202–720–1051.

Dated: May 19, 2011.

**Jessica Zufolo,**

*Acting Administrator, Rural Utilities Service.*

[FR Doc. 2011–14367 Filed 6–9–11; 8:45 am]

BILLING CODE P

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[Order No. 1767]**

## Reorganization of Foreign-Trade Zone 177; (Expansion of Service Area) Under Alternative Site Framework, Evansville, IN

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 Ports of Indiana, grantee of Foreign-Trade Zone 177, submitted an application to the Board (FTZ Docket 3–2011, filed 1/3/2011) for authority to expand the service area of the zone to include Sullivan, Perry, Crawford, Orange and Martin Counties, as described in the application, adjacent to the Owensboro-Evansville Customs and Border Protection port of entry;

*Whereas,* notice inviting public comment was given in the **Federal Register** (76 FR 1133, 1/7/2011) 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 177 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 3rd day of June 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2011–14445 Filed 6–9–11; 8:45 am]

BILLING CODE P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Clean Technologies Mission to India

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

### Mission Description

The United States Department of Commerce (DOC) International Trade Administration (ITA), U.S. and Foreign Commercial Service (CS) is organizing a Clean Technologies Trade Mission to India on November 7–11, 2011 to be led by Under Secretary for International Trade Francisco Sánchez. India, one of the world's fastest growing economies, presents lucrative opportunities for U.S. companies due to a critical need for significant investments in clean energy and environmental technologies. The trade mission will target a broad range of clean technologies including wind, hydro, waste-to-energy, solar power generation and clean coal; energy efficiency including smart grids; and environmental technologies such as water and waste water treatment and solid waste management. This mission will contribute to the National Export Initiative (NEI) and the Growth in Emerging Metropolitan Sectors (GEMS) program and delivers on the CS mission of assisting U.S. businesses in exporting, entering new markets, and enhancing U.S. exports in the clean technology sector in India's emerging regions.

The mission will help participating firms gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports to India. The mission will include one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint venture partners; meeting with national and regional government officials; and networking events. Participating in an official U.S. industry delegation, rather than traveling to India on their own, will enhance the companies' ability to secure meetings in India. Additionally, in Hyderabad, the U.S.-based solar companies will attend SOLARCON India 2011, a DOC-certified trade show where Commercial Service India is organizing a U.S. pavilion, which will allow delegates to tap into a wealth of local contacts for matchmaking and participate in industry seminars that include public speaking opportunities. In Hyderabad, there will be a separate track of matchmaking and other activities for non-solar companies who would not be participating in SOLARCON.

### Commercial Setting

India, one of the world's fastest growing economies, presents lucrative opportunities for U.S. companies that offer products and services in the clean technologies industries. India is seeking to diversify and grow its energy sources and reduce carbon emissions in the context of sustained economic expansion. With the rapid growth of the Indian economy, the demand for clean technologies in the country is rising exponentially, and the development of renewable energy resources and deployment of environment technologies that reduce greenhouse gas emissions is a high priority for the Government of India (GOI).

*Renewable Energy:* The Indian renewable energy market is estimated to be worth over $17 billion this year and is growing at an annual rate of 15%. Wind, hydro, solar, biomass, and waste-to-energy all have huge potential. Only 19,973 MW of total renewable energy potential estimated at 200,000 MW has been tapped in India thus far leaving a huge opportunity for potential future market growth.

Demand for power in India has been continuously increasing due to rapid development and industrialization. The demand/availability gap remains the major concern for the Indian energy sector, threatening to slow the growth of the Indian economy. To keep its economic growth at its current pace, India needs to add 150 GW of power capacity at an investment of $200 billion over the next five years. The Government of India (GOI) wants to tackle the existing shortfall in the energy supply increasingly through the generation of renewable energies. India today stands among the top four countries in the world in terms of renewable energy capacity and it offers some attractive incentives in this area.

- *Wind:* U.S. companies can take advantage of India's wind energy market, which is one of the world's largest as India imports wind turbines, windmill blades, wind battery chargers, wind energy converters, etc.
- *Hydro:* The hydropower generation potential for India is 300,000 MW out of which only 145,000 MW can be exploited due to limited resources and difficult geographical terrain. The GOI has firmed up an investment of $20 billion for the development of hydro projects by 2020.
- *Biomass:* The GOI announced a target of creating 10,000 MW of biomass power generation by 2020 and will shortly release a biomass power policy to chart out a roadmap for supporting biomass generated power.
- *Waste-to-Energy:* The GOI has developed a National Master Plan for Development of Waste-to-Energy in India. The GOI estimates that the potential to generate power from municipal solid waste will more than double by 2020, while the potential from industrial waste is likely to increase by more than 50%. In a country with high population density and limited landfill capacity, waste to energy power generation is a major priority.
- *Solar:* India has embarked upon a $19 billion plan to produce 20GW of solar power by 2022.

*Energy Efficiency:* The market potential for industrial energy efficiency products and services is projected to be approximately $27 billion in 2018; the potential for green buildings was estimated to be over $3 billion in 2011.

- *Smart Grids:* At present the smart grid market in India is at a nascent stage but is projected to grow rapidly with plans to install several million smart meters in the next few years.
- *Green Buildings:* India has emerged as one of the world's top destinations for green buildings and has implemented a number of home-rating schemes and building codes, which open up a wide range of opportunities for U.S. companies in the energy efficiency sector.

*Environmental Technologies:* The environmental technologies market in India is estimated at approximately $9 billion per year—with an annual growth rate of 15%. Growing environmental consciousness, increasing compliance and enforcement of environmental legislation, the availability of finance and rising domestic demand due to the rapid growth in urban population has led to the deployment of clean technologies in the country. The Indian Government has initiated many new projects for improving environmental conditions and reducing pollution ($12.4 billion is reserved for improvement of waste management, development of urban areas, water and sanitation, etc., in 63 cities nationwide.) The booming Indian economy, rapid industrialization, and urbanization have all contributed to severe environmental damage which creates opportunities for U.S. firms that can offer technology solutions to these challenges.

*Water and Waste Water Management:* The Indian Water Resources Ministry plans to invest $50 billion in the water sector over the next 5 years.

- The $1.2 billion Indian water and waste water treatment market is

expected to grow at a rate of over 10% in the next few years.

- The U.S. accounts for over 40% of the total Indian imports into this sector.
- The current market for industrial and waste water treatment is estimated at $640 million and drinking water purification at $425 million. Both sectors are expected to witness tremendous growth in the near and medium-term.
- The $280 million bottled water market is expected to reach $600 million by 2012.
- The $40 million market for packaged waste water treatment plants is expected to reach $60 million by 2013.

*Clean Coal Technologies:* India is making significant effort in adopting international technology and adding new clean coal infrastructure in the three categories of coal beneficiation, coal combustion and coal conversion. Indian coal is predominantly low grade and high in ash contents. India is targeting a coal beneficiation capacity of 810 million tons by 2025, an eight-fold increase from the current installed capacity. Improved coal combustion technology upgrade efforts include supercritical boiler technology and integrated gas combined cycle (IGCC) using synthesis gas for thermal power plants. Coal conversion technologies being targeted are underground coal gasification and coal to liquid projects. Additional focus areas are capturing methane from coal bed/coal mine/ventilation air for commercial exploitation. The GOI is collaborating with several international agencies and countries to explore the best available technology options in each of the above areas.

New Delhi is the seat of the national government and the principal end-user of clean-energy technologies in India. From New Delhi, the national government issues directives on nationwide deployment of clean and renewable energy. New Delhi is also one of India's largest metropolitan areas and is in need of increased power generation and improved environmental quality. The city's size makes it particularly attractive market for large investments in clean energy generated by solid and liquid wastes.

Hyderabad is a key hub for clean technologies in India. It is the home for the prestigious Confederation of Indian Industry's (CII) green business center and many leading Indian energy firms, many of whom have partnered with American companies. One of India's most significant solar energy trade shows—SOLARCON will take place in Hyderabad in November 2011. Renewable energy, waste to energy, and alternative fuels are all pro-actively supported by the local government through a variety of policy measures and projects. Hyderabad is centrally located and one of India's fastest growing metropolitan areas.

Ahmedabad is the 7th largest city in India, and is located in Gujarat which is one of the leading industrialized states in India. Ahmedabad is the second largest industrial center in western India after Mumbai and is a base for the chemical, textile, pharmaceutical and food processing industries. The region offers strong business prospects to U.S. companies in the clean energy sector, particularly in solar sector as the government of the state has recently announced a progressive policy with respect to industrial energy efficiency. Ahmedabad has been identified by CS India as one of the key second tier cities in India under the 'Growth in Emerging Metropolitan Sectors' (GEMS) program which is aimed at building commercial ties between the U.S. and India's emerging cities and states.

**Mission Goals**

The goal of the Clean Technologies Trade Mission to India is to promote the export of U.S. goods and services by: (1) Introducing U.S. companies to industry representatives and potential clients and partners; and (2) introducing U.S. companies to Indian government officials in India to learn about policy initiatives that will impact the implementation of energy generation, energy conservation and environmental projects.

**Mission Scenario**

In New Delhi, the U.S. mission members will participate in an Embassy briefing, meet with GOI officials and take part in one-on-one business appointments with private-sector organizations. In addition, they will enjoy a networking event with industry leaders and multipliers. In Hyderabad, all of the delegates will attend a networking reception and have customized one-on-one business appointments. In addition, solar companies will participate in SOLARCON 2011 where they can showcase their technologies and meet with potential partners and attend the trade show reception. In Ahmedabad, mission delegates will participate in one-on-one business appointments and networking activities.

Matchmaking efforts will involve multipliers such as the Confederation of Indian Industries (CII), Federation of Indian Chamber of Commerce and Industry (FICCI), and the American Chamber of Commerce in India. U.S. participants will be counseled before and after the mission by CS India staff and other federal agencies actively involved in clean technology trade promotion activities in India.

**Proposed Time table**

*Monday, November 7, Day 1*

New Delhi
- Welcome briefing by the U.S. Embassy
- One-on-one business appointments
- Ministry meetings
- Networking reception

*Tuesday, November 8, Day 2*

Depart for Hyderabad
- Welcome briefing and networking reception in honor of all the mission delegates

*Wednesday, November 9, Day 3*

Hyderabad
- Participation in SOLARCON Show (Select Solar mission delegates)
- One-on-one business appointments (All mission delegates)
- SOLARCON reception (Solar mission delegates)

*Thursday, November 10, Day 4*

Depart for Ahmedabad
- Networking welcome dinner

*Friday, November 11, Day 5*

Ahmedabad
- One-on-one business appointments
- Early evening reception
- Departure for the U.S. via Mumbai (early morning of Saturday, November 12)

**Participation Requirements**

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the DOC. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and maximum of 20 companies will be selected to participate in the mission from the applicant pool. U.S. companies already doing business with India as well as U.S. companies seeking to enter to the Indian market for the first time may apply.

**Fees and Expenses**

After a company has been selected to participate on the mission, a payment to the DOC in the form of a participation fee is required. The participation fee will be $5,000 for large firms and $4,500 for a small- or medium-sized enterprise (SME) or small organization, which will

cover one representative.[1] The fee for an additional representative (SME or large) is $750.

Participants in the SOLARCON trade show in Hyderabad will pay show-related expenses directly to the show organizer.

Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

**Conditions for Participation**

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

*Selection Criteria for Participation:* Selection will be based on the following criteria:

- Suitability of the company's products or services to the market
- Applicant's potential for business in India and in the region, including likelihood of exports resulting from the mission
- Consistency of the applicant's goals and objectives with the stated scope of the mission

Diversity of company size, sector or subsector, and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

**Selection Timeline**

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://www.ita.doc.gov/doctm/tmcal.html*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than September 9, 2011. Applications received after September 9, 2011 will be considered only if space and scheduling constraints permit.

**Contacts**

Anne Novak, U.S. Commercial Service, Washington, DC, Tel: (202) 262–7764, E-mail: *Anne.Novak@trade.gov.*

Preetha Nair, U.S. Commercial Service, New Delhi, India, Tel: +91–11–23472347, E-mail: *Preetha.Nair@trade.gov.*

**Elnora Moye,**

*U.S. Department of Commerce, Commercial Service Trade Mission Program.*

[FR Doc. 2011–14371 Filed 6–9–11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–890]**

### Wooden Bedroom Furniture From the People's Republic of China: Extension of the Time Limit for the Final Results of the Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** June 10, 2011.

**FOR FURTHER INFORMATION CONTACT:** Jeff Pedersen, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–2769.

**SUPPLEMENTARY INFORMATION:**

On March 4, 2010, the Department of Commerce ("Department") published a notice of initiation of an administrative review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China covering the period January 1, 2009, through December 31, 2009. *See Initiation of Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture From the People's Republic of China,* 75 FR 9869 (March 4, 2010). On February 10, 2011, the Department published its preliminary results of the administrative review. *See Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind Review in Part,* 76 FR 7534 (February 10, 2011). The final results of the administrative review are currently due no later than June 10, 2011.

**Statutory Time Limits**

In antidumping duty administrative reviews, section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a final determination in an administrative review of an antidumping duty order within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the 120-day period to 180 days after publication of the preliminary results (or 300 days if the Department has not extended the time limit for the preliminary results).

**Extension of Time Limit for Final Results**

The Department has determined that it is not practicable to complete the review within the 120-day time period because it requires additional time to consider the comments it received on May 25, 2011 concerning Zhangjiagang Zheng Yan Decoration Co., Ltd. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for completing the final results of the instant administrative review until July 11, 2011.

This notice is published pursuant to sections 751(a)(3)(A) and 777(i) of the Act.

Dated: June 3, 2011.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2011–14365 Filed 6–9–11; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–201–830]**

### Carbon and Certain Alloy Steel Wire Rod From Mexico: Extension of Time Limits for the Preliminary Results of Fifth Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**FOR FURTHER INFORMATION CONTACT:** Eric Greynolds or Jolanta Lawska, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–6071 and (202) 482–8362, respectively.

**Background**

On November 29, 2010, the Department of Commerce ("Department") published in the **Federal Register** a notice of initiation of the administrative review of the antidumping duty order on carbon and certain alloy steel wire rod from Mexico, covering the period October 1, 2009, through September 30, 2010. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 75 FR 73036 (November 29, 2010) ("*Initiation Notice*"). The preliminary results of the review are currently due no later than July 3, 2011.

**Extension of Time Limit of Preliminary Results**

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested. Section 751(a)(3)(A) of the Act further states that if it is not practicable to complete the review within the time period specified, the administering authority may extend the 245 day period to issue its preliminary results by up to 120 days.

We determine that completion of the preliminary results of this review within the 245 day period is not practicable for the following reasons. This review requires the Department to gather and analyze a significant amount of information pertaining to the company's sales practices, manufacturing costs, and corporate relationships. Given the number and complexity of issues in this case, and in accordance with section 751(a)(3)(A) of the Act, we are extending the time period for issuing the preliminary results of review by 120 days. The preliminary results will now be due no later than October 31, 2011, the first business day following 120 days from the current deadline. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended,* 70 FR 24533 (May 10, 2005). The final results continue to be due 120 days after the publication of the preliminary results.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: June 3, 2011.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2011–14359 Filed 6–9–11; 8:45 am]

**BILLING CODE 3510–DS–P**

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–122–853]**

### Citric Acid and Certain Citrate Salts From Canada: Final Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On February 2, 2011, the Department of Commerce (Department) published the preliminary results of the first administrative review of the antidumping duty order on citric acid and certain citrate salts (citric acid) from Canada. The review covers one manufacturer/exporter of the subject merchandise to the United States: Jungbunzlauer Canada Inc. (JBL Canada). The review covers the period November 20, 2008, through May 19, 2009, and May 29, 2009, through April 30, 2010. The final weighted-average dumping margin for the manufacturer/exporter is listed below in the "Final Results of Review" section of this notice.

**DATES:** *Effective Date:* June 10, 2011.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Trainor or Kate Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone (202) 482–4007 or (202) 482–4929, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 2, 2011, the Department published in the **Federal Register** the preliminary results of the 2008–2010 administrative review of the antidumping duty order on citric acid from Canada. *See Citric Acid and Certain Citrate Salts From Canada: Preliminary Results of Antidumping Duty Administrative Review,* 76 FR 5782 (February 2, 2011) (*Preliminary Results*). We invited parties to comment on the preliminary results of the review. We received case briefs from the petitioners (*i.e.,* Archer Daniels Midland Co., Cargill, Inc. and Tate & Lyle Americas LLC) and the respondent, JBL Canada, on March 4, 2011. We received rebuttal briefs from the petitioners and the respondent on March 9, 2011.

On March 4, 2011, both parties requested that a public hearing be held in this proceeding. On March 18, and 21, 2011, the petitioners and JBL Canada, respectively, withdrew their hearing requests.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

**Scope of the Order**

The scope of this order includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend. The scope of this order also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope of this order does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product. The scope of this order includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium

citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively. Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

**Period of Review**

The period of review (POR) is November 20, 2008, through May 19, 2009, and May 29, 2009, through April 30, 2010. In accordance with section 733(d) of the Act, and subsequent to the imposition of the antidumping duty order, we instructed U.S. Customs and Border Protection (CBP) to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, entries of subject merchandise for the period May 20, 2009, through May 28, 2009. Accordingly, this administrative review does not include the period May 20, 2009, through May 28, 2009.

**Cost of Production**

As discussed in the *Preliminary Results,* we conducted an investigation to determine whether JBL Canada made comparison market sales of the foreign like product during the POR at prices below the costs of production (COP) within the meaning of section 773(b) of the Act. We performed the cost test for these final results following the same methodology as in the *Preliminary Results.* Based on this test, we did not disregard any of JBL Canada's home market sales of citric acid because, for all products, we found that less than 20 percent of these sales were at prices below the COP.

**Analysis of Comments Received**

All issues raised in the case briefs by parties to this administrative review are listed in the Appendix to this notice and addressed in the Issues and Decision Memorandum (Decision Memo), which is adopted by this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, Room 7046, of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/.* The paper copy and electronic version of the Decision Memo are identical in content.

**Changes Since the Preliminary Results**

Based on our analysis of the comments received, we have made certain changes in the margin calculations for JBL Canada. These changes are discussed in the relevant sections of the Decision Memo.

**Final Results of the Review**

As a result of our review, we determined that the following weighted-average margin percentage applies for the period November 20, 2008, through May 19, 2009, and May 29, 2009, through April 30, 2010, as follows:

| Manufacturer/Exporter | Margin (percent) |
|---|---|
| Jungbunzlauer Canada, Inc ..... | 1.60 |

**Assessment Rates**

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b)(1). Pursuant to 19 CFR 356.8(a), the Department intends to issue appropriate appraisement instructions for the respondent subject to this review directly to CBP 41 days after the date of publication of the final results of this review.

Because the respondent did not report entered value for all sales to each importer or customer, we calculated importer- or customer-specific per-unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates are *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(1), we calculated importer-specific *ad valorem* ratios based on the estimated entered value.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.,* at or above 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.,* less than 0.50 percent). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by the company included in these final results of review for which the reviewed company did not know that the merchandise it sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate effective during the POR if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the company listed above will be the rate shown above; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 23.21 percent, the all-others rate made effective by the LTFV investigation. *See Citric Acid and Certain Citrate Salts From Canada and the People's Republic of China: Antidumping Duty Orders,* 74 FR 25703 (May 29, 2009). These deposit requirements shall remain in effect until further notice.

**Notification to Importers**

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant

entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Notification to Interested Parties**

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: June 2, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

**Appendix—Issues in Decision Memo**

1. Currency Conversions
2. Post-Sale Billing Adjustments
3. Depreciation Expenses
4. Proposed Rules Regarding the Margin Calculation Methodology in Administrative Reviews
5. Corrections to the Dumping Margin Calculations

[FR Doc. 2011–14361 Filed 6–9–11; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Request for comments.

**SUMMARY:** In antidumping duty ("AD") administrative reviews involving non-market economy countries ("NME"), the Department of Commerce ("the Department") currently instructs U.S. Customs and Border Protection ("CBP") to liquidate entries from non-reviewed exporters at the cash-deposit rate required at the time the subject merchandise entered into the United States, consistent with 19 CFR 351.212(c)(i). The Department is aware of instances where merchandise from a non-reviewed exporter enters the United States at the cash-deposit rate of an exporter subject to review but where the basis for that cash deposit is not consistent with information subsequently reported to the Department during an administrative review. Accordingly, to ensure that entries are liquidated at appropriate rates and in accordance with the information reported to the Department during an administrative review, the Department is proposing to refine its practice with respect to the rate at which it instructs CBP to liquidate certain entries from non-reviewed exporters. Specifically, the Department proposes to instruct CBP to liquidate such entries at the NME-wide rate. Through this notice, the Department invites the public to comment on the proposed refinement to its practice.

*Effective Date:* The Department proposes that this refinement in practice apply to all entries for which the anniversary for requesting an administrative review of an AD order is on or after the date of publication of a final notice on this issue.

**DATES:** Comments must be submitted to the Department by 30 days after publication of this notice in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Julia Hancock, Special Assistant, China/NME Unit, Office of Antidumping and Countervailing Operations, Import Administration, U.S. Department of Commerce, at 202–482–1394.

**Background**

In AD proceedings, the Department establishes a cash-deposit rate for each company subject to the investigation or review. In market economy ("ME") proceedings, the Department establishes an "all-others" rate that applies to exporters that have not been assigned a company-specific rate. *See* section 735(c)(1)(B)(i)(II) of the Tariff Act of 1930, as amended ("the Act"). In NME proceedings, the Department establishes an "NME-wide" rate that applies to exporters that do not qualify for and do not receive a separate rate.[1]

In an ME proceeding, importers enter subject merchandise into the United States at either a company-specific cash-deposit rate or at the all-others rate in ME proceedings. In an NME proceeding, importers enter subject merchandise at a company-specific cash-deposit rate, a separate rate, or the NME-wide rate. Entries of subject merchandise are subject to cash-deposit requirements and are suspended from liquidation until the Department instructs CBP to liquidate the entries. *See* section 733(d)(2) of the Act. When no review is requested for a particular AD order for a given review period, the Department instructs CBP to liquidate all entries of subject merchandise for that period at the cash-deposit rate that was required at the time of entry. *See* 19 CFR 351.212(c). When a review is requested for a firm for a given review period, entries that have been identified by an importer as that firm's merchandise remain suspended from liquidation during the pendency of the administrative review.

Sometimes an importer identifies its entry as merchandise from a particular firm, but the sales underlying the entry from the firm are not reported to and/or reviewed by the Department during the administrative review of that firm. Nevertheless, such entries remain suspended during the administrative review because they were identified as merchandise from a firm under review. During its proceeding, the Department determines the merchandise to which its final results of administrative review apply. There may be suspended entries to which the Department's final review results do not apply.

In the past, in both ME and NME cases, the Department instructed CBP to assess AD duties on entries not examined and/or not otherwise covered by the final results of review for a firm that was subject to the review at the rate at which the merchandise entered the United States, *i.e.,* at the cash-deposit rate in effect at the time of entry. However, in May 2003, the Department announced a change to its practice. In ME cases with an anniversary month of May 2003 or later, the Department began instructing CBP to assess duties at the rate applicable to a party that did not have its own antidumping duty rate, *i.e.,* the all-others rate, on entries that were suspended at the deposit rate of the producer subject to review but that were not covered by the final results of review for that firm subject to review. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) ("*2003 Antidumping Duties Notice*"). In other words, to the extent that a firm did not report sales to a particular importer or customer during a given review period, the customer or importer is not entitled to a rate that the Department previously established for that firm. The Department stated that its

[1] In proceedings involving NME countries, it is the Department's policy to assign all exporters of subject merchandise in an NME country a single antidumping duty rate, the NME-wide rate, unless an exporter can demonstrate that it is sufficiently independent of government control so as to be entitled to a "separate rate."

prior practice "often result[ed] in the use of an inaccurate rate for duty assessment * * * where the Department conduct[ed] a review * * * [T]he duty rate for non-reviewed resellers (which do not have their own rate and where the deposit rate at the time of entry becomes the final rate of duty) is based on a previous review of the producer's selling experience, not the reseller's selling experience." *Id.,* 68 FR at 23955.

Because discussions had not fully explored the Department's revised practice in the NME context, to date, the Department has not applied the *2003 Antidumping Duties Notice* in NME cases. Nevertheless, in both ME and NME proceedings, the Department maintains an interest in having entries liquidated in a manner that is consistent with the final results of its administrative reviews. *Id.,* 68 FR 23958. Along these lines, the Department has received arguments that some imports from NME countries have benefitted from an exporter's previously-established cash-deposit rate but have not been reported to the Department during the relevant administrative review of the exporter and, therefore, should be liquidated at the NME-wide rate. *See, e.g., Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 74 FR 41121 (August 14, 2009) and accompanying Issues and Decision Memorandum at Comment 7 (which did not change in *Notice of Amended Final Results of Antidumping Duty Administrative Review: Glycine from the People's Republic of China,* 74 FR 48223 (September 22, 2009)); *First Administrative Review of Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 75 FR 1336 (January 11, 2010) and accompanying Issues and Decision Memorandum at Comment 3. In such situations, because an importer entered merchandise at a particular exporter's cash-deposit rate, the assumption at the time of entry was that the exporter made the U.S. sale. In certain cases, however, that assumption was disproven during the administrative review, as the entries did not correspond to the exporter's reported U.S. sales, therefore the claimed cash-deposit based on the exporter's rate was not appropriate. When the declaration of the exporter's cash-deposit rate at the time of entry is inconsistent with the information reported to the Department, the liquidation rate applicable to such entries from firms without their own separate rate should be the NME-wide rate.

Additionally, as described in the *2003 Antidumping Duties Notice,* the practice of liquidating entries at an exporter's cash-deposit rate claimed at the time of entry where the entries have been suspended pursuant to a request for review of the exporter but are not covered by the final results of review for the exporter subject to review allows intermediaries to benefit from another firm's rate. 68 FR 23961. Yet, as the Court of International Trade stated in connection with the *2003 Antidumping Duties Notice,* "there is no reason that a reseller or importer should be entitled to choose among the rates it prefers when none is specific to it, and when it may request its own rate." *Parkdale Int'l, Ltd.* v. *United States,* 491 F. Supp. 2d 1262, 1272 (Ct. Int'l Trade 2007). This same logic is applicable to exporters in NME proceedings. The Department's proposed refinement of its practice is intended to prevent non-reviewed exporters in NME cases from benefitting from the rates of other exporters.

For the above reasons, the Department proposes revising its liquidation instructions in NME cases to instruct CBP to liquidate entries of merchandise from a non-reviewed exporter at the NME-wide rate. The Department proposes to apply this refinement to merchandise produced in the NME country and exported to the United States either directly from the NME country or from a third-country reseller. Regardless of the location of the non-reviewed exporter or reseller, when a party does not file a separate-rate application, the Department lacks necessary information on the record to determine whether it is entitled to a separate rate. By revising the NME liquidation instructions in a manner similar to that described in the *2003 Antidumping Duties Notice,* the Department intends to ensure that entries are liquidated at the appropriate rate, *i.e.,* the NME-wide rate for entries from firms without a separate rate assigned to them.

This refinement will increase the need for interested parties (including exporters and importers of merchandise produced in NME countries) to participate in the Department's proceedings. For example, exporters and importers of subject merchandise will need to determine whether to request an administrative review and file a separate-rate application. Through an administrative review, a party can seek a separate cash-deposit rate for its merchandise.

The Department welcomes written comments on this proposed refinement of its practice.

**Submission of Comments**

As specified above, to be assured of consideration, comments must be received no later than 30 days after the publication of this notice in the **Federal Register**. All comments must be submitted through the Federal eRulemaking Portal at *http://www.regulations.gov,* into Docket Number ITA–2011–0007, unless the commenter does not have access to the Internet. Commenters that do not have access to the Internet may submit the original and two copies of each set of comments by mail or hand delivery/courier. Please address the written comments to the Secretary of Commerce, Attention: Julia Hancock, Special Assistant, China/NME Unit, Antidumping and Countervailing Duty Operations, Room AA118, Import Administration, U.S. Department of Commerce, Constitution Avenue and 14th Street, NW., Washington, DC 20230.

The Department will consider all comments received before the close of the comment period. The Department will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. All comments responding to this notice will be a matter of public record and will be available for inspection at Import Administration's Central Records Unit (Room 7046 of the Herbert C. Hoover Building) and on the Department's Web site at *http://www.trade.gov/ia/.*

Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482–0866, e-mail address: *webmaster-support@ita.doc.gov.*

Dated: May 25, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2011–14446 Filed 6–9–11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–937]**

### Citric Acid and Certain Citrate Salts From the People's Republic of China: Preliminary Results of the First Administrative Review of the Antidumping Duty Order; and Partial Rescission of Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** In response to requests from interested parties, the Department of Commerce ("Department") is conducting the first administrative review of the antidumping duty order on citric acid and certain citrate salts ("citric acid") from the People's Republic of China ("PRC"), covering the period November 20, 2008, through April 30, 2010. The Department has preliminarily determined that during the period of review ("POR") respondents in this proceeding have made sales of subject merchandise at less than normal value ("NV"). If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act").

**DATES:** *Effective Date:* June 10, 2011.

**FOR FURTHER INFORMATION CONTACT:** Krisha Hill or Lilit Asvatsatrian, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–4037 or (202) 482–6412, respectively.

### Background

On May 29, 2009, the Department published in the **Federal Register** the antidumping duty order on citric acid from the PRC.[1] On June 30, 2010, the Department initiated an administrative review of the antidumping duty order on citric acid from the PRC.[2] On October 7, 2010, the Department issued the respondent selection memorandum in which it selected RZBC Co., Ltd., RZCB Imp. & Exp. Co., Ltd., and RZBC (Juxian) Co., Ltd. (collectively "RZBC") and Yixing Union Biochemical Co., Ltd. ("Yixing Union") as respondents for individual review.[3] Between October 12, 2010, and January 24, 2011, the Department sent the original antidumping questionnaire and supplemental questionnaires to RZBC and Yixing Union. RZBC and Yixing Union submitted timely questionnaire responses between November 10, 2010, and March 31, 2011.

On November 17, 2010, Petitioners,[4] RZBC, and Yixing Union commented on surrogate country selection. On November 30, 2010, Yixing Union submitted rebuttal comments on surrogate country selection. On December 8, 2010, Petitioners, RZBC, and Yixing Union submitted surrogate value comments. On December 20, 2010, Petitioners submitted rebuttal comments on surrogate country and surrogate value selections.

On January 25, 2011, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review by 60 days allowed under section 751(a)(3)(A) of the Act to April 1, 2011.[5] On March 31, 2011, the Department further extended the preliminary results of review by 60 additional days to a maximum 120 days allowed under section 751(a)(3)(A) of the Act to May 31, 2011.[6]

### Period of Review

The POR is November 20, 2008, through April 30, 2010.

### Scope of the Order

The scope of this order includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend. The scope of this order also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope of this order does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2%, by weight, of the product. The scope of this order includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively. Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

### Partial Rescission of the Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party that requested the review withdraws the request within 90 days of the date of publication of the initiation notice of the requested review. Further, pursuant to 19 CFR 351.213(d)(1), the Department is permitted to extend this time if it is reasonable to do so.

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[1] *See Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders,* 74 FR 25703 (May 29, 2009).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 75 FR 37759 (June 30, 2010) ("*Initiation*"). In the *Initiation,* the firm names for the non-mandatory respondents were listed as follows: Laiwu Taihe Biochemistry Co., Ltd. ("Laiwu Taihe"); Anhui BBCA Biochemical Co., Ltd. and Anhui BBCA International Co., Ltd. (collectively, "BBCA"); Anhui Worldbest Bio-Pharmaceutical Co., Ltd., Shanghai Worldbest Group Company, Shanghai Worldbest Co., Ltd., Shanghai Worldbest Anui, Thai Worldbest Biochemical Co., Ltd., and Worldbest Biochemicals (Thailand) Co., Ltd. (collectively, "Worldbest"); and Pioneers Pharmavet S.L. ("Pioneers").

[3] *See* the Department's memorandum regarding, "Administrative Review of the Antidumping Duty Order on Citric Acid and Citrate Salts from the People's Republic of China: Respondent Selection," dated October 7, 2010.

[4] Archer Daniels Midland Company, Cargill, Incorporated and Tate & Lyle Americas LLC (collectively, "Petitioners").

[5] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review,* 76 FR 4288 (January 25, 2011).

[6] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review,* 76 FR 17835 (March 31, 2011).

On September 24, 2010, Nutralliance, Inc., a U.S. importer of subject merchandise produced and exported by Laiwu Taihe, timely withdrew its request for an administrative review of Laiwu Taihe's exports to the United States. On October 15, 2010, Petitioners timely withdrew their review requests for BBCA, Worldbest, and Pioneers. Because no other parties requested a review of Laiwu Taihe's, BBCA's, Worldbest's or Pioneers' exports to the United States, the Department hereby rescinds the administrative review of citric acid with respect to these entities in accordance with 19 CFR 351.213(d)(1).

**Non-Market-Economy Country Status**

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country.[7] In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment. Accordingly, the Department has calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

**Surrogate Country**

When the Department conducts an antidumping duty administrative review of imports from an NME country, section 773(c)(1) of the Act directs the Department to base NV, in most cases, on the NME producer's factors of production ("FOP"), valued in a surrogate market-economy ("ME") country or countries considered appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department will value FOPs using "to the extent possible, the prices or costs of the FOPs in one or more market-economy countries that are: (A) At a level of economic development comparable to that of the NME country, and (B) significant producers of comparable merchandise."

With respect to the Department's selection of surrogate country, both Petitioners and RZBC submitted comments arguing that Indonesia is the most appropriate surrogate country from which to derive surrogate factor values for the PRC because Indonesia: (a) Has a per capita gross national income ("GNI") which is economically comparable to that of the PRC, (b) is also a significant producer of citric acid, and (c) provides reliable data to value respondents' factors of production.[8] On November 17, 2010, Yixing Union identified both Indonesia and India to be appropriate for selection as the primary surrogate country.[9] On November 30, 2010, Yixing Union submitted rebuttal comments regarding Petitioners' argument that India is inappropriate for surrogate country selection.[10] In this submission, Yixing Union agreed that Indonesia is the most appropriate primary surrogate country, but also argued that India be considered a viable surrogate country in the instance that surrogate values from Indonesia are not available.

In the instant review, the Department has identified India, Indonesia, the Philippines, Ukraine, Thailand, and Peru as countries that are at a level of economic development comparable to the PRC.[11] The Department uses per capita GNI as the primary basis for determining economic comparability.[12] Once the countries that are economically comparable to the PRC have been identified, the Department selects an appropriate surrogate country by determining whether an economically comparable country is a significant producer of comparable merchandise and whether data for valuing FOPs are both available and reliable.

The Department has determined that it is appropriate to use Indonesia as a surrogate country, pursuant to section 773(c)(4) of the Act, based on the following: (1) It is at a similar level of economic development to the PRC; (2) it is a significant producer of comparable merchandise, and (3) the Department has reliable data from Indonesia that it can use to value the FOPs.[13] Accordingly, we have calculated NV using Indonesian prices when available and appropriate to value each respondent's FOPs.[14] In certain instances where Indonesian SVs were not deemed to be the best available data, we have relied on Indian and Thai SVs in the alternative. Both India and Thailand are at a similar level of economic development to the PRC and are significant producers of comparable merchandise.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of an administrative review, interested parties may submit publicly available information to value the FOPs within 20 days after the date of publication of these preliminary results.[15]

**Separate Rates**

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assigned a single antidumping duty rate.[16] It is the

[7] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 60632 (October 25, 2007).

[8] *See* RZBC's submission regarding, "Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Country Comments," dated November 17, 2010 ("RZBC's Surrogate Country Comments") and Petitioner's submission regarding, "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Country Selection," dated November 17, 2010 ("Petitioner's Surrogate Country Comments").

[9] *See* Yixing Union's submission regarding, "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China—Response of Yixing Union Biochemical Co., Ltd. to Request for Comments Regarding Surrogate Country Selection," dated November 17, 2010 ("Yixing Union's Surrogate Country Comments").

[10] See Yixing Union's submission regarding, "Citric Acid and Certain Citrate Salts from the People's Republic of China (A–570–937)—Surrogate Value Rebuttal Letter of Yixing Union Biochemical Co., Ltd.," dated December 20, 2010.

[11] *See* the Department's Memorandum regarding "Citric Acid and Certain Citrate Salts from the People's Republic of China: Request for Comments on Surrogate Country Selection," dated October 12, 2010. The Department notes that these six countries are part of a non-exhaustive list of countries that are at a level of economic development comparable to the PRC.

[12] *See* the Department's Policy Bulletin No. 04.1, regarding, "Non-Market Economy Surrogate Country Selection Process," (March 1, 2004) ("*Policy Bulletin 04.1*"), available on the Department's Web site at *http://ia.ita.doc.gov/policy/bull04–1.html.*

[13] *See* RZBC's Surrogate Country Comments, Yixing Union's Surrogate Country Comments, Petitioner's Surrogate Country Comments ; *see also* the Department's Memorandum regarding "Preliminary Results of the Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Value Memorandum," dated May 31, 2011 ("Surrogate Value Memorandum").

[14] *See* Surrogate Value Memorandum; *see also* "Factor Valuations" section, below.

[15] In accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record, alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

[16] *See, e.g., Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Notice*

Continued

Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as further developed in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

In order to demonstrate separate-rate status eligibility, the Department normally requires entities, for whom a review was requested, and who were assigned a separate rate in a previous segment of this proceeding, to submit a separate-rate certification stating that they continue to meet the criteria for obtaining a separate rate.[17] For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility for such, the Department requires a separate-rate application.[18] On August 25 and 31, 2010, RZBC and Yixing Union, respectively, each submitted separate rate certifications.

a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.[19]

The evidence provided by RZBC and Yixing Union supports a preliminary finding of *de jure* absence of government control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of the companies.[20]

b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[21]

The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control over export activities that would preclude the Department from assigning separate rates. For RZBC and Yixing Union, we determine that the evidence on the record supports a preliminary finding of *de facto* absence of government control based on record statements and supporting documentation showing the following: (1) Each respondent sets its own export prices independent of the government and without the approval of a government authority; (2) each respondent retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each respondent has the authority to negotiate and sign contracts and other agreements; and (4) each respondent has autonomy from the government regarding the selection of management.[22] Additionally, each of these companies' questionnaire responses indicates that their pricing during the POR does not involve coordination among exporters.

The evidence placed on the record of this review by RZBC and Yixing Union demonstrates an absence of *de jure* and *de facto* government control with respect each company's respective exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide.* Therefore, we are preliminarily granting RZBC and Yixing Union a separate rate.

**Fair-Value Comparisons**

To determine whether RZBC's and Yixing Union's sales of subject merchandise were made at less than NV, we compared the NV to individual export price ("EP") transactions in accordance with section 777A(d)(2) of the Act. *See* "Export Price" and "Normal Value" sections of this notice, below.

**Export Price**

In accordance with section 772(a) of the Act, EP is "the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. For each respondent, we used EP methodology, in accordance with section 772(a) of the Act, for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States and for sales in which constructed export price was not otherwise indicated.

We based EP on the price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, marine insurance, domestic and market-economy brokerage and handling, and international freight. We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Indonesia. The price list is compiled based on a survey case study of the

*of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 75 FR 24892, 24899 (May 6, 2010), unchanged in *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 75 FR 59217 (September 27, 2010).

[17] *See Initiation.*

[18] *Id.*

[19] *See Sparklers,* 56 FR at 20589.

[20] *See* Letter from Yixing Union to the Department entitled, "Citric Acid and Certain Citrate Salts from the People's Republic of China (A–570–937)—Section A Questionnaire Response of Yixing Union Biochemical Co., Ltd.," dated November 10, 2010 ("Yixing Union's Section A Response"); *see also* Letter from RZBC to the Department entitled, "Citric Acid and Citrate Salt from the People's Republic of China: Section A Response" dated November 12, 2010 ("RZBC's Section A Response").

[21] *See Silicon Carbide,* 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995).

[22] *See* Yixing Union's Section A Response and RZBC's Section A Response.

procedural requirements for trading a standard shipment of goods by ocean transport in India as reported in "Doing Business 2010: Indonesia" published by the World Bank.[23]

**Normal Value**

We compared NV to individual EP transactions in accordance with section 777A(d)(2) of the Act, as appropriate. Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home market prices, third country prices, or constructed value under section 773(a) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Under section 773(c)(3) of the Act, FOPs include but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; and (3) representative capital costs. The Department used FOPs reported by the respondents for materials, labor, packing and by-products.

**Factor Valuations**

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by respondents for the POR. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate surrogate value ("SV") to value FOPs, but when a producer sources an input from a market economy and pays for it in market economy currency, the Department normally will value the factor using the actual price paid for the input.[24] To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs (except as discussed below). In selecting SVs, we considered the quality, specificity, and contemporaneity of the data.[25] As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to import SVs surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–08 (Fed. Cir. 1997).

For the preliminary results, except where noted below, we used data from the Indonesian and Thai import Statistics in the Global Trade Atlas ("GTA") and other publicly available Indian and Indonesian sources in order to calculate SVs for RZBC's and Yixing Union's FOPs (*i.e.* direct materials, energy, and packing materials) and certain movement expenses. As Indonesia is the primary surrogate country, we used Indonesian data and applied Thai and Indian data where there were no usable Indonesian data. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.[26] The record shows that data in the Indonesian Import Statistics, as well as those from the other Indonesian, Thai, and Indian sources, are contemporaneous with the POR, product-specific, and tax-exclusive.[27] In those instances where we could not obtain publicly available information contemporaneous to the POR with which to value factors, we adjusted the SVs using, where appropriate, the Indonesian Wholesale Price Index ("WPI") as published in the IMF's *International Financial Statistics.*[28]

In accordance with legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized.[29] In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[30] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from India, Indonesia, South Korea and Thailand in calculating the import-based SVs.

Additionally, we disregarded prices from NME countries.[31] Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.[32]

We valued truck freight expenses using a per-unit average rate calculated from data on the infobanc Web site: *http://www.infobanc.com/logistics/logtruck.htm.* The logistics section of this Web site contains inland freight truck rates between many large Indian cities.[33]

We valued the surrogate value for inland water freight using price data for barge freight reported in a March 19,

[23] *See* Surrogate Value Memorandum.

[24] *See* 19 CFR 351.408(c)(1); *see also Shakeproof Assembly Components Div of Ill Tool Works* v. *United States,* 268 F. 3d 1376, 1382–1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

[25] *See, e.g., Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review,* 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; and *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China,* 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5.

[26] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004).

[27] *See* Surrogate Value Memorandum.

[28] *See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 74 FR 9591, 9600 (March 5, 2009) ("*Kitchen Racks Prelim*"), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less than Fair Value,* 74 FR 36656 (July 24, 2009) ("*Kitchen Racks Final*").

[29] Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

[30] *See e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order,* 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at 4–5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review,* 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review,* 74 FR 2512 (January 15, 2009) and accompanying Issues and Decision Memorandum at 17, 19–20; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand,* 66 FR 50410 (October 3, 2001) and accompanying Issues and Decision Memorandum at 23.

[31] *See, e.g., Kitchen Racks Prelim,* 74 FR at 9600, unchanged in *Kitchen Racks Final.*

[32] *See id.*

[33] *See* Surrogate Value Memorandum.

2007 article published in *The Hindu Business Line.* The data is based on average inland transport costs and port handling charges. We inflated the inland water transportation rate by using the appropriate Indian WPI inflator.

On May 14, 2010, the Federal Circuit in *Dorbest Ltd.* v. *United States,* 604 F.3d 1363, 1372 (Fed. Cir. 2010), found that the regression-based method for calculating wage rates, as stipulated by 19 CFR 351.408(c)(3), uses data not permitted by the statutory requirements laid out in section 773 of the Act (*i.e.,* 19 U.S.C. 1677b(c)). The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. However, for these preliminary results, we have calculated an hourly wage rate to use in valuing respondents' reported labor input by averaging industry-specific earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.

For the preliminary results of this administrative review, the Department is valuing labor using a simple-average, industry-specific wage rate using earnings or wage data reported under Chapter 5B by the International Labor Organization ("ILO"). To achieve an industry-specific labor value, we relied on industry-specific labor data from the countries we determined to be both economically comparable to the PRC and significant producers of comparable merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the Surrogate Value Memorandum. The Department calculated a simple average industry-specific wage rate of $2.01 for these preliminary results. Specifically, for this review, the Department has calculated the wage rate using a simple average of the data provided to the ILO under Sub-Classification 24 of the ISIC–Revision 3 standard by countries determined to be both economically comparable to the PRC and significant producers of comparable merchandise. The Department finds the two-digit description under ISIC–Revision 3 ("Manufacture of Chemicals and Chemical Products") to be the best available wage rate surrogate value on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. Consequently, we averaged the ILO industry-specific wage rate data or earnings data available from the following countries found to be economically comparable to the PRC and which are significant producers of comparable merchandise: Ecuador, Egypt, Indonesia, Jordan, Peru, Philippines, Thailand, and Ukraine. For further information on the calculation of the wage rate, *see* Surrogate Value Memorandum.

We were unable to segregate and, therefore, were unable to exclude energy costs from the calculation of the surrogate financial ratios. Accordingly, for the preliminary results, we have disregarded the respondents' energy inputs (electricity and steam for both RZBC and Yixing Union) in the calculation of normal value for purposes of the final determination, in order to avoid double-counting energy costs that have necessarily been captured in the surrogate financial ratios.[34]

To value factory overhead, selling, general, and administrative expenses, and profit, we used audited financial statements for the year ending December 2009 of PT Budi Acid Jaya TBK, a producer of comparable merchandise from Indonesia. The Department may consider other publicly available financial statements for the final results, as appropriate.

RZBC and Yixing Union reported that they have recovered by-products in their production of subject merchandise and successfully demonstrated that all of them have commercial value; therefore, we have granted a by-product offset for the quantities of each respondent's reported by-products, valued using Indonesian GTA data.

## Currency Conversion

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

## Preliminary Results of Review

The weighted-average dumping margins for the individually reviewed exporters are as follows:

| Exporter | Margin |
|---|---|
| RZBC Co., Ltd./RZBC Imp. & Exp. Co., Ltd./RZBC (Juxian) Co., Ltd. | 0.36 (*de minimis*). |
| Yixing Union Biochemical Co., Ltd. | 66.75. |

## Disclosure and Public Comment

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review.[35] Rebuttals to written comments may be filed no later than five days after the written comments are filed.[36] Further, parties submitting written comments and rebuttal comments are requested to provide the Department with an additional copy of those comments on a CD.

Any interested party may request a hearing within 30 days of publication of this notice.[37] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.[38]

The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

## Assessment Rates

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For Laiwu Taihe and BBCA, which had previously established eligibility for a separate rate, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For assessment purposes, we calculated exporter/importer-specific assessment rates for merchandise subject to this review.[39] Where appropriate, we calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated

[34] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value,* 74 FR 16838 (April 13, 2009) and accompanying Issues and Decision Memorandum, at Comment 2.

[35] *See* 19 CFR 351.309(c).

[36] *See* 19 CFR 351.309(d).

[37] *See* 19 CFR 351.310(c).

[38] *See* 19 CFR 351.310(d).

[39] *See* 19 CFR 351.212(b)(1).

with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer (or customer)-specific assessment rate is *de minimis* (*i.e.,* less than 0.50 percent), the Department will instruct CBP to assess that importer's (or customer's) entries of subject merchandise without regard to antidumping duties. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity [40] at the PRC-wide rate we determine in the final results of this review. Where the weighted average ad valorem rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. *See* 19 CFR 351.106(c)(2).

**Cash-Deposit Requirements**

The following cash-deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For RZBC and Yixing Union the cash deposit rate will be their respective rates established in the final results of this review, except if the rate is zero or *de minimis* no cash deposit will be required; (2) for previously investigated or reviewed PRC, and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, including Pioneers and Worldbest, the cash deposit rate will be the PRC-wide rate of 156.87 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied those non-PRC exporters. These deposit requirements, when imposed, shall remain in effect until further notice.

**Notification of Interested Parties**

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with sections 751(a)(1) and (3) and 777(i) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: May 31, 201.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2011–14363 Filed 6–9–11; 8:45 am]

BILLING CODE 3510–DS–P

[40] PRC-wide entity includes Pioneers and Worldbest, which did not previously establish eligibility for a separate rate.

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RIN 0648–XA488]**

### Marine Mammals; File No. 16314

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that Jennifer Lewis, Ph.D., Tropical Dolphin Research Foundation, Pembroke Pines, FL 33024 has applied in due form for a permit to conduct research on bottlenose dolphins (*Tursiops truncatus*).

**DATES:** Written, telefaxed, or e-mail comments must be received on or before July 11, 2011.

**ADDRESSES:** The application and related documents are available for review by selecting "Records Open for Public Comment" from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 16314 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727) 824–5312; fax (727) 824–5309.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by e-mail to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the e-mail comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Joselyd Garcia-Reyes or Kristy Beard, (301) 713–2289.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant requests a five-year permit to conduct photo-identification surveys and biopsy sampling. Research would occur in Whitewater Bay, Shark River, Ponce de Leon Bay and Florida Bay, which are found in Everglades National Park (ENP). Up to 3,020 bottlenose dolphins could be taken by level B harassment each year during photo-identification surveys. Additionally, up to 38 bottlenose dolphins from each location could be taken by level A harassment annually, to acquire 30 successful biopsy samples from each location over the life of the permit. Research would stop when the desired number of samples has been obtained. The purposes of the proposed research are to: (1) Examine spatiotemporal variation in trophic interactions (diets) of the dolphins, (2) elucidate patterns of transmission of a unique foraging behavior, mud ring feeding, and (3) compare trophic interactions and genetics of dolphins in ENP with existing samples from the Lower Florida Keys.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 7, 2011.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2011–14452 Filed 6–9–11; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XW72**

### Marine Mammal Stock Assessment Reports

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

**ACTION:** Notice of availability; response to comments.

**SUMMARY:** As required by the Marine Mammal Protection Act (MMPA), NMFS has incorporated public comments into revisions of marine mammal stock assessment reports (SARs). The 2010 reports are final and available to the public.

**ADDRESSES:** Electronic copies of SARs are available on the Internet as regional compilations and individual reports at the following address: *http://www.nmfs.noaa.gov/pr/sars/.* You also may send requests for copies of reports to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments.

Copies of the Alaska Regional SARs may be requested from Robyn Angliss, Alaska Fisheries Science Center, 7600 Sand Point Way, BIN 15700, Seattle, WA 98115.

Copies of the Atlantic Regional SARs may be requested from Gordon Waring, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543.

Copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center, NMFS, 8604 La Jolla Shores Drive, La Jolla, CA 92037–1508.

**FOR FURTHER INFORMATION CONTACT:** Shannon Bettridge, Office of Protected Resources, 301–713–2322, ext. 141, *Shannon.Bettridge@noaa.gov;* Robyn Angliss, Alaska Fisheries Science Center, 206–526–4032, *Robyn.Angliss@noaa.gov;* Gordon Waring, Northeast Fisheries Science Center, 508–495–2311, *Gordon.Waring@noaa.gov;* or Jim Carretta, Southwest Fisheries Science Center, 858–546–7171, *Jim.Carretta@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

Section 117 of the MMPA (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare SARs for each stock of marine mammals occurring in waters under the jurisdiction of the United States. These reports contain information regarding the distribution and abundance of the stock, population growth rates and trends, the stock's Potential Biological Removal (PBR) level, estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every 3 years for non-strategic stocks. NMFS and FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific Scientific Review Groups (SRGs), reviewed the status of marine mammal stocks as required and revised reports in each of the three regions.

As required by the MMPA, NMFS updated SARs for 2010, and the revised reports were made available for public review and comment (75 FR 46912, August 4, 2010). The MMPA also specifies that the comment period on draft SARs must be 90 days. NMFS received comments on the draft SARs and has revised the reports as necessary. The final reports for 2010 are available (see **ADDRESSES**).

### Comments and Responses

NMFS received letters containing comments on the draft 2010 SARs from the Marine Mammal Commission (Commission), five non-governmental organizations (National Resources Defense Council, Humane Society of the United States, Cascadia Research Collective, California Gray Whale Coalition, and Hawaii Longline Association), and one individual. Most letters contained multiple comments.

Unless otherwise noted, comments suggesting editorial or minor clarifying changes were incorporated in the reports but were not included in the summary of comments and responses below. Other comments recommended initiation or repetition of large data collection efforts, such as abundance surveys, observer programs, or other mortality estimates. Comments on actions not related to the SARs (*e.g.,* listing a marine mammal species under the Endangered Species Act (ESA)) are not included below. Many comments, including those from the Commission, recommending additional data collection (*e.g.,* additional abundance surveys or observer programs) have been addressed in previous years. Although NMFS agrees that additional information would improve the SARs and better inform conservation decisions, resources for surveys, observer programs, or other mortality estimates are fully utilized, and no new large surveys or other programs may be initiated until additional resources are available or until ongoing monitoring or conservation efforts can be terminated so that the resources supporting them can be redirected. Such comments on the 2010 SARs, and responses to them, may not be included in the summary below because the responses have not changed.

In some cases, NMFS' responses state that comments would be considered for, or incorporated into, future revisions of the SAR rather than being incorporated into the final 2010 SARs. The delay is due to the schedule of the review of the reports by the regional SRGs. NMFS provides preliminary copies of updated SARs to SRGs prior to release for public review and comment. If a comment on the draft SAR suggests a substantive change to the SAR, NMFS may discuss the comment and prospective change with the SRG at its next meeting.

*Comments on National Issues*

*Comment 1:* The Commission recommended that NMFS review its observer program nationwide, set standards for observer coverage, and prepare plans to collect the information necessary to adequately estimate incidental mortality in fisheries that take or may take marine mammals. NMFS should also work with Federal and state agencies and the fishing industry to develop a funding strategy for supporting adequate observer coverage to estimate incidental mortality and serious injury of marine mammals and other protected species.

*Response:* NMFS has conducted multiple comprehensive, nationwide reviews of its observer programs beginning with the 2004 Evaluating Bycatch Report, which developed a

national approach to standardize bycatch reporting methodologies and monitoring programs and included specific recommendations for attaining reliable bycatch estimates for protected species and identified gaps in existing coverage. NMFS will soon publish the first National Bycatch Report, which estimates commercial fisheries bycatch for U.S. living marine resources. The report also identifies gaps in existing observer coverage with specific recommendations for additional resources required to improve bycatch data collection and estimation methods, which will form the basis of a funding strategy to support adequate observer programs for all living marine resources.

NMFS has taken several steps to address shortcomings in protected species observer coverage, including observer coverage in the Gulf of Mexico reef fish fishery and a doubling of observed sea days in the American Samoa longline fishery in FY2010. In 2011, NMFS implemented observer coverage in the menhaden purse seine fishery in the Gulf of Mexico to collect catch data and record bycatch of sea turtles and marine mammals that interact with the fishery. NMFS is preparing to observe the Southeast Alaska drift gillnet fishery, beginning in 2012.

NMFS continues to work collaboratively with state, federal, and industry partners to implement observer programs and develop alternative funding options. Currently three observer programs receive industry funding. Recently, the North Pacific Fishery Management Council approved provisions to restructure the Gulf of Alaska and Bering Sea/Aleutian Islands groundfish fisheries observer program, including a 1.25% ex-vessel landings fee to pay for observer coverage. NMFS continues to address gaps in coverage and works to improve the estimates of protected species bycatch by increasing observer coverage as funds become available.

A description of the marine mammal programs criteria for observer coverage (expressed in terms of bias and precision of mortality estimates) is available in a NOAA Technical Memorandum describing the resources needed to better understand the status of protected species. This report is available on the Internet at the following address: *http://www.nmfs.noaa.gov/pr/pdfs/sars/improvement_plan.pdf.*

*Comment 2:* The Commission recommended that NMFS develop a strategy for collaboration with other nations to improve assessment and conservation of transboundary stocks of marine mammals.

*Response:* NMFS, through the Office of International Affairs, is preparing a comprehensive international action plan for marine mammal conservation. As this plan is being developed, NMFS is also evaluating strategies to obtain information on the marine mammal conservation programs in other nations pursuant to MMPA section 101(a)(2).

*Comment 3:* The Commission recommended that NMFS develop and implement a systematic approach for integrating all human-related risk factors into SARs.

*Response:* MMPA section 117(3) contains directions for including risk factors in SARs. The MMPA states SARs should estimate annual human-caused mortality of each stock, by source, and, for strategic stocks, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey.

*Comments on Alaska Regional Reports*

*Comment 4:* The Commission reiterated its earlier recommendation to update harbor seal stock structure in Alaska by recognizing 12 stocks of harbor seals.

*Response:* As noted in previous responses to comments (see 72 FR 12774, March 15, 2007, comment 16; 73 FR 21111, April 18, 2008, comment 23; 74 FR 19530, April 29, 2009, comment 21; and 75 FR 12498, March 16, 2010, comment 12), NMFS continues its commitment to work with its co-managers in the Alaska Native community to evaluate and revise stock structure of harbor seals in Alaska. On March 16, 2010, NMFS and the Alaska Native Harbor Seal Commission held their annual co-management meeting during which they agreed to proceed with a revised set of population boundaries for harbor seals in Alaska. All representatives of the co-management committee agreed that a population structure of twelve stocks would be incorporated into the next cycle of SARs. NMFS is currently in the process of drafting the 2011 SARs, which will include separate evaluations of 12 harbor seal stocks for Alaska.

*Comment 5:* The Commission recommended that NMFS continue to seek the additional support needed to develop and implement an ice seal research and management strategy that is commensurate with the threats that these species face.

*Response:* NMFS agrees that it is necessary to increase the understanding of the distribution and movements, demographic parameters, natural history, and ecology of ringed, bearded, ribbon, and spotted seals in Alaska. NMFS has completed status reviews of these four species, and it is apparent that more information is needed in order to assess any potential threats or the impact to the species. NMFS continues to request appropriations for ice seals to the extent consistent with other priorities of the Administration for the national budget. NMFS also partners with other agencies to support research and monitoring of ice seals to the extent such activities are consistent with the priorities of these agencies.

*Comment 6:* The Commission recommended that NMFS ensure funding for research on the eastern stock of North Pacific right whales is incorporated into the Administration's fiscal year 2012 budget, whether that funding is provided to the Service or to the Bureau of Ocean Energy Management, Regulation, and Enforcement.

*Response:* NMFS recognizes the importance of seeking the necessary funding in order to continue to monitor the population status of eastern stock of North Pacific right whales and will continue to seek resources to study this critically endangered population.

*Comment 7:* The Commission recommended that NMFS provide updated estimates of serious injury and mortality for the 11 stocks of marine mammals identified in the 2009 reports but not updated in the 2010 drafts, or at least explain why that information is not available.

*Response:* Serious injury and mortality data from the observer program for 2007 and 2008 are considered preliminary. Stocks lacking updated serious injury and mortality data for 2007 and 2008 were either not scheduled for updates in 2010 or had no takes reported during those years. NMFS intends to update the estimates of serious injury and mortality in the draft 2011 SARS when the serious injury and mortality data are finalized for the relevant stocks.

*Comment 8:* The SAR for the Eastern U.S. stock of Steller sea lions should be changed to reflect updated taxonomy. The Society for Marine Mammalogy recognizes the species *Eumetopias jubatus* (Schreber, 1776) for the Steller sea lion, or northern sea lion, consisting of two subspecies, *E. j. jubatus* (Schreber, 1776) [the Western Steller sea lion] and *E. j. monteriensis* (Gray, 1859) [Loughlin's northern sea lion].

*Response:* The agency is currently conducting a status review of Steller sea lions and upon completion of the review will revisit the possible designation of subspecies within this taxon, together with existing supporting scientific evidence.

*Comment 9:* NMFS is applauded for the inclusion of a stock assessment for narwhals. Given the large number of unknowns in the stock assessment, NMFS should prioritize research to fill data gaps.

*Response:* NMFS recognizes there are a large number of unknowns in Alaska stock assessments and will continue to strive to collect data to fill research gaps for narwhals and other marine mammals of Alaska.

*Comment 10:* The Humane Society of the U.S. (HSUS) appreciated addition of concerns about anthropogenic noise in the SARs for beaked whales.

*Response:* NMFS acknowledges and thanks you for this comment.

*Comment 11:* NMFS needs to devote resources to obtaining reliable estimates of subsistence hunting of pinnipeds. A number of SARs for various ice seals (*e.g.* bearded seals) still state that harvest estimates are from the 1980s and include estimates of thousands of seals being killed. It is vital that there be a concerted effort to quantify subsistence takes and report them in a timely manner such that their conservation status can be reliably tracked.

*Response:* NMFS recognizes the need for obtaining reliable estimates of subsistence takes of all pinniped species in Alaska, including ice dependent seal species. NMFS responded to this comment in the notice of availability of the final SARs for 2006 (72 FR 12774, March 15, 2007, comment 18) and for 2007 (73 FR 21111, April 18, 2008, comment 12). NMFS has insufficient resources to obtain up-to-date estimates of subsistence hunting of pinnipeds and will retain old information, with appropriate dates and caveats if necessary, to document the extent of knowledge on past harvest. In the meantime, NMFS is exploring options for better quantifying the annual harvest of pinnipeds, particularly ice seal species.

*Comment 12:* Many of the ice seal stocks do not have abundance estimates or PBRs calculated. There needs to be greater precision in mortality estimation, and there is an urgent need for population abundance estimates.

*Response:* NMFS recognizes the need for obtaining reliable abundance estimates from which PBR levels can be derived, and continues to strive to acquire funding to support abundance estimate surveys and accurate mortality estimates.

*Comment 13:* Prior ice seal stock assessments have provided point estimates for native subsistence kills but have also provided upper and lower estimates based on the bounds of confidence. This is no longer done in the stock assessments and the region should reconsider this decision. Because of the imprecision of these estimates, this information should be provided so that reviewers can gauge the possible range of impacts.

*Response:* As noted in a previous response (75 FR 12498, March 16, 2010, comment 19) NMFS has reported upper and lower confidence limits for subsistence harvests of some stocks in the past but does not include them presently (*e.g.,* beluga whales, Eastern Bering Sea stock). The SARs for these stocks note that variance estimates (or other measures of uncertainty) are not available. Without such measures, confidence limits cannot be calculated; therefore, none are included. For some stocks, the mortality estimates are noted to be underestimates because information is available from only a portion of the range of the stock. NMFS is aware of the potential consequences of underestimates, but funding levels limit the ability to initiate large new data collection programs until additional funds are obtained or until efforts directed toward other stocks are no longer necessary, which would allow resources to be re-directed.

*Comment 14:* HSUS commented that many fisheries with either a history of interactions or a high likelihood of interactions remain unobserved or inadequately observed. The region should prioritize funding for fishery observers for the many fisheries (largely gillnet fisheries) that may be interacting with species of concern (*e.g.,* belugas, Pacific white sided dolphins, harbor porpoise). Information on marine mammal interactions with trawl fisheries (including the Bering Sea/Aleutian Islands) has not been updated since 2006. This delay does not occur in other regions and is not acceptable. HSUS added that there is a note in the previous SAR for humpbacks in the Western North Pacific stock that data on fisheries interactions will be available for inclusion in the 2010 SAR, yet it is not. Instead, this statement was crossed out and the information remains outdated. The region needs to update information and report in a timelier manner as do other regions.

*Response:* The NMFS Alaska Region has been implementing an observer program for various state fisheries as resources allow. As noted in the SARs, federal fisheries observer data from 2007 and 2008 are preliminary; estimates of percent observer coverage and coefficients of variation (CVs) are not currently available for some preliminary data. A consultation between the Alaska SRG and the Atlantic SRG (with assistance from the NMFS Northeast Fisheries Science Center) at the 2010 Alaska SRG meeting regarding addressing poorly observed fisheries provided some suggestions from the Atlantic SRG. Observer coverage for southeast Alaska fisheries is being addressed with a traditional observer program.

*Comment 15:* HSUS points out that several stocks in Alaska have PBRs calculated yet appear to be far below their original numbers and declining in major portions of the range. HSUS highlights the approach taken by the Pacific region with regard to Hawaiian monk seals in which the Pacific region states the stock's dynamics do not conform to the underlying model for calculating PBR such that PBR for the Hawaiian monk seal is undetermined. This seems a more appropriate and prudent approach, and HSUS believes that the Alaska region should consider it.

*Response:* This issue was discussed at the Guidelines for Assessing Marine Mammal Stocks III workshop in February 2011, and NMFS will follow guidelines developed at this meeting once they are released. Until then, NMFS will continue to calculate PBR for Alaska stocks for which we have reliable abundance estimates that are less than 8 years old, as per the 2005 Guidelines for Assessing Marine Mammal Stocks.

*Comment 16:* While the counts of western Steller sea lions reported in the text document overall increases (*e.g.,* the pup count reported for the Bering Sea/Aleutian Islands went up from the previous estimate of 5,456 to 5,664) and notes only a possible decline in the western Bering Sea and off Russia, figure 2 and table 1 both indicate that, in the Aleutians, the stock may still be declining. The text in the section on population trends of this stock also reflects a decline in the central and western Aleutians. It would be clearer to provide some of this information on the decline in the Aleutians in the section on population size.

*Response:* NMFS disagrees. Information on the decline of populations in the central and western Aleutian Islands (−30% and −16%, respectively) is presented in the Current Population Trend section, which is the appropriate section for this information.

*Comment 17:* The draft SAR notes that there were two cases of illegal shooting of Steller sea lions documented in southeast Alaska between 1995 and 1999 with no records of illegal shooting in the enforcement records for 1999–2003. Between 2004 and 2008, NMFS accounted for 1 animal from this DPS found with gunshot wound(s) in 2004

and 3 in 2005. No animals from southeast Alaska were counted in the NMFS data base due to NMFS concerns that some of them might have been animals struck and lost by Alaskan native hunters. As such, illegal shooting in Alaska is unaccounted.

*Response:* Animals found with evidence of gunshot wounds, without conclusive results of the source of these wounds, are not reported as illegal takes since there is the probability that these takes were already accounted for as struck and loss in the subsistence harvest. Illegal shootings, as determined by enforcement investigations, are reported separately if there is conclusive information indicating that the shooting was illegal.

*Comment 18:* Deaths affecting the eastern Steller sea lion stock have occurred in addition to those reported by NMFS in the 2010 draft SAR. They include one Steller sea lion that was found shot on Orcas Island in the San Juan Islands in 2006, and two that died in 2008 in traps set in the Columbia River as part of a state lethal taking program aimed at California sea lions. In 2010 one or more shooters killed 10 sea lions in Washington State, with at least one Steller sea lion.

*Response:* NMFS appreciates the information on these occurrences. The Alaska Fisheries Science Center will work closely with the Northwest Regional Office to determine whether these takes have already been accounted for and will be sure to incorporate any additional human-related serious injuries or mortalities as appropriate.

*Comment 19:* HSUS expressed concern that the 2008 population estimate of northern fur seals declined from the estimates from 2002 and 2007 and that the decline in pups at St. Paul is a major factor in this continued decline. Considering the ongoing decline, and the particularly significant impacts on pup production/survival, the region should consider a lower recovery factor than the default of 0.5.

*Response:* This issue was discussed at the Guidelines for Assessing Marine Mammal Stocks III workshop in February 2011, and NMFS will follow guidelines developed at this meeting once they are released. Until then, NMFS will continue to use a recovery factor of 0.5 for this stock.

*Comment 20:* Although the conservation plan for fur seals was updated in 2007, HSUS suggested that, in light of the ongoing problems facing this stock, a five-year review and updating of this plan should be scheduled for next year.

*Response:* The conservation plan for the Eastern Pacific stock of Northern fur seals is scheduled to go through the 5-year review process and is expected to be updated by late 2012 or early 2013.

*Comment 21:* In the draft 2010 SAR, the data on observer coverage and estimated mortality for most commercial fisheries in 2007 and 2008 (3 and 2 years ago respectively) remain unavailable. Mortality estimates should be updated in a timely manner as they are in other regions.

*Response:* NMFS recognizes that it is important to routinely provide updated mortality estimates in the SARs. However, due to changes in staffing and database structure, it has taken longer than anticipated to develop new mortality estimates incidental to the federally-regulated commercial fisheries in Alaska. New preliminary estimates for 2007–2009 will be made available in the 2011 draft SARs.

*Comment 22:* The Cook Inlet beluga stock continues to decline despite cessation of directed hunting. The section on Habitat Concerns glosses over the multiplicity of projects recently approved or proposed for areas within or adjacent to those proposed for designation as Critical Habitat. Subsequent to the announcement of proposed critical habitat, NMFS received comments providing greater specificity on some of these projects that include (but are not limited to) proposed new offshore drill platforms and construction and maintenance of pipelines; construction of coal liquefication and gasification facilities; a proposed Pebble Project that would ship concentrates; shipping of coal; Alaska Railroad Intertie and associated ship traffic as well as utility upgrades for all bordering communities.

*Response:* As noted in previous responses to comments (75 FR 12498, March 16, 2010, comments 1 and 6), section 117 of the MMPA lists information that should be included in SARs. A major strength of the SARs is that they are concise summaries of the status of each stock, focusing primarily on the effects of direct human-caused mortality and serious injury on marine mammals and impacts to habitat when such impacts may result in the decline or failure of recovery of the affected stocks. The MMPA notes that SARs for strategic stocks should include other factors that may be causing a decline or impeding the recovery of the stock, including effects on habitat. Accordingly, for strategic stocks such as Cook Inlet belugas, such sections must discuss only those factors that may be causing a decline or impeding recovery. The habitat section sufficiently describes activities within the Cook Inlet beluga habitat that may be causing a decline or impeding recovery, and NMFS will continue to update this section as appropriate.

*Comment 23:* The population abundance estimates for Alaska harbor porpoise stocks are outdated. There is a note in the SAR for the Southeast Alaska stock that an abundance estimate was expected this year (2010) but that has been edited to extend the estimated time of revision to next year (2011).

*Response:* NMFS will report an updated abundance estimate and calculate a PBR level for harbor porpoises in Southeast Alaska after recent survey data are analyzed and published, which should occur in time for the draft 2011 SARs.

*Comment 24:* HSUS expressed concern that observer coverage is lacking for many gillnet fisheries in the range of the various harbor porpoise stocks when gillnets are a major source of mortality for porpoises in most areas throughout the world. The region needs to provide better observer coverage either aboard fishing vessels or from alternative platforms.

*Response:* NMFS recognizes the need for additional resources to support observer programs for those fisheries with little or no observer coverage, including gillnet fisheries in Alaska (see response to comment 5, 73 FR 21111, April 18, 2008, and comment 10, 74 FR 19530, April 29, 2009). In 2011, NMFS and the Alaska Regional Office will be initiating an observer program for gillnet fisheries in southeast Alaska that overlap with areas of harbor porpoise distribution.

*Comment 25:* Takes of porpoise in native subsistence nets in the Bering Sea in particular appears poorly documented.

*Response:* NMFS collects information on harbor porpoise mortalities occurring incidental to subsistence fishing when they are reported.

*Comment 26:* No revisions have been made to the stock definition and geographic range section for the eastern North Pacific gray whale stock, despite the availability of recent information that would otherwise require them. The narrative continues to state the eastern North Pacific population is not an isolated population unit. However, recent work by Dr. Jim Darling and colleagues casts this assumption into question, as it seems that some of these groups may indeed be genetically distinct (Westerly, 2010; Frasier *et al.,* 2010). The stock assessment should be updated to reflect these developments and the most recent information on stock structure.

*Response:* NMFS is aware of the discrete "Pacific coast feeding

aggregation," and this group is mentioned within the Stock Definition and Geographic Range sections of the 2010 SAR. NMFS appreciates the mention of the new publications and will incorporate these, if appropriate, in the draft SARs for 2011.

*Comment 27:* The gray whale stock assessment report states that in 1997, the IWC approved a 5-year quota (1998–2002) of 620 gray whales, with an annual cap of 140, for Russian and U.S. (Makah Indian Tribe) aboriginals based on the aboriginal needs statements from each country. This is an inaccurate description of what happened at the IWC in 1997. The quota was not based on the needs statements from each country, but only on the needs statement from Russia.

*Response:* At the 49th meeting of the International Whaling Commission, the need request of both the Makah tribe and the Chukotka people were discussed. The Russian Federation requested 140 whales for the Chukotka people, and the USA requested "up to 5 whales" for the Makah tribe. The Report states "The Makah will be coordinating their proposal with the Russian Federation and would present a Schedule amendment to Plenary." Under 10.3.2.2 Action Arising, the Report states "In the Commission there was extended discussion of the two requests in the context of a joint proposal by the Russian Federation and the USA for a catch of 620 gray whales over five years, with an annual limit of 140." The Report details some debate about the Makah need, but then states "After further consultations to refine the language, a broad consensus was reached to accept the amendment of Schedule paragraph 13(b)(2) as shown in Appendix 11." Appendix 11 gives a take limit of 620 gray whales over five years (1998–2002), with an annual limit of 140. It is clear that the Russian and Makah need requests were coordinated and modified from the separate annual requests of 140 and "up to five" to become simply a joint request for 620 over five years with an annual limit of 140. Therefore, the text in the SAR is correct that the quota was set based on the needs statements from each country, as expressed in their joint proposal. This is verified in the next year's Report (Annual Report of the International Whaling Commission 1998, pg. 14), where it is stated "New Zealand commented that the Makah tribe have not yet drawn on the quota * * *."

*Comment 28:* The gray whale stock assessment report omits mention of the gray whales killed by Makah hunters in 1999 and 2007, though it erroneously states that there was an unlawful hunt in 2005 (this was the 2007 kill). It was in February of 2005 that the tribe requested a waiver to the MMPA.

*Response:* NMFS has corrected the error to accurately reflect that this illegal kill occurred in 2007 in the draft 2011 reports. Subsistence takes are only reported for the most recent 5 years in the SAR; therefore, the take in 1999 is not included in the SAR.

*Comment 29:* The SARs cite the 2004–2006 multi-national SPLASH effort to better assess humpback whale populations in the Pacific and continue to say with each revision of the SAR that a better understanding of stock structure "should be available in the near future" or "in 2010 or 2011" depending on the stock. Given that NMFS has undertaken a status review of humpback stocks, the lack of availability of this information is troubling. It would seem appropriate to mention the status review that the NMFS is undertaking for all humpback stocks in the sections on stock status.

*Response:* The SPLASH effort was a multidisciplinary project with several objectives and many cooperators, and both photographic and genetic information required analysis. It is not unusual for the results of such a project to take a few years to analyze, integrate, and publish. NMFS will include the new information from SPLASH in the SARs as soon as possible, and will coordinate the inclusion of new information in the SARs with the humpback whale status review, which is underway and expected to be completed in 2011. NMFS will include the relevant results of this review in the SARs when they are available.

*Comment 30:* The only data provided with regard to humpback whale entanglement in the U.S. come from observed fisheries, and many Alaska fisheries are unobserved. In the Atlantic, most of the mortality of humpbacks as a result of fisheries interactions comes from reports of sightings of entangled humpback made by commercial whale watch vessels or recreational boaters. Were there the same number of whale watch and recreational boaters in Alaska as in the Atlantic, there would almost surely be more animals reported as entangled, since trap/pot and gillnet gear similar to that which entangles humpbacks in the Atlantic is also used in Alaska. This sort of caveat might be useful in the SAR.

*Response:* Reports of serious injury and mortality of humpback whales are acquired from two primary sources: Federal fisheries observer data and the Alaska stranding network. Reports from the stranding network include reports from the general public, stranding responders, vessel captains and crew, law enforcement, researchers, and other sources. NMFS reviews and reports serious injury and mortality records from all these sources, and includes a summary of these data in the SARs.

*Comment 31:* The SAR for central North Pacific humpbacks mentions vessel collisions in Alaska but pays little attention to collisions in the wintering area of Hawaii. There are reports of increasing collisions in Hawaii (particularly off Maui) that do not appear to be simply an artifact of increased reporting or increasing humpback populations.

*Response:* NMFS is reviewing records of mortality and serious injury for humpback whales, including records of ship strikes in Hawaiian waters, for the draft 2011 SARs. All injuries determined to be serious injuries will be reported and included in the mortality and serious injury estimates for 2011.

*Comment 32:* NMFS fails to indicate the 2006/2007 survey of Eastern North Pacific (ENP) gray whales was not an abundance estimate as required under section 117 of the MMPA. There are no provisions in the MMPA which support using the results of field studies to legitimize SARs.

*Response:* As noted in NMFS' response to a petition to conduct a status review under the MMPA (75 FR 81225, December 27, 2010), these statements are incorrect, and neither statement is relevant to the status of the ENP gray whale stock. The 2006/2007 survey was a full abundance estimation survey. Field and analysis methods, and raw count data, are detailed in a NOAA/AFSC Processed Report (Rugh *et al.,* 2008). Updated estimates and methodologies for this survey are presented in Laake *et al.* (2009). MMPA section 117 requires NMFS to use the best information available to prepare SARs. In the case of ENP gray whales, the best information available includes results of field studies. The reports referenced above are available on the Internet at the following address: *http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/graywhale_petition.htm.*

*Comment 33:* The results of the most recent ENP gray whale abundance estimate (as required under section 117 of the MMPA), undertaken in the 2009/2010 season, have not been published.

*Response:* This statement is correct with respect to the abundance estimate from the 2009/2010 survey for ENP gray whales not being included in the SAR. The statement is incorrect in stating that MMPA section 117 requires the 2009/2010 estimate to be included. Rather, MMPA section 117 requires that SARs

be prepared using the best scientific information available. Estimates from the 2009/2010 survey were not available when the draft 2010 SAR was prepared. NMFS anticipates updating the time series of abundance estimates so the more recent estimates are available in spring 2012 and would be included in the next update of the ENP gray whale SAR.

*Comments on Atlantic Regional Reports*

*Comment 34:* HSUS recommended that SARs within the Atlantic region incorporate results of the 2007 workshop on determination of serious injuries. HSUS expressed concern that animals that should be considered seriously injured are not and then disappear from the data base because these whales are never seen again, and the original injury was not "counted" within the time of the 5-year average.

*Response:* NMFS is using recommendations from the 2007 workshop to establish policy and guidelines to distinguish "serious" from "non-serious" injury of marine mammals. The results of this effort, which is expected to be made available for public review and comment in summer of 2011, should promote agency-wide consistency in determining whether or not an injury would likely result in the death of the affected animal.

*Comment 35:* The population estimates of the bay, sound, and estuary stocks of bottlenose dolphins in the Gulf of Mexico are outdated.

*Response:* NMFS agrees.

*Comment 36:* Although there was a 2007 aerial survey-based estimate of the central and eastern Gulf of Mexico coastal bottlenose dolphin stocks, there is no estimate of trends.

*Response:* For a number of reasons, it is difficult to interpret trends from information based on two abundance estimates. NMFS has little information about stock structure and potential movement patterns of dolphins that inhabit these coastal areas. Without contemporaneous estimates of abundance from adjacent areas, it is impossible to know whether dolphins moved either on a short or long term basis. Additionally, there were improvements in the data collection methods between 1993/1994 and 2007 that may confound direct comparison of estimates made during these two periods.

*Comment 37:* Though NMFS acknowledges that the number of observed entanglements is likely an underestimate, NMFS should consider more recent approaches to discerning impacts of commercial fisheries. For example, one analysis has concluded that humpback whales in the Gulf of Maine likely suffer a 3.7 percent entanglement-related mortality rate (Robbins and Matilla, 2009). Analyses indicate that estimates exceeded observed cases by an order of magnitude and suggest that entanglement is having a much greater effect on the population than previously supposed.

*Response:* When assessing fishing mortality of all large whale stocks, NMFS relies on a direct count of mortalities and serious injuries known within a standardized level of forensic evidence to be human caused. Because entanglement mortalities are less than 100 percent detectable, they may be considered undercounts. The assessment reported by Robbins and Matilla (2009) relies on a level of sampling (photographic evidence) of the population only rarely available and, as yet, unproven. In particular, their measure places considerable reliance on a small sample estimate of escapement based on NMFS evaluation of serious injury and mortality related to entanglements. The uncertainties of that estimate, its potential bias and the uncertainties of the overall estimate were not calculated. Until such time as NMFS can evaluate the nature of this estimate, including its variance properties and potential for long term use, we will continue to count mortality of humpback whales the same as for other baleen whales. As with many of our assessment findings, for large whales we are most interested in those tools that provide consistent long term results that allow for tracking of trends. The current accounting of deaths due to fisheries interactions, although likely an undercount, provides an evaluation consistent with NMFS' guidelines for preparing stock assessment reports.

*Comment 38:* The humpback whale stock assessment should mention habitat concerns. Proposed activities (*e.g.,* increased herring harvest quotas, seismic surveys), if initiated, could result in an adverse impact on the prey base, cause the injury to whales, or displace them from key feeding areas.

*Response:* The habitat section of the SAR sufficiently describes activities within the humpback whale habitat that may be causing a decline or impeding recovery, and NMFS will continue to update this section as appropriate.

*Comment 39:* HSUS noted there were no data for minimum population estimates for harbor seals and gray seals that are the common subject of complaints by fisheries, and encouraged the northeast region to develop estimates. The Commission recommended that NMFS conduct the necessary surveys of North Atlantic pinniped stocks and incorporate the results in their stock assessment reports.

*Response:* NMFS plans a harbor seal abundance survey, including a correction factor for seals not hauled out during the survey, in May 2011. Revised estimates should be incorporated into the 2012 SAR. Archived digital images from seasonal seal surveys from 2005 to 2011 along the southeast Massachusetts coast will be analyzed in 2011 to provide a minimum abundance estimate of non-pup gray seals in the Cape Cod/eastern Nantucket Sound region. This area contains the major gray seal haul-out sites in U.S. waters.

*Comment 40:* The Commission recommended that the NMFS develop a stock assessment plan for the Gulf of Mexico that describes: (1) A feasible strategy for assessing the Gulf's marine mammal stocks, (2) the infrastructure needed to support that plan, (3) the expertise required to carry out the plan, and (4) the funding needed to implement the plan.

*Response:* It would be valuable to develop a marine mammal stock assessment plan for the Gulf of Mexico that addresses feasibility, infrastructure needs, and resources required. However, the critical elements for a plan already exist in the protected species Stock Assessment Improvement Plan, and these elements are addressed in the Southeast Fisheries Science Center Marine Mammal Program Strategic Plan written in 2008, and a 2007 research plan for assessing bottlenose dolphin stocks in the north-central Gulf of Mexico. Because of limited staff resources there are no plans in the immediate future to develop a focused Southeast Fisheries Science Center document.

*Comments on Pacific Regional Reports*

*Comment 41:* In light of *Anderson* v. *Evans,* 371 F.3d 475, 497–401 (9th Cir. 2004), the MMPA applies to subsistence hunting of seals by Northwest Tribes, and the SAR should make clear that any direct harvesting of marine mammals by members of Northwest Tribes is not legal unless they first comply with the MMPA including obtaining the necessary waivers or permits prior to the hunt. The SAR should make a note that any tribal take would be illegal.

*Response:* The SAR includes all takes of marine mammals reported by Northwest Tribes. MMPA section 117(a) explicitly lists the information that should be included in SARs. This list does not include identifying which takes need to be authorized and which do not. Accordingly such language is inappropriate for SARs.

*Comment 42:* HSUS requests more discussion of what fisheries might be interacting with long-beaked common dolphins, given the number of stranded animals with gunshot evidence.

*Response:* The fisheries likely interacting with this stock that have historically taken animals from this stock, but which have been unobserved in recent years, are shown in Table 1 (California small mesh drift gillnet fishery and California halibut/white seabass set gillnet fishery).

*Comment 43:* Table 1 of the California/Oregon/Washington Humpback whale SAR lists 14 deaths and serious injuries of humpbacks over a five year period, which results in an annual average of 2.8 per year.

*Response:* Table 1 lists two deaths and 14 serious injuries (serious injuries are shown in parentheses and deaths are not), which results in an annual average of 3.2 whales per year. This matches the description in the text.

*Comment 44:* HSUS commented that inclusion of information on deaths to marine mammals during scientific research and on potential harm due to anthropogenic sound near Hawaii is appreciated. The inclusion of stock assessments for marine mammal stocks in U.S. territories in the Pacific is greatly appreciated, and efforts to update abundance estimates and data from genetic analyses for a number of other stocks, including Hawaiian Islands stocks, is also a welcome addition.

*Response:* NMFS acknowledges and thanks you for this comment.

*Comment 45:* PBR should not be calculated for most Hawaiian stocks, as the abundance estimates are more than 8 years old.

*Response:* The abundance information for Hawaiian stocks updated in the 2010 SARs have not yet exceeded eight years (based on a 2002 survey).

*Comment 46:* NMFS should amend the Hawaii pantropical spotted dolphin report to describe the troll and charter boat fisheries and the practice of "fishing" dolphins, note the existence of anecdotal reports of bycatch, and indicate need to collect more data on potential bycatch by these fisheries.

*Response:* Acknowledgement of anecdotal reports of bycatch of spotted dolphins by the Hawaii troll fishery have been included in the text. The potential for hooking other dolphins noted by Rizutto (2007) by the commercial and recreational troll fishery has also been noted in the SARs for bottlenose dolphins, rough-toothed dolphins, and short-finned pilot whales.

*Comment 47:* New evidence indicates the presence of two stocks of melon-headed whale in nearshore Hawaiian waters and multiple populations of short-finned pilot whales in the Hawaiian EEZ.

*Response:* This new information, available after the 2010 SARs were drafted, will be evaluated and included in the next update to the Hawaii melon-headed whale and short-finned pilot whale SARs.

*Comment 48:* NMFS should note additional information of occurrence of pygmy killer whales in the main Hawaiian Islands and evidence of fisheries interactions.

*Response:* This is noted in the text.

*Comment 49:* The draft 2010 SAR for common bottlenose dolphins—Hawaii Island stock indicates that "there is no systematic monitoring of gillnet fisheries that may take this species." This should be expanded to include other types of fisheries that may also interact with the stock.

*Response:* NMFS agrees, and a note has been made in the SAR of other fisheries that may interact with the Hawaii Islands stock of bottlenose dolphins.

*Comment 50:* The statement that sightings of Hawaiian striped dolphins have historically been infrequent is no longer accurate. Recent surveys in deep water areas have documented this species fairly regularly.

*Response:* New information about the frequent occurrence of striped dolphins off Hawaii was not available when the 2010 SAR was drafted. Occurrence and range information for this species will be updated during the next update for this SAR.

*Comment 51:* Unpublished reports indicate high re-sighting rates of dwarf sperm whales off the island of Hawaii, suggesting small population size and site-fidelity. Individuals have also been documented with dorsal fin disfigurements.

*Response:* NMFS typically cites only peer-reviewed information in the SARs. The information referenced here was not available for review prior to drafting the 2010 SAR and may be evaluated for the next review of this stock.

*Comment 52:* NMFS continues to divide the Eastern North Pacific false killer whale stock into three fictional stocks based on the U.S. EEZ boundaries, and has inappropriately extrapolated from a single outdated false killer whale sighting to establish a population abundance estimate for the Hawaii pelagic population that severely underestimates total population size.

*Response:* NMFS has previously responded to this and related comments (see 73 FR 21111, April 18, 2008, comment 47; 74 FR 19530, April 29, 2009, comment 34; and 75 FR 12504, March 16, 2010, comment 53) and reiterates that the stock division for false killer whale is consistent with the MMPA and with the NMFS 2005 Guidelines for Assessing Marine Mammals Stocks (GAMMS), which were finalized after opportunity for public review and comment, and provide guidance on abundance and PBR of transboundary stocks. No international agreements presently exist for the management of cetacean bycatch in the central Pacific longline fisheries; therefore, NMFS assesses the status of marine mammal stocks within U.S. EEZ waters, based on EEZ abundances and EEZ mortalities and serious injuries. Further, as noted in GAMMS, the lack of genetic difference among false killer whale samples from the broader eastern North Pacific region does not imply that these animals are from a single eastern North Pacific stock.

*Comment 53:* The NMFS abundance estimate for the Pelagic stock of Hawaiian false killer whales is outdated and incorrect, as the abundance estimate from the 2002 survey became "stale" in the fall of 2010. In addition, a new survey begun in August 2010 has observed numerous groups of false killer whales. This survey's observations should be considered the best available information regardless of whether a new abundance estimate has been calculated.

*Response:* The abundance information for Hawaii pelagic false killer whales presented in the 2010 SAR is now 8 years old (based on a 2002 survey). New information from the 2010 survey was available after the preparation of 2010 or 2011 SARs (reports are prepared in the summer and fall for review by the SRG) but will be assessed for inclusion in future SARs.

*Comment 54:* NMFS has incorrectly represented that the Hawaii "insular" stock "may have declined." This suggestion is based on several speculative and scientifically unproven assertions regarding the supposed historical abundance of the Insular Stock and the assumed effects of the fisheries on that stock.

*Response:* NMFS has previously responded to a similar comment (see 75 FR 12505, March 16, 2010, comment 57) and reiterates the scientific information supporting the decline has been peer-reviewed and clearly outlines the data and basis for their conclusions. In the SAR, there is no assignment of cause of this decline within the SAR, and fisheries have not been implicated at this time.

*Comment 55:* The SAR wrongly assigns a deep-set fishery false killer whale interaction to the insular stock.

The best available scientific information does not demonstrate that the deep-set fishery has ever interacted with an animal from the insular stock.

*Response:* The boundaries of the insular stock have been determined based on genetic and movement data and have been peer-reviewed by the Pacific SRG. Unless specific stock identity is known (*e.g.,* from a genetic sample of the affected animal) any longline fishery interaction occurring within the overlap zone between the insular and pelagic stocks will be prorated to the two stocks so potential impact on each stock can be accounted for. In the 2010 SAR, this proration is based on the relative density of the insular versus pelagic stock throughout the stock range. This methodology will be reevaluated in the near future, and future SARs may reflect alternative proration strategies.

*Comment 56:* NMFS arbitrarily picks and chooses which information to use to support conclusions published in the false killer whale SAR. Unpublished reports and papers, "working" papers, "draft" papers, non-peer reviewed papers, and reports containing "preliminary estimates" are used in support of certain aspects of the SAR, while others are ignored if their findings contradict other conclusions within the SAR.

*Response:* NMFS does cite key unpublished papers and/or reports in the SARs if (1) they are reviewed and accepted by the SRG at their annual meeting, or (2) NMFS expects that they will be finalized and published (with peer-review) by the time the SAR is finalized. If not published, papers and/or reports that are reviewed and accepted by the SRG are considered peer reviewed and best available science.

*Comment 57:* The 2010 draft humpback SAR includes a single 2006 interaction with the Hawaii-based shallow-set fishery in its mortality and serious injury estimates for both the northern portion and southeast Alaska portion of the Central North Pacific humpback whale stock. This interaction should not be double-counted.

*Response:* See responses to comments 13 and 14 in the final 2005 LOF (71 FR 247, January 4, 2006), comment 10 in the final 2003 LOF (68 FR 41725, July 15, 2003), comment 10 in the final 2008 LOF (72 FR 66048, November 27, 2007), and comment 18 in the final 2009 SARs (75 FR 12498, March 16, 2010) for detailed responses to a similar comment. Where there is considerable uncertainty regarding to which stock a serious injury or mortality should be assigned, NMFS exercises a conservative approach of assigning the serious injury or mortality to both stocks. Clearly, if information were available regarding the location of take, genetics of the taken animal, or other conclusive information linking the serious injury or mortality to a specific stock, NMFS would use it to assign the take to a specific stock.

Dated: June 6, 2011.

**Helen M. Golde,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*

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BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XA477**

### Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

**ACTION:** Notice of SEDAR 25 Review Workshop for South Atlantic black sea bass (*Centropristis striata*) and golden tilefish (*Lopholatilus chamaeleonticeps*).

**SUMMARY:** The SEDAR 25 Review of the South Atlantic stock of black sea bass and golden tilefish will consist of one workshop, held September 20–22, 2011. This is the twenty-fifth SEDAR.

**DATES:** The SEDAR 25 Review Workshop will take place September 20–22, 2011. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** The SEDAR 25 Review Workshop will be held at the Crowne Plaza, 4831 Tanger Outlet Boulevard, North Charleston, SC 29418; *telephone:* 843–740–7028.

**FOR FURTHER INFORMATION CONTACT:** Kari Fenske, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; *telephone:* (843) 571–4366; *kari.fenske@safmc.net.*

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR includes three workshops: (1) Data Workshop, (2) Stock Assessment Workshop and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Stock Assessment Workshop is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Consensus Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Panelists for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office and Southeast Fisheries Science Center. SEDAR participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

**SEDAR 25 Review Workshop Schedule**

**September 20–22, 2011; SEDAR 25 Review Workshop**

September 20, 2011: 9 a.m.–8 p.m.; September 21, 2011: 8 a.m.–8 p.m.; September 22, 2011: 8 a.m.–1 p.m.

The Review Workshop is an independent peer review of the assessment developed during the Data and Assessment Workshops. Workshop Panelists will review the assessment and document their comments and recommendations in a Consensus Summary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to each workshop.

Dated: June 6, 2011.

**Tracey L. Thompson,**

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

[FR Doc. 2011–14374 Filed 6–9–11; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

### Patent and Trademark Financial Transactions

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), 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 the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before August 9, 2011.

**ADDRESSES:** You may submit comments by any of the following methods:

- *E-mail: InformationCollection@uspto.gov.* Include "0651–0043 comment" in the subject line of the message.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Matthew Lee, Office of Finance, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–6343; or by e-mail to *Matthew.Lee@uspto.gov.* Additional information about this collection is also available at *http://www.reginfo.gov* under "Information Collection Review."

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

Under 35 U.S.C. 41 and 15 U.S.C. 1113, the United States Patent and Trademark Office (USPTO) charges fees for processing and other services related to patents, trademarks, and information products. Customers may submit payments to the USPTO by several methods, including credit card, deposit account, electronic funds transfer (EFT), and paper check transactions. The provisions of 35 U.S.C. 41 and 15 U.S.C. 1113 are implemented in 37 CFR 1.16–1.28, 2.6–2.7, and 2.206–2.209.

This information collection includes the Credit Card Payment Form (PTO–2038), which provides the public with a convenient way to submit a credit card payment for fees related to a patent, trademark, or information product. Customers may also submit credit card payments via the Electronic Credit Card Payment Form (PTO–2231) when using online systems through the USPTO Web site for paying fees related to patents, trademarks, or information products. The USPTO will not include credit card information submitted using the provided credit card payment forms among the patent or trademark records open to public inspection.

Customers may establish a deposit account for making fee payments by completing a Deposit Account Application Form (PTO–2232) and sending the required information, initial deposit, and service fee to the USPTO. Deposit accounts eliminate the need to submit a check, credit card information, or other form of payment for each transaction with the USPTO. Additionally, in the event that a fee amount due is miscalculated, customers may authorize the USPTO to charge any remaining balance to the deposit account and therefore avoid the potential consequences of underpayment. As customers use their deposit accounts to make payments, they may deposit funds to replenish their accounts by mailing a check to the USPTO or making a deposit online via EFT using the Electronic Deposit Account Replenishment Form (PTO–2233) available at the USPTO Web site. Replenishments may not be made by credit card. Customers may close their deposit accounts by submitting a written request or by using the Deposit Account Closure Request Form (PTO–2234).

In addition to credit cards and deposit accounts, customers may also use EFT to make online fee payments to the USPTO. Customers must first establish a user profile with their banking information by submitting the EFT User Profile Form (PTO–2236) through the USPTO Web site. Once their profile is created, customers may use their User ID and password to perform EFT transactions.

Under 37 CFR 1.26 and 2.209, the USPTO may refund fees paid by mistake or in excess of the required amount. In general, refunds of amounts larger than $25 are returned to the customer automatically using the same method as the original payment. For refund amounts of $25 or less, customers must submit a written request to the Refund Branch of the USPTO Office of Finance.

In order to access and manage their financial activity records online, customers may create a Financial Profile through the USPTO Web site. Customers create a profile by registering a username and password, providing contact information, and specifying the types of notifications and alerts they would like to receive. After establishing a Financial Profile, customers may then add the relevant account information to the profile in order to track their credit card, deposit account, and EFT transactions with the USPTO.

**II. Method of Collection**

By mail, facsimile, hand delivery, or electronically to the USPTO.

**III. Data**

*OMB Number:* 0651–0043.

*Form Number(s):* PTO–2038, PTO–2231, PTO–2232, PTO–2233, PTO–2234, PTO–2236.

*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Individuals or households; businesses or other for-profits; and not-for-profit institutions.

*Estimated Number of Respondents:* 1,849,771 responses per year. The USPTO estimates that approximately 20% of these responses will be from small entities.

*Estimated Time per Response:* The USPTO estimates that it will take the public approximately two to six minutes (0.03 to 0.10 hours) to gather the necessary information, prepare the appropriate form or document, and submit the items in this collection to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 55,901 hours.

*Estimated Total Annual Respondent Cost Burden:* $2,962,753. The USPTO expects that 75% of the submissions for this information collection will be prepared by fee administrators/coordinators and that 25% of the submissions will be prepared by paraprofessionals. Using those proportions and the estimated rates of $30 per hour for fee administrators/coordinators and $122 per hour for paraprofessionals, the USPTO estimates that the average rate for all respondents will be approximately $53 per hour. Using this estimated rate of $53 per

hour, the USPTO estimates that the respondent cost burden for submitting the information in this collection will be approximately $2,962,753 per year.

| Item | Estimated time for response | Estimated annual responses | Estimated annual burden hours |
|---|---|---|---|
| Credit Card Payment Form (PTO–2038) | 2 minutes | 151,144 | 4,534 |
| Electronic Credit Card Payment Form (PTO–2231) | 2 minutes | 1,622,708 | 48,681 |
| Deposit Account Application Form (PTO–2232) | 2 minutes | 264 | 8 |
| Deposit Account Replenishment | 2 minutes | 31,281 | 938 |
| Electronic Deposit Account Replenishment Form (PTO–2233) | 2 minutes | 33,250 | 998 |
| Deposit Account Closure Request Form (PTO–2234) | 4 minutes | 207 | 14 |
| EFT User Profile Form (PTO–2236) | 2 minutes | 1,489 | 45 |
| Refund Request | 4 minutes | 8,660 | 606 |
| Financial Profiles | 6 minutes | 768 | 77 |
| Totals | | 1,849,771 | 55,901 |

*Estimated Total Annual Non-hour Respondent Cost Burden:* $141,971. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) cost burden in the form of service fees associated with deposit accounts and returned payments as well as postage costs.

There are service fees for setting up a deposit account at the USPTO, for not maintaining the minimum balance required for the deposit account, and for returned payments. The service charge to establish a deposit account is $10, and the USPTO estimates that it processes 264 Deposit Account Application Forms annually, for a total of $2,640 per year. There is also a $25 service charge for deposit accounts that are below the minimum balance ($1,000 minimum balance for an unrestricted deposit account or $300 minimum balance for a restricted deposit account) at the end of the month. The USPTO estimates that it assesses 4,273 of these low balance charges annually, for a total of $106,825 per year. There is a $50 service charge for processing a payment refused (including a check returned "unpaid") or charged back by a financial institution. The USPTO estimates that it assesses 228 of these returned payment charges annually, for a total of $11,400 per year. The total estimated service fees for this collection are $120,865 per year.

Customers may incur postage costs when submitting the Credit Card Payment Form and other paper forms or requests to the USPTO by mail. Customers generally send the Credit Card Payment Form to the USPTO along with other documents related to the fee or service being paid for by credit card, but some customers may submit just the Credit Card Payment Form without additional supporting documents. The USPTO estimates that roughly 5 percent of the 151,144 paper Credit Card Payment Forms submitted annually may be mailed in by themselves, or approximately 7,557 per year. The USPTO estimates that it will receive an additional 40,412 submissions per year that may be mailed, including Deposit Account Application Forms, Deposit Account Replenishments, Deposit Account Closure Requests, and Refund Requests, for a total of 47,969 mailed submissions per year. The USPTO estimates that the first-class postage cost for a mailed submission will be 44 cents, for a total postage cost of approximately $21,106 per year.

The total (non-hour) respondent cost burden for this collection in the form of service fees and postage costs is estimated to be $141,971 per year.

## 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, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 7, 2011.

**Susan K. Fawcett,**

*Records Officer, USPTO, Office of the Chief Information Officer.*

[FR Doc. 2011–14387 Filed 6–9–11; 8:45 am]

BILLING CODE 3510–16–P

# COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

## Procurement List; Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to the Procurement List.

**SUMMARY:** This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** Effective Date: 7/11/2011.

**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:** Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:**

### Additions

On 3/18/2011 (76 FR 14943), 4/1/2011 (76 FR 18188–18189), and 4/15/2011 (76 FR 21336–21337), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most

recent contractors, the Committee has determined that the products and services listed below are 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 any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and 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 products and services proposed for addition to the Procurement List.

*End of Certification*

Accordingly, the following products and services are added to the Procurement List:

*Products*

*NSN:* MR 899—Slicer, Pineapple, Stainless;

*NSN:* MR 1136—Mug, Seasonal;

*NSN:* MR 1135—Set, Spreader, 4Pc;

*NPA:* Industries for the Blind, Inc., West Allis, WI.

*Contracting Activity:* Military Resale—Defense Commissary Agency, Fort Lee, VA.

*Coverage:* C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency.

*NSN:* 6150–01–040–6848—Kit, Wiring, ATON Buoy.

*NPA:* Greenville Rehabilitation Center, Greenville, SC.

*Contracting Activity:* Department of Homeland Security, U.S. Coast Guard, SFLC Procurement Branch 3, Baltimore, MD.

*Coverage:* C-List for 100% of the requirement of the U.S. Coast Guard, as aggregated by the U.S. Coast Guard.

*NSN:* 8415–01–588–2047—Neckdam, Chemical, Protective, JPACE, CPC, JC3, Green.

*NPA:* Peckham Vocational Industries, Inc., Lansing, MI.

*Contracting Activity:* Department of the Army Research, Development, & Engineering Command, Natick, MA.

*Coverage:* C-List for 100% of the requirement of the U.S. Army, as aggregated by the Department of the Army Research, Development, & Engineering Command, Natick, MA.

*Self-stick, Repositionable Flags:*

*NSN:* 7510–01–315–2019—1x1.75, Red;

*NSN:* 7510–01–315–2020—1x1.75, Green;

*NSN:* 7510–01–315–2021—1x1.75, Blue;

*NSN:* 7510–01–315–2022—1x1.75, White;

*NSN:* 7510–01–315–2023—1x1.75, Orange;

*NSN:* 7510–01–315–2024—1x1.75, Yellow;

*NSN:* 7510–01–315–8654—1x1.75, Purple;

*NSN:* 7510–01–399–1152—1x1.75, Bright Green;

*NSN:* 7510–01–399–1153—1x1.75, Bright Pink.

*NPA:* Association for the Blind and Visually Impaired—Goodwill Industries of Greater Rochester, Rochester, NY.

*Contracting Activity:* General Services Administration, New York, NY.

*Coverage:* A-List for the Total Government Requirement as aggregated by the General Services Administration.

*Services:*

*Service Type/Location:* Custodial Service, Humphreys Engineer Center, Building #2596, 7701 Telegraph Road, Alexandria, VA.

*NPA:* MVLE, Inc., Springfield, VA.

*Contracting Activity:* Dept. of the Army, XU W4LD USA HECSA, Alexandria, VA.

*Service Type/Location:* Janitorial Service, Schofield Barracks Combat Arms Training and Maintenance Facility, Building SB 2225, Schofield Barracks, HI.

*NPA:* Opportunities and Resources, Inc., Wahiawa, HI.

*Contracting Activity:* Dept. of the Navy, NAVFAC Engineering Command Hawaii, Pearl Harbor, HI.

*Service Type/Location:* Facility Maintenance, U.S. Military Academy Preparatory School, West Point, NY.

*NPA:* New Dynamics Corporation, Middletown. NY.

*Contracting Activity:* Dept. of the Army, XR W6BA ACA West Point, West Point, NY.

**Patricia Briscoe,**

*Deputy Director, Business Operations (Pricing and Information Management).*

[FR Doc. 2011–14420 Filed 6–9–11; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Additions to the Procurement List.

**SUMMARY:** The Committee is proposing to add products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

*Comments Must Be Received on or Before:* 7/11/2011.

**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:** Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *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.

### Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products 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 furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products 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 products 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 products are proposed for addition to Procurement List for production by the nonprofit agencies listed:

*Products*

*NSN:* 8105–00–117–9860—Envelope, Bubble Padded, 6″ x 10″.
*NSN:* 8105–00–117–9866—Envelope, Bubble Padded, 7¼″ x 12″.
*NSN:* 8105–00–117–9869—Envelope, Bubble Padded, 8½″ x 12″.
*NSN:* 8105–00–117–9872—Envelope, Bubble Padded, 9½″ x 14½″.
*NSN:* 8105–00–117–9879—Envelope, Bubble Padded, 10½″ x 16″.
*NSN:* 8105–00–117–9881—Envelope, Bubble Padded, 12½″ x 19″.
*NSN:* 8105–00–117–9886—Envelope, Bubble Padded, 14½″ x 20″.
*NSN:* 8105–00–290–0340—Envelope, Macerated Paper Padded, 6″ x 10″.
*NSN:* 8105–00–290–0343—Envelope, Macerated Paper Padded, 8½″ x 12″.
*NSN:* 8105–00–281–1168—Envelope, Macerated Paper Padded, 9½″ x 14½″.
*NSN:* 8105–00–281–1436—Envelope, Macerated Paper Padded, 10½″ x 16″.
*Coverage:* A-List for the Total Government Requirement as aggregated by the General Services Administration.
*NSN:* 8105–00–117–9870—Envelope, Bubble Padded, 8½″ x 14½″.
*NSN:* 8105–00–290–0342—Envelope, Macerated Paper Padded, 7¼″ x 12″.
*NSN:* 8105–00–281–1167—Envelope, Macerated Paper Padded, 12½″ x 19″.
*NSN:* 8105–00–281–1169—Envelope, Macerated Paper Padded, 14½″ x 20″.
*Coverage:* B-List for the Broad Government Requirement as aggregated by the General Services Administration.
*NPA:* Alphapointe Association for the Blind, Kansas City, MO.
*Contracting Activity:* General Services Administration, New York, NY.
*NSN:* M.R. 517—Pack, Party, Birthday, 8pc.
*NSN:* M.R. 518—Pack, Party, Birthday, Sports-Theme, 8pc.
*NPA:* Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC.
*NSN:* M.R. 1056—Mop, Spray, Wet.
*NSN:* M.R. 1066—Pad, Cleaning, Refill, Mop, Spray.
*NPA:* Industries for the Blind, Inc., West Allis, WI.
*Contracting Activity:* Defense Commissary Agency, Fort Lee, VA.
*Coverage:* C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency.

**USB Flash Drives, Level 3, Encrypted**

*NSN:* 7045–00–NIB–0354–2G
*NSN:* 7045–00–NIB–0355–4G
*NSN:* 7045–00–NIB–0356–8G
*NSN:* 7045–00–NIB–0357–16G
*NSN:* 7045–00–NIB–0358–32G
*NSN:* 7045–00–NIB–0360—Anti-Virus, 2G
*NSN:* 7045–00–NIB–0361—Anti-Virus, 4G
*NSN:* 7045–00–NIB–0362—Anti-Virus, 8G
*NSN:* 7045–00–NIB–0363—Anti-Virus, 16G
*NSN:* 7045–00–NIB–0364—Anti-Virus, 32G
*NPA:* North Central Sight Services, Inc., Williamsport, PA
*Contracting Activity:* General Services Administration, New York, NY
*Coverage:* A-List for the Total Government Requirement as aggregated by the General Services Administration.
*NSN:* 8970–01–576–1950—Kit, Remote Feeding and Cleaning.
*NPA:* NewView Oklahoma, Inc., Oklahoma City, OK.
*Contracting Activity:* Defense Logistics Agency Troop Support, Philadelphia, PA.
*Coverage:* C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.
*NSN:* 8465–01–580–1666–MOLLE Component, Load Lifter Attachment Strap, OCP
*NPA:* The Arkansas Lighthouse for the Blind, Little Rock, AR
*Contracting Activity:* Department of the Army Research, Development, & Engineering Command, Natick, MA.
*Coverage:* C-List for 100% of the requirement for initial fielding and Rapid Fielding Initiative of the Department of the Army, as aggregated by the Department of the Army Research, Development, & Engineering Command, Natick, MA.
*NSN:* 8040–00–NIB–0019—Adhesive Film Roller, Permanent, Double Sided Adhesive, Acid-Free, .33″ W x 393″.
*NPA:* Industries for the Blind, Inc., West Allis, WI.
*Contracting Activity:* General Services Administration, Kansas City, MO
*Coverage:* B-List for the Broad Government Requirement as aggregated by the General Services Administration.

**Patricia Briscoe,**
*Deputy Director, Business Operations (Pricing and Information Management).*

[FR Doc. 2011–14419 Filed 6–9–11; 8:45 am]

BILLING CODE 6353–01–P

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

The following notice of scheduled meetings is published pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, 5 U.S.C. 552b.

**AGENCY HOLDING THE MEETINGS:** Commodity Futures Trading Commission.

**TIMES AND DATES:** The Commission has scheduled a meeting for the following date: June 14, 2011 at 9:30 a.m.

**PLACE:** Three Lafayette Center, 1155 21st St., NW., Washington, DC, Lobby Level Hearing Room (Room 1000).

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission has scheduled this meeting for consideration of effective dates of Provisions in the Dodd-Frank Act. The Commission may also consider and vote on dates and times for future meetings. Agendas for each scheduled meeting will be made available to the public and posted on the Commission's Web site at *http://www.cftc.gov* at least seven (7) days prior to the meeting. In the event that the time or date of the meeting changes, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site.

**CONTACT PERSON FOR MORE INFORMATION:** David A. Stawick, Secretary of the Commission, 202–418–5071.

**David A. Stawick,**
*Secretary of the Commission.*

[FR Doc. 2011–14528 Filed 6–8–11; 11:15 am]

BILLING CODE 6351–01–P

## DEPARTMENT OF DEFENSE

### Department of the Army

### In Accordance With Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App 2.), Announcement Is Made of the Following Committee Meeting: Western Hemisphere Institute for Security Cooperation Board of Visitors; Meeting

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice sets forth the schedule and summary agenda for the annual meeting of the Board of Visitors (BoV) for the Western Hemisphere Institute for Security Cooperation (WHINSEC). Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463). The Board's charter was renewed on March 18, 2010 in compliance with the requirements set forth in Title 10 U.S.C. 2166.

**DATES:** Tuesday–Wednesday, September 27–28, 2011.

*Time:* Tuesday—8 a.m. to 3 p.m. and Wednesday—8 a.m. to 12 p.m.

*Location:* 7161 Richardson Circle, Fort Benning, Georgia.

*Proposed Agenda:* The WHINSEC BoV will be briefed on activities at the Institute since the last Board meeting on December 3rd, 2010, as well as receive other information appropriate to its interests.

**FOR FURTHER INFORMATION CONTACT:** WHINSEC Board of Visitors Secretariat at (703) 614–8721.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Pursuant to the Federal Advisory Committee Act of 1972 and 41 CFR 102–3.140(c), members of the public or interested groups may submit written statements to the advisory committee for consideration by the committee members. Written statements should be no longer than two type-written pages and sent via fax to (703) 614–8920 by 5 p.m. E.ST. on Monday, September 19th, 2011, for consideration at this meeting.

In addition, public comments by individuals and organizations may be made from 9:30 to 9:45 a.m. during the meeting on 27 September. Public comments will be limited to three minutes each. Anyone desiring to make an oral statement must register by sending a fax to (703) 614–8920 with his/her name, phone number, email address, and the full text of his/her comments (no longer than two typewritten pages) by 5 p.m. E.S.T. on Monday, September 19th, 2011. The first five requestors will be notified by 5 p.m. E.S.T. on Friday, September 23rd, 2011, of their time to address the Board during the public comment forum. All other comments will be retained for the record. Public seating is limited and will be available on a first-come, first-served basis.

**Scott P. Caldwell,**

*Executive Secretary, Department of the Army Civilian, WHINSEC Board of Visitors.*

[FR Doc. 2011–14293 Filed 6–9–11; 8:45 am]

**BILLING CODE M**

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Notice of Intent To Prepare an Environmental Impact Statement/Legislative Environmental Impact Statement for Renewal of the Naval Air Weapons Station China Lake Public Land Withdrawal, California and To Announce Public Scoping Meetings

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality Regulations (40 Code of Federal Regulations [CFR] parts 1500–1508), the Department of the Navy (DoN), with the cooperation of the Bureau of Land Management (BLM), announces its intent to prepare an Environmental Impact Statement/Legislative Environmental Impact Statement (EIS/LEIS) to evaluate the potential environmental effects associated with the continued withdrawal of approximately 1.1 million acres of public land in Kern, Inyo, and San Bernardino counties, California. This public land withdrawal comprises the current North and South ranges at Naval Air Weapons Station China Lake (NAWSCL). The proposed land withdrawal extension will allow the DoN to continue defense-related research, development, test and evaluation (RDT&E) and training missions at NAWSCL, in addition to other land uses.

The California Military Lands Withdrawal and Overflights Act of 1994 (Pub. L. 103–433, part of the California Desert Protection Act) withdrew and reserved the lands known then as the China Lake Naval Weapons Center (subsequently renamed NAWSCL) for defense-related purposes for a period of 20 years (until October 14, 2014). The Act provides that the DoN may seek extension of the withdrawal of such lands. As a part of the withdrawal process, the Secretary of the Navy is required to publish a draft EIS addressing the effects of continued withdrawal and hold public hearings in order to receive public comments on the proposal by October 12, 2012. The NAWSCL EIS/LEIS will examine current and proposed land uses in support of the DoN's military mission. The EIS/LEIS will specifically focus on those military land uses granted to the DoN under Public Law 103–433 that include: (1) Use as an RDT&E laboratory; (2) use as a range for air warfare weapons and weapons systems; (3) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, and tactical maneuvering and air support; (4) geothermal leasing and development, and related power production activities; and, (5) other defense-related purposes. The environmental analysis in the EIS/LEIS will be incorporated in an update to the May 2005 NAWSCL Comprehensive Land Use Management Plan (CLUMP). The CLUMP facilitates NAWSCL in planning for and managing land use and environmental resources on the withdrawn public lands in accordance with the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701). The updated CLUMP will include an examination of both military land uses authorized under Public Law 103–433 and those mission-compatible non-military land uses authorized in the 2005 CLUMP.

*Dates and Addresses:* The DoN is initiating a 90-day public scoping process to identify community interests and specific issues to be addressed in the EIS/LEIS. This public scoping process starts with the publication of this Notice of Intent. Three public scoping meetings will be held to receive oral and/or written comments on issues to be addressed in the EIS/LEIS:

1. Tuesday, July 19, 2011, 6 p.m. to 8 p.m., Historic USO Building, 230 West Ridgecrest Boulevard, Ridgecrest, California 93555;
2. Wednesday, July 20, 2011, 6 p.m. to 8 p.m., Statham Hall, 138 Jackson Street, Lone Pine, California 93545; and
3. Thursday, July 21, 2011, 6 p.m. to 8 p.m., Trona Community Senior Center, 13187 Market Street, Trona, California 93562.

Additional information concerning meeting times and locations is available on the NAWSCL EIS/LEIS Web site at *http://www.ChinalakeLEIS.com.* Public scoping meeting schedules and locations will also be announced in local newspapers.

Each of the public scoping meetings will consist of an informal, open house session with information stations staffed

by DoN and BLM representatives. Comments, both written and oral, will be collected at each of the three public scoping meetings and on the project Web site.

**FOR FURTHER INFORMATION CONTACT:** NAWSCL Land Withdrawal EIS/LEIS Project Manager (Attn: Ms. Jo Ellen Anderson), NAVFAC Southwest, 1220 Pacific Highway, San Diego, CA 92132–5178, telephone number: 619–532–2633.

**SUPPLEMENTARY INFORMATION:** The NAWSCL North and South ranges are located in the western Mojave Desert, approximately 150 miles northeast of Los Angeles, California. These ranges encompass approximately 1.1 million acres and are located in portions of Inyo, Kern, and San Bernardino counties. The DoN has been operating the NAWSCL land ranges for nearly 70 years.

The California Military Lands Withdrawal and Overflights Act of 1994 authorized the withdrawal of the public lands associated with the NAWSCL ranges for a period of 20 years (until October 14, 2014). The military land uses specifically allowed under the Act included: (1) Use as an RDT&E laboratory; (2) use as a range for air warfare weapons and weapons systems; (3) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, and tactical maneuvering and air support; (4) use for geothermal leasing and development, and related power production activities; and, (5) use for other defense-related purposes.

In May 2005, pursuant to the requirements of Public Law 103–433 and FLPMA, NAWSCL completed and endorsed a comprehensive land use management plan for the withdrawn public lands. This land use management plan is referred to as the NAWSCL CLUMP. In addition to the military land uses granted to the DoN in Public Law 103–433, the 2005 CLUMP authorized the following non-military, but mission-compatible land uses, on the ranges: (1) Native American access; (2) education and research projects; (3) limited recreation; and (4) limited commercial uses, including geothermal leasing and development, and related power production activities.

The military land uses authorized by Public Law 103–433 and the non-military uses authorized by the 2005 CLUMP are consistent with the mission of NAWSCL, which is to conduct weapons RDT&E for weapon systems associated with air warfare, aircraft weapons integration, missiles and missile subsystems, and assigned airborne electronic warfare systems and related training within a safe, secure, and operationally diverse land range test environment. Combat relevant test and evaluation, as well as training for operational compatibility, is the primary means to ensure readiness and prepare our military to fight and win in combat. To be effective in its mission, the NAWSCL ranges must provide sufficient land and airspace to conduct test and evaluation at distances and scenarios with fidelity to combat uses. Access to a variety of conditions (e.g., simulated threats, operational space, topographic relief, and safety constraints) and scheduling availability are important characteristics that must be preserved and enhanced. The DoN's continuing need for RDT&E and training range capability balances maximum use of the range with maintaining stewardship responsibilities for the lands and their resources.

In accordance with the Engle Act of 1958 (Pub. L. 85–337) and FLPMA, the DoN is required to file an application with BLM requesting the Secretary of the Interior process a proposed legislative withdrawal and reservation of public land to continue military RDT&E and training activities on the NAWSCL ranges. The proposed action would continue the existing withdrawal of 1.1 million acres of public land for military use. The public land would be withdrawn from all forms of appropriation under the public land laws, including surface entry, mining, mineral leasing, and the Materials Act of 1947.

*Purpose and Need:* Given the primary mission of the NAWSCL land ranges, to provide a safe, secure, and highly instrumented volume of land and airspace in which to conduct controlled tests, operations and training with fidelity to combat uses, the purpose of the proposed action is to retain a military range for RDT&E and training activities for a period of 25 years. The proposed action will meet the need to support the application of current and evolving technology to solve theatre-relevant problems for the warfighter and ensure necessary training readiness, while ensuring appropriate management of land use and environmental resources; revise and implement the installation's CLUMP; and, maintain DoN readiness by accommodating current and evolving state-of-the-art RDT&E and training requirements at NAWSCL.

*Alternatives:* The EIS/LEIS addresses three alternatives, including the no action alternative:

1. Alternative 1 (Withdrawal with Increased Tempo) consists of: (1) Congressional renewal of the current land withdrawal of approximately 1.1 million acres of public land for continued military use; (2) revision to and implementation of the NAWSCL CLUMP to reflect current and future land uses, both military and non-military; and (3) an increase of up to 25% in the tempo of military RDT&E, training activities (including ground and air training by DoN special operations forces and other Services), and expansion of unmanned aerial and surface systems, as well as the expansion of existing and the introduction of evolving directed energy weapons development at NAWSCL.

2. Alternative 2 (Withdrawal with Baseline Tempo) consists of: (1) Renewing (through Congressional action) the land withdrawal; (2) revising and implementing the NAWSCL CLUMP; and, (3) maintaining current levels of RDT&E and training use (type, tempo, location).

3. Alternative 3 (No Action Alternative) would allow the public land withdrawal to expire, with administrative control of the withdrawn land returning to the BLM. Withdrawn lands would comprise 92% of all NAWSCL lands. Limited RDT&E and training activities at NAWSCL would continue on 8% of remaining NAWSCL fee-owned/leased land and within managed airspace.

Environmental Issues and Resources To Be Examined: Environmental issues that will be addressed in the EIS/LEIS include, but are not limited to, the following: Air quality; biological resources (including threatened and endangered species); cultural resources; geology and soils; hazardous materials and hazardous waste management; health and safety; noise; socioeconomics (including environmental justice); transportation; and water resources. Relevant and reasonable measures that would avoid or mitigate environmental effects will also be analyzed. Additionally, the DoN will undertake any consultations required by the Endangered Species Act, National Historic Preservation Act, Clean Water Act, and any other applicable law or regulation.

Submitting Comments: The DoN encourages interested persons to submit comments concerning the proposed extension of the public land withdrawal, the alternatives proposed for study, and environmental impacts to be analyzed. Federal, state, and local agencies, Native Americans and Federally Recognized Tribes, and interested persons are encouraged to provide oral and/or written comments to the DoN to identify specific environmental issues or topics of

environmental concern that the DoN should consider. The DoN will prepare the draft LEIS incorporating issues identified by the commenting public. All comments on the EIS/LEIS, whether provided orally or in writing at the scoping meetings, or provided to the DoN during the public commenting period, will receive the same consideration during EIS/LEIS preparation.

Written comments on the scope of the EIS/LEIS should be postmarked no later than September 8, 2011. Comments may be mailed to NAWSCL Land Withdrawal EIS/LEIS Project Manager (Attn: Ms. Jo Ellen Anderson), NAVFAC Southwest, 1220 Pacific Highway, San Diego, California 92132–5178. Comments may also be submitted via the EIS/LEIS Web site located at *http://www.ChinalakeLEIS.com.*

Dated: June 3, 2011.

**D.J. Werner,**

*Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Alternate Federal Register Liaison Officer.*

[FR Doc. 2011–14449 Filed 6–9–11; 8:45 am]

**BILLING CODE 3810–FF–P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Notice of Availability of Government-Owned Inventions; Available for Licensing

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice.

**SUMMARY:** The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for domestic and foreign licensing by the Department of the Navy.

The following patent is available for licensing: U.S. Patent application Serial Number 12/550,684: Fire Fighting System, filed on August 31, 2009.

**ADDRESSES:** Requests for copies of the invention cited should be directed to Naval Air Warfare Center Weapons Division, Code 498400D, 1900 N. Knox Road Stop 6312, China Lake, CA 93555–6106 and must include the Navy Case number.

**FOR FURTHER INFORMATION CONTACT:** Michael D. Seltzer, Ph.D., Head, Technology Transfer Office, Naval Air Warfare Center Weapons Division, Code 498400D, 1900 N. Knox Road Stop 6312, China Lake, CA 93555–6106, telephone 760–939–1074, FAX 760–939–1210, E-mail: *michael.seltzer@navy.mil.*

Dated: June 3, 2011.

**D.J. Werner,**

*Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Alternate Federal Register Liaison Officer.*

[FR Doc. 2011–14399 Filed 6–9–11; 8:45 am]

**BILLING CODE 3810–FF–P**

## DEPARTMENT OF EDUCATION

### Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities

**AGENCY:** U. S. Department of Education, Office of Special Education and Rehabilitative Services, Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities.

**ACTION:** Notice of an open meeting via conference call.

**SUMMARY:** The notice sets forth the schedule and agenda of the meeting of the Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities. The notice also describes the functions of the Commission. Notice of the meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of its opportunity to attend.

**DATES:** June 24, 2011.

*Time:* 1:00 p.m.–5:00 p.m., Eastern Standard Time.

**ADDRESSES:** The Commission will meet via conference call on June 24, 2011. Members of the public have the option of participating in the open meeting remotely. Remote access will be provided via an Internet webinar service utilizing VoiP (Voice Over Internet Protocol). The login address for members of the public is *https://aimpsc.ilinc.com/join/wwfvyhk.* This login information is also provided via the Commission's public listserv at *pscpublic@lists.cast.org* and posted at the following site: *http://www2.ed.gov/about/bdscomm/list/aim/index.html.*

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Shook, Program Specialist, Office of Special Education and Rehabilitative Services, United States Department of Education, 550 12th Street, SW., Washington, DC 20202; *telephone:* (202) 245–7642, *fax:* 202–245–7638.

**SUPPLEMENTARY INFORMATION:** The Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities (the Commission) is established under Section 772 of the Higher Education Opportunity Act, Public Law 110–315, dated August 14, 2008. The Commission is established to (a) Conduct a comprehensive study, which will—(I) Assess the barriers and systemic issues that may affect, and technical solutions available that may improve, the timely delivery and quality of accessible instructional materials for postsecondary students with print disabilities, as well as the effective use of such materials by faculty and staff; and (II) make recommendations related to the development of a comprehensive approach to improve the opportunities for postsecondary students with print disabilities to access instructional materials in specialized formats in a time frame comparable to the availability of instructional materials for postsecondary nondisabled students.

In making recommendations for the study, the Commission shall consider—(I) How students with print disabilities may obtain instructional materials in accessible formats within a time frame comparable to the availability of instructional materials for nondisabled students; and to the maximum extent practicable, at costs comparable to the costs of such materials for nondisabled students; (II) the feasibility and technical parameters of establishing standardized electronic file formats, such as the National Instructional Materials Accessibility Standard as defined in Section 674(e)(3) of the Individuals with Disabilities Education Act, to be provided by publishers of instructional materials to producers of materials in specialized formats, institutions of higher education, and eligible students; (III) the feasibility of establishing a national clearinghouse, repository, or file-sharing network for electronic files in specialized formats and files used in producing instructional materials in specialized formats, and a list of possible entities qualified to administer such clearinghouse, repository, or network; (IV) the feasibility of establishing market-based solutions involving collaborations among publishers of instructional materials, producers of materials in specialized formats, and institutions of higher education; (V) solutions utilizing universal design; and (VI) solutions for low-incidence, high-cost requests for instructional materials in specialized formats.

During the meeting, the Commission will discuss the first draft of the final report. In particular, the Commission will discuss its proposed recommendations and identify issues for further discussion at the next in-person meeting on July 11–12, 2011 in Seattle, Washington.

Given the limited meeting time, the Commission does not anticipate that there will be an opportunity for public comment during the teleconference meeting. Members of the public are encouraged to submit written comments to the AIM Commission Web site at *aimcommission@ed.gov,* and the Commission will respond to the comments if possible. Members of the public who would like to offer comments as part of the meeting may submit written comments to *AIMCommission@ed.gov* or by mail to Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities, 550 12th St., SW., Room PCP–5113, Washington, DC 20202. All submissions will become part of the public record. Members of the public may also join the Commission's list serv at *PSCpublic@lists.cast.org.*

Detailed minutes of the meeting, including summaries of the activities of the closed sessions and related matters that are informative to the public and consistent with the policy of section 5 U.S.C. 552b(c) will be available to the public. Records are kept of all Commission proceedings and are available for public inspection at the Office of Special Education and Rehabilitative Services, United States Department of Education, 550 12th Street, SW., Washington, DC 20202, Monday–Friday during the hours of 8 a.m. to 4:30 p.m.

*Additional Information:*

Individuals who will need accommodations for a disability in order to listen to the meeting (*e.g.,* interpreting services, assistive listening devices, or material in alternative format) should notify Elizabeth Shook at (202) 245–7642, no later than June 15, 2011. We will make every attempt to meet requests for accommodations after this date, but, cannot guarantee their availability. The conference call will be accessible to individuals with disabilities.

*Electronic Access to this Document:* You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister/index.html.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–866–512–1800; or in the Washington, DC area at 202–512–0000.

Dated: June 6, 2011.

**Alexa Posny,**

*Assistant Secretary, Office of Special Education and Rehabilitative Services.*

[FR Doc. 2011–14417 Filed 6–9–11; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### National Board for Education Sciences; Meeting

**AGENCY:** U.S. Department of Education, Institute of Education Sciences.

**ACTION:** Notice of an open meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of an upcoming meeting of the National Board for Education Sciences. The notice also describes the functions of the Committee. Notice of this meeting is required by Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend the meeting.

**DATES:** June 29, 2011. Time: 8:30 a.m. to 5 p.m.

**ADDRESSES:** 80 F Street, NW., Room 100, Washington, DC 20208.

**FOR FURTHER INFORMATION CONTACT:** Monica Herk, Executive Director, National Board for Education Sciences, 555 New Jersey Ave., NW., Room 602 I, Washington, DC, 20208; *phone:* (202) 208–3491; *fax:* (202) 219–1466; *e-mail: Monica.Herk@ed.gov.*

**SUPPLEMENTARY INFORMATION:** The National Board for Education Sciences is authorized by Section 116 of the Education Sciences Reform Act of 2002 (ESRA), 20 U.S.C. 9516. The Board advises the Director of the Institute of Education Sciences (IES) on, among other things, the establishment of activities to be supported by the Institute, on the funding for applications for grants, contracts, and cooperative agreements for research after the completion of peer review, and reviews and evaluates the work of the Institute.

At this time, the Board consists of ten of fifteen appointed members due to the expirations of the terms of former members. The Board shall meet and can carry out official business because the ESRA states that a majority of the voting members serving at the time of a meeting constitutes a quorum.

On June 29, 2011, starting at 8:30 a.m. the Board will approve the agenda and hear remarks from the chair, followed by the swearing in of new members. John Easton, IES Director, and the Commissioners of the national centers will give an overview of recent developments at IES. From 9:15 to 10:30 a.m. Board members will address the topic of "Linking NCES and State Data, and Other Initiatives to Create a More Comprehensive Portrait of U.S. Students and Schools." Opening remarks by Dr. Jack Buckley, NCES Commissioner, will be followed by Board discussion. A break will take place from 10:30 to 10:45 a.m.

From 10:45 a.m. to 12:15 p.m., the Board will consider the topic, "The 'Big Picture'." Board members will engage in a roundtable discussion addressing the following questions: "Within the overall Board-approved IES research priorities, what are the most important and compelling research questions and topics to address?" and "Where are the gaps in knowledge the greatest and most serious?" The meeting will break for lunch from 12:15 to 1:15 p.m.

Following lunch the Board will turn to the topic, "Communications: What are effective ways to communicate key research findings?" from 1:15 to 2:45 p.m. After opening remarks by IES Director John Easton and Dr. John W. Wallace, formerly with MDRC, the Board will discuss the issue, paying particular attention to two potential audiences for the research findings: (1) Federal, state, and local education policy-makers, and (2) educational practitioners at the school or classroom level.

An afternoon break from 2:45 to 3 p.m. will precede a presentation and discussion of "Low-Cost Randomized Controlled Trials (RCTs) Using Existing Data (*e.g.,* State Test Scores)" from 3 to 4:30 p.m. Dr. Eric Bettinger of Stanford University and Dr. Robert Slavin of Johns Hopkins University and the Success for All Foundation will present brief remarks, followed by Board discussion.

At 4:30 p.m. there will be closing remarks and a consideration of next steps from the IES Director and NBES Chair, with adjournment scheduled for 5 p.m.

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.,* interpreting services, assistance listening devices, or materials in alternative format) should notify Monica Herk no later than June 15. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

There will not be an opportunity for public comment. However, members of the public are encouraged to submit written comments related to NBES to Monica Herk (see contact information above. A final agenda will be available from Monica Herk (see contact

information above) on June 15 and will be posted on the Board Web site *http://ies.ed.gov/director/board/agendas/index.asp.*

Records are kept of all Committee proceedings and are available for public inspection at 555 New Jersey Ave., NW., Room 602 K, Washington, DC 20208, from the hours of 9 a.m. to 5 p.m., Eastern Standard Time Monday through Friday.

*Electronic Access to This Document:* You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fed-register/index.html.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–866–512–1800; or in the Washington, DC, area at (202) 512–0000.

**Note:** The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 6, 2011.

**John Q. Easton,**

*Director, Institute of Education Sciences.*

[FR Doc. 2011–14423 Filed 6–9–11; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Secretary of Energy Advisory Board Natural Gas Subcommittee

**AGENCY:** Department of Energy, DOE.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB) Natural Gas Subcommittee. SEAB was reestablished pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

**DATES:** Monday, June 13, 2011; 7 p.m.–9 p.m.

**ADDRESSES:** Washington & Jefferson College, 60 South Lincoln Street, Washington, Philadelphia 15301.

**FOR FURTHER INFORMATION CONTACT:** Renee Stone, Deputy Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; e-mail to: *shalegas@hq.doe.gov* or at the following Web site: *http://www.shalegas.energy.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The SEAB was reestablished to provide advice and recommendations to the Secretary on the Department's basic and applied research, economic and national security policy, educational issues, operational issues and other activities as directed by the Secretary. The Natural Gas Subcommittee was established to provide advice and recommendations to the Full Board on how to improve the safety and environmental performance of natural gas hydraulic fracturing from shale formations, thereby harnessing a vital domestic energy resource while ensuring the safety of citizen's drinking water and the health of the environment. President Obama directed Secretary Chu to convene this group as part of the President's "*Blueprint for a Secure Energy Future*"—a comprehensive plan to reduce America's oil dependence, save consumers money, and to make our country the leader in clean energy industries.

*Purpose of the Meeting:* The purpose of this meeting is to allow Subcommittee members to hear directly from natural gas stakeholders.

*Tentative Agenda:* The meeting will start at 7 p.m. on Monday, June 13, 2011. The tentative meeting agenda includes a technical presentation on long-lateral hydraulic fracturing. From approximately 7:15 p.m. to 9 p.m., the Subcommittee will hear comments from members of the public. The meeting will conclude at 9 p.m.

*Public Participation:* The meeting is open to the public. Space is limited. Individuals and representatives of organizations who would like to offer comments and suggestions may do so on Monday, June 13, 2011. Approximately 105 minutes will be reserved for public comments. Time allotted per speaker will depend on the number of individuals who wish to speak, but will not exceed 2 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 6:30 p.m. on June 13, 2011.

Those not able to attend the meeting or have insufficient time to address the committee are invited to send a written statement to Renee Stone, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington DC 20585, or by e-mail to: *shalegas@hq.doe.gov.*

This notice is being published less than 15 days prior to the meeting date due to programmatic issues and members' availability.

Issued at Washington, DC on June 6, 2011.

**Carol A. Matthews,**

*Committee Management Officer.*

[FR Doc. 2011–14436 Filed 6–9–11; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Secretary of Energy Advisory Board, Natural Gas Subcommittee

**AGENCY:** Department of Energy, DOE.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB), Natural Gas Subcommittee. SEAB was reestablished pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

**DATES:** Tuesday, June 28, 2011; 10 a.m.–12 p.m. 1:30 p.m.–4 p.m.

**ADDRESSES:** Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Renee Stone, Deputy Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; e-mail to: *shalegas@hq.doe.gov* or at the following Web site: *http://www.shalegas.energy.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The SEAB was reestablished to provide advice and recommendations to the Secretary on the Department's basic and applied research, economic and national security policy, educational issues, operational issues and other activities as directed by the Secretary. The Natural Gas Subcommittee was established to provide advice and recommendations to the Full Board on how to improve the safety and environmental performance of natural gas hydraulic fracturing from shale formations, thereby harnessing a vital domestic energy resource while ensuring the safety of citizen's drinking water and the health of the environment. President Obama directed Secretary Chu to convene this group as part of the President's "*Blueprint for a Secure Energy Future*"—a comprehensive plan to reduce America's oil dependence, save consumers money, and to make our country the leader in clean energy industries.

*Purpose of the Meeting:* The purpose of this meeting is to allow Subcommittee members to hear directly from natural gas stakeholders.

*Tentative Agenda:* The meeting will start at 10 a.m. and will conclude at 4 p.m. on June 28, 2011. The tentative meeting agenda includes presentations from shale gas stakeholders and experts.

*Public Participation:* The meeting is open to the public. Individuals who would like to attend must RSVP no later than 5 p.m. on Friday, June 24, 2011, by e-mail to: *shalegas@hq.doe.gov.* An early confirmation of attendance will help facilitate access to the building more quickly. Please provide your name, organization, citizenship and contact information. Space is limited. Anyone attending the meeting will be required to present government-issued identification. Individuals and representatives of organizations who would like to offer comments and suggestions may do so at the end of the meeting on Tuesday, June 28, 2011. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number of individuals who wish to speak but will not exceed 5 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 9:30 a.m. on June 28, 2011.

Those not able to attend the meeting or have insufficient time to address the committee are invited to send a written statement to Renee Stone, U.S. Department of Energy 1000 Independence Avenue, SW., Washington DC 20585; or by e-mail to: *shalegas@hq.doe.gov,* or post on the Subcommittee's Web site: *http://www.shalegas.energy.gov.*

Issued in Washington, DC on June 6, 2011.

**LaTanya R. Butler,**

*Acting Deputy Committee Management Officer.*

[FR Doc. 2011–14438 Filed 6–9–11; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF ENERGY

### Secretary of Energy Advisory Board, Natural Gas Subcommittee; Meeting

**AGENCY:** Department of Energy, DoE.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB), Natural Gas Subcommittee. SEAB was reestablished pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

**DATES:** Wednesday, July 13, 2011; 10 a.m.–12 p.m. 1:30 p.m.–4 p.m.

**ADDRESSES:** Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Renee Stone, Deputy Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; e-mail to: *shalegas@hq.doe.gov* or at the following Web site: *http://www.shalegas.energy.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The SEAB was reestablished to provide advice and recommendations to the Secretary on the Department's basic and applied research, economic and national security policy, educational issues, operational issues and other activities as directed by the Secretary. The Natural Gas Subcommittee was established to provide advice and recommendations to the Full Board on how to improve the safety and environmental performance of natural gas hydraulic fracturing from shale formations, thereby harnessing a vital domestic energy resource while ensuring the safety of citizen's drinking water and the health of the environment. President Obama directed Secretary Chu to convene this group as part of the President's "*Blueprint for a Secure Energy Future*"—a comprehensive plan to reduce America's oil dependence, save consumers money, and to make our country the leader in clean energy industries.

*Purpose of the Meeting:* The purpose of this meeting is to allow Subcommittee members to hear directly from natural gas stakeholders.

*Tentative Agenda:* The meeting will start at 10 a.m. and will conclude at 4 p.m. on July 13, 2011. The tentative meeting agenda includes presentations from shale gas stakeholders and experts.

*Public Participation:* The meeting is open to the public. Individuals who would like to attend must RSVP no later than 5 p.m. on Monday, July 11, 2011, by e-mail to: *shalegas@hq.doe.gov.* An early confirmation of attendance will help facilitate access to the building more quickly. Please provide your name, organization, citizenship and contact information. Space is limited. Anyone attending the meeting will be required to present government-issued identification. Individuals and representatives of organizations who would like to offer comments and suggestions may do so at the end of the meeting on Wednesday, July 13, 2011. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number of individuals who wish to speak but will not exceed 5 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 9:30 a.m. on July 13, 2011.

Those not able to attend the meeting or have insufficient time to address the committee are invited to send a written statement to Renee Stone, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington DC 20585; or by e-mail to: *shalegas@hq.doe.gov,* or post on the Subcommittee's Web site: *http://www.shalegas.energy.gov.*

Issued in Washington, DC on June 6, 2011.

**LaTanya R. Butler,**

*Acting Deputy Committee Management Officer.*

[FR Doc. 2011–14439 Filed 6–9–11; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 14107–000]**

### Lock Hydro Friends Fund I; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On March 4, 2011, Lock Hydro Friends Fund I, filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of hydropower at the City of Austin's Longhorn Dam located on the Lower Colorado River in Travis County, Texas. 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) The existing 506-foot-long, 36-foot-high Longhorn dam; (2) the existing reservoir with a surface area of 525.0 acres and a storage capacity of 6,000 acre-feet; (3) two prefabricated concrete walls attached to the downstream side of the dam which would support one power stack, also known as, a frame module; (4) the frame

module would contain 2 generating units with a total combined capacity of 2.2 megawatts (MW); (5) a new switchyard containing a transformer; (6) a proposed 300-feet-long, 13-kilovolt (kV) transmission line to an existing distribution line. The proposed project would have an average annual generation of 10.6 megawatt-hours (MWh), which would be sold to a local utility.

*Applicant Contact:* Mr. Wayne Krouse, Hydro Green Energy LLC, 5090 Richmond Avenue #390, Houston, TX 77056; phone (877) 556–6566 x709.

*FERC Contact:* Michael Spencer, (202) 502–6093.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14107–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 31, 2011.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2011–14384 Filed 6–9–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP11–489–000]**

### Midwestern Gas Transmission Company; Notice of Request Under Blanket Authorization

Take notice that on May 19, 2011, Midwestern Gas Transmission Company (Midwestern) filed a prior notice request for authorization, in accordance with 18 CFR 157.205 and 157.208 of the Federal Energy Regulatory Commission's (Commission) Regulations under the Natural Gas Act for the authority to construct, own and operate approximately 1.2 miles of new 30-inch diameter natural gas pipeline, abandon in place approximately 1.1 miles of existing 30-inch diameter natural gas pipeline, and remove approximately 100 feet of 30-inch diameter natural gas pipeline in Will County, Illinois. Midwestern also seeks to install a new stopple fitting located adjacent to its existing REXALL meter station. Midwestern estimates the total cost of the proposed project to be $10,194,000, all as more fully set forth in the application, which is open to the public for 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 prior notice should be directed to Joseph Miller, Midwestern Gas Transmission Company, 100 West 5th Street, ONEOK Plaza, Tulsa, Oklahoma 74103, or telephone (918) 588–7057, or by fax (918) 588–7890, or by e-mail *jwmiller@oneok.com.*

Any person may, within 60 days after the 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. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

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 commenter's 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 he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, 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 ill 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 via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the "e-Filing" link. 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.

Dated: June 3, 2011.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2011–14385 Filed 6–9–11; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–8997–4]**

### 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 05/30/2011 Through 06/03/2011

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. 20110176, Draft EIS, BLM, NV,* Clark, Lincoln, and White Pine Counties Groundwater Development Project, Construction and Operation of Pipeline System and Associated Infrastructure, Right-of-Way Application, Clark, Lincoln, White Pine, NV, Comment Period Ends: 09/08/2011, Contact: Penny Woods 775–861–6466.

*EIS No. 20110177, Draft EIS, NOAA, 00,* Reef Fish Amendment 32, Gag—Rebuilding Plan, Annual Catch Limits, Management Measures, Red Grouper—Annual Catch Limits, Management Measures, Grouper Accountability Measures, Gulf of Mexico, Comment Period Ends: 07/25/2011, Contact: Roy E. Crabtree PhD 727–824–5301.

*EIS No. 20110178, Draft EIS, NRC, FL,* Generic—License Renewal of Nuclear Plants Regarding Crystal River Unit 3 Nuclear Generating Unit, Supplement 44, City of Crystal River, Citrus County, FL, Comment Period Ends: 07/25/2011, Contact: Daniel Doyle 301–415–3748.

*EIS No. 20110179, Draft EIS, USFS, CO,* Ski Resort Peak 6 Project, To Better Accommodate Existing Daily Visitation Levels, Dillon Ranger District, White River National Forest, Summit County, CO, Comment Period Ends: 07/25/2011, Contact: Jan Cutts 970–262–3451.

*EIS No. 20110180, Draft Supplement, BLM, UT,* Greater Natural Buttes Area Gas Development Project, New Information on National Ambient Air Quality Standards and New Monitoring Data, Proposes to Develop Oil and Gas Resources within the 162–911–Acre, Uintah County, UT, Comment Period Ends: 07/25/2011, Contact: Stephanie Howard 435–781–4469.

*EIS No. 20110181, Final EIS, USACE, LA,* New Orleans To Venice (NOV), Louisiana, Hurricane Risk Reduction Project, Incorporation of Non-Federal Levees from Oakville to St. Jude, Plaquemines Parish, LA, Review Period Ends: 07/11/2011, Contact: Christopher Koeppel 601–631–5410.

*EIS No. 20110182, Final EIS, WAPA, CA,* Rice Solar Energy Project, Proposed 150 megawatt Solar Energy Generating Facility, 161-kV/230-kV Electrical Transmission Tie-Line and 161-kV/230-kV Electrical Interconnection Switchyard, Riverside County, CA, Review Period Ends: 07/11/2011, Contact: Liana Reilly 720–962–7253.

**Amended Notices**

*EIS No. 20110168, Draft Supplement, USFS, ID,* Bussel 484 Project Area, Updated and New Information, Manage the Project Area to Achieve Desired Future Conditions for Vegetation, Fire, Fuels, Recreation, Access, Wildlife, Fisheries, Soil and Water, Idaho Panhandle National Forest, St. Joe Ranger District, Shoshone County, ID, Comment Period Ends: 07/18/2011, Contact: Lynette Myhre 208–245–2531.

Revision to FR Notice Published 06/03/2011: Correction to Contact Telephone Number.

Dated: June 7, 2011.

**Cliff Rader,**

*Acting Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2011–14437 Filed 6–9–11; 8:45 am]

BILLING CODE 6560–50–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: June 6, 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 |
|---|---|---|---|---|
| 10369 | Atlantic Bank and Trust | Charleston | SC | 06/03/2011 |

[FR Doc. 2011–14403 Filed 6–9–11; 8:45 am]

BILLING CODE 6714–01–P

## FEDERAL ELECTION COMMISSION

### Sunshine Act Notice

**AGENCY:** Federal Election Commission.

**DATE AND TIME:** Wednesday, June 15, 2011 at 10 a.m.

**PLACE:** 999 E Street, NW., Washington, DC (Ninth Floor).

**STATUS:** This meeting will be open to the public.

**ITEMS TO BE DISCUSSED:**

Correction and Approval of the Minutes for the Meeting of May 26, 2011.

Draft Notice of Proposed Rulemaking on Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations.

Draft Notice of Availability for Rulemaking Petition by James Madison Center for Free Speech.

Draft Notice of Availability for Rulemaking Petition by Representative Chris Van Hollen.

Draft Advisory Opinion 2011–08: American Society of Anesthesiologists.

Draft Advisory Opinion 2011–09: Facebook.
Draft Advisory Opinion 2011–10: POET, LLC, POET PAC, and Sioux River Ethanol, LLC (d/b/a POET Biorefining-Hudson).
Audit Division Recommendation Memorandum on the United Association Political Education Committee (UAPEC) (A09–27).
Future Meeting Dates.
Management and Administrative Matters.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Commission Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the hearing date.

**PERSON TO CONTACT FOR INFORMATION:** Judith Ingram, Press Officer, Telephone: (202) 694–1220.

**Shawn Woodhead Werth,**

*Secretary and Clerk of the Commission.*

[FR Doc. 2011–14583 Filed 6–8–11; 4:15 pm]

**BILLING CODE 6715–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Assistant Secretary for Planning and Evaluation; Advisory Council on Alzheimer's Research, Care, and Services

**AGENCY:** Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

**ACTION:** Notice of establishment of the Advisory Council on Alzheimer's Research, Care, and Services and request for nominations.

**SUMMARY:** The National Alzheimer's Project Act, Public Law 111–375 (42 U.S.C. 11225), requires that the Secretary of Health and Human Services (HHS) establish the Advisory Council on Alzheimer's Research, Care, and Services. The Advisory Council is governed by provisions of Public Law 92–463 (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees. The Secretary of HHS has determined that establishment of the Advisory Council on Alzheimer's Research, Care, and Services is desirable to provide advice and consultation to the Secretary on how to prevent or reduce the burden of Alzheimer's disease and related dementias on people with the disease and their caregivers. The Secretary signed the charter establishing the Advisory Council on May 23, 2011. HHS is soliciting nominations for non-Federal members of the Advisory Council. Nominations should include the nominee's contact information (current mailing address, e-mail address, and telephone number) and a current curriculum vitae or resume.

**DATES:** Submit nominations by e-mail or USPS mail before COB on June 30, 2011.

**ADDRESSES:** Nominations should be sent to Helen Lamont at *helen.lamont@hhs.gov;* Helen Lamont, Ph.D., Office of the Assistant Secretary for Planning and Evaluation, Room 424E Humphrey Building, Department of Health and Human Services, 200 Independence Avenue, SW., Washington, DC 20201.

**Comments**

**FOR FURTHER INFORMATION CONTACT:** Helen Lamont (202) 690–7996, *helen.lamont@hhs.gov.*

**SUPPLEMENTARY INFORMATION:** The Advisory Council on Alzheimer's Research, Care, and Services shall meet quarterly to discuss programs that impact people with Alzheimer's disease and related dementias and their caregivers. The Advisory Council shall make recommendations about ways to reduce the financial impact of Alzheimer's disease and related dementias and to improve the health outcomes of people with these conditions. The Advisory Council shall provide feedback on a National Plan for Alzheimer's disease. On an annual basis, the Advisory Council shall evaluate the implementation of the recommendations through an updated national plan.

The Advisory Council shall consist of at least 22 members. Ten members will be designees from Federal agencies including the Centers for Disease Control and Prevention, Administration on Aging, Centers for Medicare and Medicaid Services, Indian Health Service, Office of the Director of the National Institutes of Health, National Science Foundation, Department of Veterans Affairs, Food and Drug Administration, Agency for Healthcare Research and Quality, and the Surgeon General.

The Advisory Council shall also consist of 12 non-federal members selected by the Secretary who are Alzheimer's patient advocates (2), Alzheimer's caregivers (2), health care providers (2), representatives of State health departments (2), researchers with Alzheimer's-related expertise in basic, translational, clinical, or drug development science (2), and voluntary health association representatives (2). The Secretary shall appoint one of the members to serve as the Chair. Members shall be invited to serve for overlapping 4 year terms, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. Members will serve as Special Government Employees.

Dated: June 3, 2011.

**Sherry Glied,**

*Assistant Secretary for Planning and Evaluation.*

[FR Doc. 2011–14366 Filed 6–9–11; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

**AGENCY:** National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** HHS gives notice concerning the final effect of the HHS decision to designate a class of employees from Grand Junction Operations Office, Grand Junction, Colorado, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On April 29, 2011, as provided for under 42 U.S.C. 7384q(b), the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of the Department of Energy, its predecessor agencies, and its contractors and subcontractors who worked at the Grand Junction Operations Office from March 23, 1943 through January 31, 1975, for a number of work days aggregating at least 250 work days, occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees in the SEC.

This designation became effective on May 29, 2011, as provided for under 42 U.S.C. 7384l(14)(C). Hence, beginning on May 29, 2011, members of this class of employees, defined as reported in this notice, became members of the Special Exposure Cohort.

**FOR FURTHER INFORMATION CONTACT:** Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46,

Cincinnati, OH 45226, Telephone 877–222–7570. Information requests can also be submitted by e-mail to *DCAS@CDC.GOV.*

**John Howard,**

*Director, National Institute for Occupational Safety and Health.*

[FR Doc. 2011–14353 Filed 6–9–11; 8:45 am]

**BILLING CODE 4163–19–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Request for Information (RFI) To Identify and Obtain Relevant Information From Public or Private Entities With an Interest in Biovigilance; Extension

**AGENCY:** Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health.

**ACTION:** Notice.

**SUMMARY:** This extension of time to respond to the previously published Request For Information (RFI) seeks to provide additional opportunities for potential stakeholders to identify and obtain relevant information regarding the possible development of a public-private partnership (PPP) designed to facilitate the identification of risks and strategies to assure safety of the U.S. supply of blood and blood components, tissues, cells, and organs. The original RFI was published in the **Federal Register** in Vol. 76, No. 79 on Monday April 25, 2011, titled, "Request for Information (RFI) to Identify and Obtain Relevant Information from Public or Private Entities with an Interest in Biovigilance." An extension is being provided to all who cannot make the original deadline of June 9, 2011. The extension is until June 30, 2011.

**DATES:** Responses are encouraged by the original June 9, 2011 deadline; however, if an extension is required it will be provided until June 30, 2011 (4 p.m. EDT). Please notify us if you intend to respond by the extended date (4 p.m. EDT on June 30, 2011 at the address listed below).

**ADDRESSES:** All responses should be emailed to *Biovigilance@hhs.gov* (attention Dr. Jerry Holmberg). Please limit responses to 10 pages. Include in the subject line, the following information:

- Name of the institution or site.
- Respondent, title, and full contact information.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jerry Holmberg, Senior Advisor for Blood Safety, Office of the Assistant Secretary for Health, Office of the Secretary, U.S. Department of Health and Human Services, 1101 Wootton Parkway, Tower Building, Suite 250, Rockville, MD 20852.

Dated: June 2, 2011.

**Jerry A. Holmberg,**

*Senior Advisor for Blood Policy, Executive Secretary of the Advisory Committee Safety and Availability.*

[FR Doc. 2011–14124 Filed 6–9–11; 8:45 am]

**BILLING CODE 4150–41–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 76 FR 30174–30175, dated May 24, 2011) is amended to reflect the reorganization of Procurement and Grants Office.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in their entirety the title and the functional statement for the Materiel Management Activity (CAJH12), Office of the Director (CAJH1).

Following the title and functional statement for the Acquisition & Assistance Branch VIII (CAJHV), insert the following:

Logistics Management Branch (CAJHW). (1) Develops and implements CDC-wide policies, procedures, and criteria necessary to comply with federal and departmental regulations governing personal property, transportation, shipping, and fleet management; (2) determines, recommends, and implements procedural changes needed to maintain effective management of CDC property including but not limited to: inventory control; property records; receipt, delivery, tracking, shipping and return of CDC materiel; property reutilization and disposal; transportation of freight; and CDC's vehicle fleet; (3) provides audits, training and technical assistance to CDC Centers/Institute/Offices on property, transportation, shipping, and fleet management; (4) determines the requirement for and serves as the functional proponent for the design, test, and implementation of logistics management systems; (5) represents CDC on inter- and intra-departmental committees relevant to logistical functions; (6) serves as the CDC liaison to HHS and other federal agencies on logistical matters such as property, transportation and traffic management; and (7) establishes branch goals, objectives and priorities, and assures consistency and coordination with overall Procurement and Grants Office logistical goals and objectives.

Dated: May 26, 2011.

**Carlton Duncan,**

*Acting Chief Operating Officer Centers for Disease Control and Prevention.*

[FR Doc. 2011–14126 Filed 6–9–11; 8:45 am]

**BILLING CODE 4160–18–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier CMS–370, CMS–377, and CMS–378; CMS–381; CMS–10145; and CMS–10362]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services.

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:* Revision of a currently approved collection; *Titles of Information Collection:* (CMS–370) Health Insurance Benefits Agreement, (CMS–377) ASC Request for Certification or Update of Certification Information in the Medicare Program,

and (CMS–378) Ambulatory Surgical Center (ASC) Survey Report Form; *Use:* CMS–370 has not been revised and will continue to be used to establish eligibility for payment under Title XVIII of the Social Security Act (the "Act"). As revised, CMS–377 will be used to collect facility-specific characteristics that facilitate CMS' oversight of ASCs. The data also enables CMS to respond to inquiries from the Congress, GAO, and the OIG concerning the characteristics of Medicare-participating ASCs. The data base that supports survey and certification activities will be revised to reflect changes in the data fields on this revised form, such as the data on the types of surgical procedures performed in the ASC. CMS–378 will be discontinued since it duplicates information collected by other means; *Form Numbers:* CMS–370, –377 and –378 (OCN: 0938–0266); *Frequency:* Occasionally; *Affected Public:* Private Sector: Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 7,213; *Total Annual Responses:* 1,795; *Total Annual Hours:* 648. (For policy questions regarding this collection contact Gail Vong at 410–786–0787. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Identification of Extension Units of Medicare Approved Outpatient Physical Therapy/Outpatient Speech Pathology (OPT/OSP) Providers and Supporting Regulations in 42 CFR 485.701–485.729; *Use:* The collected information is used in conjunction with 42 CFR 485.701 through 485.729 governing the operation of providers of outpatient physical therapy and speech-language pathology services. The provider uses the form to report to the State survey agency extension locations that it has added since the date of last report. The form is used by the State survey agencies and by the CMS regional offices to identify and monitor extension locations to ensure their compliance with the Federal requirements for the providers of outpatient physical therapy and speech-language pathology services; *Form Number:* CMS–381 (OMB #: 0938–0273); *Frequency:* Annually; *Affected Public:* Private Sector; Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 2,960; *Total Annual Responses:* 2,960; *Total Annual Hours:* 740. (For policy questions regarding this collection contact Georgia Johnson at 410–786–6859. For all other issues call 410–786–1326.)

3. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Medicare Part B Drug and Biological Competitive Acquisition Program (CAP) and Supporting Regulations in 42 CFR Sections 414.906, 414.908, 414.910, 414.914, 414.916, and 414.917; *Use:* Section 303(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) provides an alternative payment methodology for Part B covered drugs that are not paid on a cost or prospective payment basis. In particular, Section 303(d) of the MMA amends Title XVIII of the Social Security Act by adding a new section 1847B, which establishes a competitive acquisition program for the acquisition of and payment for Part B covered drugs and biologicals furnished on or after January 1, 2006. Since its inception, additional legislation has augmented the CAP. Section 108 of the Medicare Improvements and Extension Act under Division B, Title I of the Tax Relief Health Care Act of 2006 (MIEA–TRHCA) amended Section 1847b(a)(3) of the Social Security Act and requires that CAP implement a post payment review process. This procedure is done to assure that payment is made for a drug or biological under this section only if the drug or biological has been administered to a beneficiary. *Form Number:* CMS–10145 (OCN: 0938–0945); *Frequency:* Weekly, quarterly and occasionally; *Affected Public:* Private sector—Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 3000; *Total Annual Responses:* 156,020; *Total Annual Hours:* 31,208. (For policy questions regarding this collection contact Karen Hill at 410–786–5607. For all other issues call 410–786–1326.)

4. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Autism Spectrum Disorders (ASD): State of the States Services and Supports for People with ASD; *Use:* The information that is collected in the interviews will be used to communicate additional information about services available to people with ASD and the public policy issues that affect people with ASD to key stakeholder audiences. The format of the report will include data tables from various State programs and narrative about the data being presented based on the interviews with State agency staff. We propose interviewing multiple staff in each State because several State agencies have an impact on services and supports for people with ASD; *Form Number:* CMS–10362 (OCN: 0938–New); *Frequency:* Once; *Affected Public:* State, local, or Tribal Governments; *Number of Respondents:* 459; *Total Annual Responses:* 459; *Total Annual Hours:* 803. (For policy questions regarding this collection contact Ellen Blackwell at 410–786–4498. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (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 *July 11, 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: June 3, 2011.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2011–14226 Filed 6–9–11; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier CMS–10393]**

### Agency Information Collection Activities: Proposed Collection; 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) 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 functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality,

utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Existing collection in use without an OMB control number; *Title of Information Collection:* Medicare Beneficiary and Family-Centered Satisfaction Survey; *Use:* The data collection methodology used to determine Beneficiary Satisfaction flows from the proposed sampling approach. While it was feasible to conduct the 9th SOW via telephone data collection only, with a quarterly sample size for the 10th SOW estimated to be 2,664, it does not seem efficient to maintain a telephone only data collection approach. Based on recent literature on survey methodology and response rates by mode, we recommend using a data collection that is done primarily by mail. A mail-based methodology will achieve the goals of being efficient, effective, and minimally burdensome for beneficiary respondents.

As previously described, we anticipate that a mail-based methodology could yield a response rate of approximately 60 percent. In order to achieve this response rate, we would recommend a 3 staged approach to data collection:

(1) Mailout of a covering letter, the paper survey questionnaire, and a postage-paid return envelope.

(2) Mailout of a post card that thanks respondents and reminds the non-respondents to please return their survey.

(3) Mailout of a follow-up covering letter, the paper survey questionnaire, and a postage-paid return envelope.

Through the pilot test, we will determine the response rate that can be achieved using this approach. If it is deemed necessary, additional mailout reminders can be added to the protocol, or a telephone non-response step can be added to the protocol.

Using the 3-step mail approach described above, we anticipate that data collection would occur over an 8 to 10 weeks. This is to say, if the first survey mailing were dropped on January 1, we would anticipate completing data collection at the end of February or early March. Data would then be cleaned, scores would be generated, and data would be delivered to CMS. Through the pilot test, we will determine the precise timing required to achieve an acceptable response rate, but we are aiming to complete sampling, data collection, and scoring within a 12-week period. *Form Number:* CMS–10393 (OCN: 0938–New) *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 16,010; *Number of Responses:* 16,010; *Total Annual Hours:* 4002. (For policy questions regarding this collection, contact Coles Mercier at 410–786–2112. For all other issues call (410) 786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site at *http://www.cms.gov/PaperworkReductionActof1995/PRAL/list.asp#TopOfPage* or email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office at 410–786–1326.

In commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *August 9, 2011:*

1. Electronically. You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. By regular mail. You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, *Attention:* Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 7, 2011.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2011–14435 Filed 6–9–11; 8:45 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request

*Title:* Pre-testing of Evaluation Surveys.

*OMB No.:* 0970–0355.

*Description:* The Office of Planning, Research and Evaluation (OPRE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), intends to request approval from the Office of Management and Budget (OMB) for a generic clearance that a will allow OPRE to conduct a variety of data gathering activities aimed at identifying questionnaire and procedural problems in survey administration. Over the next three years, OPRE anticipates undertaking a variety of new surveys as part of research projects in the fields of cash welfare, employment and self-sufficiency, Head Start, child care, healthy marriage and responsible fatherhood, and child welfare, among others. In order to improve the development of its research and evaluation surveys, OPRE envisions using a variety of techniques including field tests, respondent debriefing questionnaires, cognitive interviews and focus groups in order to identify questionnaire and procedural problems, suggest solutions, and measure the relative effectiveness of alternative survey solutions.

Following standard OMB requirements, OPRE will submit a change request to OMB individually for every data collection activity undertaken under this generic clearance. OPRE will provide OMB with a copy of the individual instrument or questionnaire, as well as other materials describing the project and specific survey pre-test.

*Respondents:* The respondents will be identified at the time that each change request is submitted to OMB. Generally they will be individuals who are representative of the target groups for the public assistance research or evaluation project in question.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total annual burden hours |
|---|---|---|---|---|
| Survey development field tests, respondent debriefing questionnaires, cognitive interviews and focus groups | 5,000 | 1 | 0.5 | 2,500 |

*Estimated Total Annual Burden Hours:* 2,500

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* OPRE Reports Clearance Officer. *E-mail address: OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 31, 2011.

**Steven M. Hanmer,**

*Reports Clearance Officer.*

[FR Doc. 2011–14107 Filed 6–9–11; 8:45 am]

**BILLING CODE M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request

*Title:* Formative Data Collections for Informing Policy Research.

*OMB No.:* 0970–0356.

*Description:* The Office of Planning, Research and Evaluation (OPRE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), intends to request approval from the Office of Management and Budget (OMB) for a generic clearance that will allow OPRE to conduct a variety of qualitative data collections. Over the next three years, OPRE anticipates undertaking a variety of new research projects in the fields of cash welfare, employment and self-sufficiency, Head Start, child care, healthy marriage and responsible fatherhood, and child welfare. In order to inform the development of OPRE research, to maintain a research agenda that is rigorous and relevant, and to ensure that research products are as current as possible, OPRE will engage in a variety of qualitative data collections in concert with researchers and practitioners throughout the field. OPRE envisions using a variety of techniques including semi-structured discussions, focus groups, telephone interviews, and in-person observations and site visits, in order to integrate the perspectives of program operators, policy officials and members of the research community.

Following standard Office of Management and Budget (OMB) requirements, OPRE will submit a change request to OMB individually for every group of data collection activities undertaken under this generic clearance. OPRE will provide OMB with a copy of the individual instruments or questionnaires (if one is used), as well as other materials describing the project.

*Respondents:* Administrators or staff of State and local agencies or programs in the relevant fields; academic researchers; and policymakers at various levels of government.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total annul burden hours |
|---|---|---|---|---|
| Semi-Structured Discussion and Information-Gathering Protocol | 2,000 | 1 | 0.5 | 1,000 |

*Estimated Total Annual Burden Hours:* 1,000

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* OPRE Reports Clearance Officer. E-mail address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or

other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 31, 2011.

**Steven M. Hanmer,**

*Reports Clearance Officer.*

[FR Doc. 2011–14106 Filed 6–9–11; 8:45 am]

**BILLING CODE 4184–22–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0405]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Regulations for In Vivo Radiopharmaceuticals Used for Diagnosis and Monitoring

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection for in vivo Radiopharmaceuticals Used for Diagnosis and Monitoring.

**DATES:** Submit either electronic or written comments on the collection of information by August 9, 2011.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Regulations for In Vivo Radiopharmaceuticals Used for Diagnosis and Monitoring—21 CFR Part 315 (OMB Control Number 0910–0409)—Extension**

FDA is requesting OMB approval of the information collection requirements contained in 21 CFR 315.4, 315.5, and 315.6. These regulations require manufacturers of diagnostic radiopharmaceuticals to submit information that demonstrates the safety and effectiveness of a new diagnostic radiopharmaceutical or of a new indication for use of an approved diagnostic radiopharmaceutical.

In response to the requirements of section 122 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115), FDA published a final rule in the **Federal Register** of May 17, 1999 (64 FR 26657), amending its regulations by adding provisions that clarify the Agency's evaluation and approval of in vivo radiopharmaceuticals used in the diagnosis or monitoring of diseases. The regulation describes the kinds of indications of diagnostic radiopharmaceuticals and some of the criteria that the Agency would use to evaluate the safety and effectiveness of a diagnostic radiopharmaceutical under section 505 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355) and section 351 of the Public Health Service Act (the PHS Act) (42 U.S.C. 262). Information about the safety or effectiveness of a diagnostic radiopharmaceutical enables FDA to properly evaluate the safety and effectiveness profiles of a new diagnostic radiopharmaceutical or a new indication for use of an approved diagnostic radiopharmaceutical.

The rule clarifies existing FDA requirements for approval and evaluation of drug and biological products already in place under the authorities of the FD&C Act and the PHS Act. The information, which is usually submitted as part of a new drug application or biologics license application or as a supplement to an approved application, typically includes, but is not limited to, nonclinical and clinical data on the pharmacology, toxicology, adverse events, radiation safety assessments, and chemistry, manufacturing, and controls. The content and format of an application for approval of a new drug are set forth in § 314.50 (21 CFR 314.50). Under 21 CFR part 315, information required under the FD&C Act and needed by FDA to evaluate the safety and effectiveness of in vivo radiopharmaceuticals still needs to be reported.

Based on the number of submissions (that is, human drug applications and/or new indication supplements for diagnostic radiopharmaceuticals) that FDA receives, the Agency estimates that it will receive approximately two submissions annually from two applicants. The hours per response refers to the estimated number of hours that an applicant would spend preparing the information required by the regulations. Based on FDA's experience, the Agency estimates the time needed to prepare a complete application for a diagnostic radiopharmaceutical to be approximately 10,000 hours, roughly one-fifth, or 2,000 hours, of which is estimated to be spent preparing the portions of the application that would be affected by these regulations. The regulation does not impose any additional reporting burden for safety and effectiveness information on diagnostic radiopharmaceuticals beyond the estimated burden of 2,000 hours

because safety and effectiveness information is already required by § 314.50 (collection of information approved by OMB under OMB control number 0910–0001). In fact, clarification in these regulations of FDA's standards for evaluation of diagnostic radiopharmaceuticals is intended to streamline overall information collection burdens, particularly for diagnostic radiopharmaceuticals that may have well-established, low-risk safety profiles, by enabling manufacturers to tailor information submissions and avoid unnecessary clinical studies. Table 1 of this document contains estimates of the annual reporting burden for the preparation of the safety and effectiveness sections of an application that are imposed by existing regulations. This estimate does not include the actual time needed to conduct studies and trials or other research from which the reported information is obtained.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR Section | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response (in hours) | Total hours |
|---|---|---|---|---|---|
| 315.4, 315.5, and 315.6 | 2 | 1 | 2 | 2,000 | 4,000 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 6, 2011.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2011–14418 Filed 6–9–11; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0424]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Temporary Marketing Permit Applications

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements contained in existing FDA regulations governing temporary marketing permit applications.

**DATES:** Submit either electronic or written comments on the collection of information by August 9, 2011.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Denver Presley, Jr., Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3793.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Temporary Marketing Permit Applications—21 CFR 130.17(c) and (i) (OMB Control Number 0910–0133)—Extension**

Section 401 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 341) directs FDA to issue regulations establishing definitions and standards of identity for food "[w]henever * * * such action will promote honesty and fair dealing in the interest of consumers * * *." Under section 403(g) of the FD&C Act (21 U.S.C. 343(g)), a food that is subject to a definition and standard of identity prescribed by regulation is misbranded if it does not conform to such definition and standard of identity. Section 130.17 (21 CFR 130.17) provides for the issuance by FDA of temporary marketing permits that enable the food industry to test consumer acceptance and measure the technological and commercial feasibility in interstate commerce of experimental packs of food that deviate from applicable definitions and standards of identity. Section 130.17(c) enables the Agency to monitor the manufacture, labeling, and distribution of experimental packs of food that deviate from applicable definitions and standards of identity. The information so obtained can be used in support of a petition to establish or amend the applicable definition or standard of identity to provide for the variations. Section 130.17(i) specifies the information that a firm must submit

to FDA to obtain an extension of a temporary marketing permit.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR Section | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response (in hours) | Total hours |
|---|---|---|---|---|---|
| 130.17(c) | 13 | 2 | 26 | 25 | 650 |
| 130.17(i) | 1 | 2 | 2 | 2 | 4 |
| Total | | | | | 654 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated number of temporary marketing permit applications and hours per response is an average based on the Agency's experience with applications received for the past 3 years, and information from firms that have submitted recent requests for temporary marketing permits. Based on this information, we estimate that there will be, on average, approximately 13 firms submitting requests for two temporary marketing permits per year over the next 3 years.

Thus, FDA estimates that 13 respondents will submit two requests for temporary marketing permits annually under § 130.17(c). The estimated number of respondents for § 130.17(i) is minimal because this section is seldom used by the respondents; therefore, the Agency estimates that there will be one or fewer respondents annually with two or fewer requests for extension of the marketing permit under § 130.17(i). The estimated number of hours per response is an average based on the Agency's experience and information from firms that have submitted recent requests for temporary marketing permits. We estimate that 13 respondents each will submit two requests for temporary marketing permits under § 130.17(c) and that it will take a respondent 25 hours per request to comply with the requirements of that section, for a total of 650 hours. We estimate that one respondent will submit two requests for extension of its temporary marketing permits under § 130.17(i) and that it will take a respondent 2 hours per request to comply with the requirements of that section, for a total of 4 hours.

Dated: June 6, 2011.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2011–14414 Filed 6–9–11; 8:45 am]

BILLING CODE 4160–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0423]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements for Submission of Bioequivalence Data

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the requirement for an abbreviated new drug application (ANDA) applicant to submit data from all bioequivalence (BE) studies the applicant conducts on a drug product formulation submitted for approval.

**DATES:** Submit either electronic or written comments on the collection of information by August 9, 2011.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Requirements for Submission of Bioequivalence Data—21 CFR Parts 314 and 320 (OMB Control Number 0910–0630)—Extension**

In the **Federal Register** of January 16, 2009 (74 FR 2849), the Agency published a final rule revising FDA regulations to require applicants to submit data on all BE studies, including studies that do not meet passing bioequivalence criteria, which are performed on a drug product formulation submitted for approval under an ANDA, or in an amendment to an ANDA that contains BE studies. In the final rule, FDA amended §§ 314.94(a)(7)(i), 314.96(a)(1), 320.21(b)(1), and 314.97, to require an ANDA applicant to submit information from all BE studies, both passing and nonpassing, conducted by the applicant on the same drug product formulation as that submitted for approval under an ANDA, amendment, or supplement.

In table 1 of this document, FDA has estimated the reporting burden associated with each section of the rule. FDA believes that the majority of additional BE studies will be reported in ANDAs (submitted under § 314.94), rather than supplements (reported in § 314.97), because it is unlikely than an ANDA holder will conduct BE studies with a drug after the drug has been approved. With respect to the reporting of additional BE studies in amendments (submitted under § 314.96), this should also account for a small number of reports, because most BE studies will be conducted on a drug prior to the submission of the ANDA, and will be reported in the ANDA itself.

FDA estimates it will require approximately 120 hours of staff time to prepare and submit each additional complete BE study report, and approximately 60 hours of staff time for each additional BE summary report. The Agency believes that a complete report will be required approximately 20 percent of the time, while a summary will suffice approximately 80 percent of the time. Based on a weighted-average calculation using the information presented previously in this document, the submission of each additional BE study is expected to take 72 hours of staff time ([120 × 0.2] + [60 × 0.8]).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR Section | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| 314.94(a)(7) | 49 | 1 | 49 | 72 | 3,528 |
| 314.96(a)(1) | 1 | 1 | 1 | 72 | 72 |
| 314.97 | 1 | 1 | 1 | 72 | 72 |
| Total | | | | | 3,672 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 6, 2011.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2011–14413 Filed 6–9–11; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0402]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; State Petitions for Exemption From Preemption

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements contained in existing FDA regulations governing State petitions for exemption from preemption.

**DATES:** Submit either electronic or written comments on the collection of information by August 9, 2011.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Room 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Denver Presley, Jr., Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3793.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use

of automated collection techniques, when appropriate, and other forms of information technology.

**State Petitions for Exemption From Preemption—21 CFR 100.1(d) (OMB Control Number 0910–0277)—Extension**

Under Section 403A(b) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 343–1(b)), States may petition FDA for exemption from Federal preemption of State food labeling and standard of identity requirements. Section 100.1(d) (21 CFR 100.1(d)) sets forth the information a State is required to submit in such a petition. The information required under section 100.1(d) enables FDA to determine whether the State food labeling or standard of identity requirement satisfies the criteria of section 403A(b) of the FD&C Act for granting exemption from Federal preemption.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR Section | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| 100.1(d) | 1 | 1 | 1 | 40 | 40 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The reporting burden for § 100.1(d) is minimal because petitions for exemption from preemption are seldom submitted by States. In the last 3 years, FDA has not received any new petitions for exemption from preemption; therefore, the Agency estimates that one or fewer petitions will be submitted annually. Although FDA has not received any new petitions for exemption from preemption in the last 3 years, it believes these information collection provisions should be extended to provide for the potential future need of a State or local government to petition for an exemption from preemption under the provisions of section 403(A) of the FD&C Act.

Dated: June 6, 2011.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2011–14412 Filed 6–9–11; 8:45 am]

BILLING CODE 4160–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2009–D–0008]**

### Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Guidance for Industry on Citizen Petitions and Petitions for Stay of Action Subject to Section 505(q) of the Federal Food, Drug, and Cosmetic Act

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Guidance for Industry on Citizen Petitions and Petitions for Stay of Action Subject to Section 505(q) of the Federal Food, Drug, and Cosmetic Act" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of December 15, 2010 (75 FR 78249) the Agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0679. The approval expires on April 30, 2014. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: June 1, 2011.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2011–14411 Filed 6–9–11; 8:45 am]

BILLING CODE 4160–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0401]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Data To Support Communications Usability Testing, as Used by the Food and Drug Administration

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on a generic clearance to collect information that will provide tools to test the usability of FDA communications on specific topics and to assist in the development and modification of communication messages to promote public health and compliance with regulations.

**DATES:** Submit either electronic or written comments on the collection of information by August 9, 2011.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All

comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Juanmanuel Vilela, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7651, *Juanmanuel.vilela@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Data To Support Communications Usability Testing, as Used by the Food and Drug Administration—(OMB Control Number 0910–NEW)**

FDA plans to use the data collected under this generic clearance to inform its communications campaigns on a variety of topics related to products that the FDA regulates. FDA expects the data to help staff message developers achieve FDA communication objectives. FDA also plans to use the data to help tailor print, broadcast, and electronic media communications in order for them to have powerful and desired impacts on target audiences. The data will not be used for the purposes of making policy or regulatory decisions.

The information collected will serve two major purposes. First, as formative research it will provide the critical knowledge needed about target audiences. FDA must explore audiences' beliefs, perceptions, and decision-making processes on specific topics in order to meet the basic objectives of its risk communication campaigns. Such knowledge will provide the needed target audience understanding to design effective communication strategies, messages, and product labels. These communications will aim to improve public understanding of the risks and benefits of using various FDA-regulated products by providing users with a better context in which to place risk information more completely.

Second, as pretesting, it will give FDA some information about the potential effectiveness of messages and materials in reaching and successfully communicating with their intended audiences. Testing messages with a sample of the target audience will allow FDA to refine messages while still in the developmental stage. Respondents may be asked to give their reaction to the messages in person or online.

FDA's Centers and Offices will use this mechanism to test the usability of messages about FDA-regulated products for consumers, patients, industry representatives, or health care professionals. The data will not be used for the purposes of making policy or regulatory decisions.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN[1]

| Survey type | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response (in hours) | Total hours |
|---|---|---|---|---|---|
| In-Person Surveys | 7,500 | 1 | 7,500 | 1 | 7,500 |
| Remote Online Surveys | 67,000 | 1 | 67,000 | 30/60 | 33,500 |
| Screener Only [1] | 500 | 1 | 500 | 5/60 | 42 |
| Total | | | | | 41,0412 |

[1] These participants take the screener (which will be compromised of *Demographic* and/or *Introductory Question,* Attachments 5 and 6) but are not selected for the full survey.

There will be two lengths of surveys conducted, depending on whether the survey is in person or remote and online. An in-person survey will last an average of 60 minutes and take place at an FDA computer or at a nongovernmental location; a remote survey will last approximately 30 minutes and take place at the participant's computer. These estimates were determined through analysis of times from previous usability surveys using similar questions, survey of usability professionals to ascertain average times for users to perform tasks, and a pilot survey of 10 internal users comprised of staff from the Centers for Disease Control and Prevention (CDC) and CDC contractors. Some remote surveys will take much less time. The majority of usability surveys conducted at CDC were done remotely; thus FDA estimates that in the future more surveys will be done remotely rather than in person.

Estimate of survey respondents was based on an estimate of the ideal number of usability surveys that FDA would conduct over a 3-year period. Factored in were initial surveys and subsequent followup surveys utilizing a satisfactory level of participants. Because FDA has not conducted these types of surveys at the level needed previously, it is anticipated that most of FDA's communications will require some sort of usability survey. Additionally, FDA anticipates conducting a number of important baseline surveys for its home Web page and other highly trafficked subsites in order to redesign these pages as part of FDA's priority to more effectively utilize its Web site.

Annually, FDA projects about 125 studies using the variety of test methods listed above. FDA is requesting this burden so as not to restrict the Agency's

ability to gather information on public sentiment for its proposals in its regulatory and communications programs.

Dated: June 1, 2011.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2011–14410 Filed 6–9–11; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–N–0418]**

### Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Institutional Review Boards

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Institutional Review Boards" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of December 15, 2010 (75 FR 78252), the Agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0130. The approval expires on April 30, 2014. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: June 1, 2011.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2011–14409 Filed 6–9–11; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0002]**

### Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee:* Endocrinologic and Metabolic Drugs Advisory Committee.

*General Function of the Committee:* To provide advice and recommendations to the Agency on FDA's regulatory issues.

*Date and Time:* The meeting will be held on July 19, 2011, from 8 a.m. to 5 p.m.

*Location:* Hilton Washington DC/Silver Spring, The Ballrooms, 8727 Colesville Rd., Silver Spring, MD 20910. The hotel's telephone number is 301–589–5200.

*Contact Person:* Paul Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX 301–847–8533, *e-mail: EMDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

*Agenda:* On July 19, 2011, the committee will discuss new drug application (NDA) 202293 dapagliflozin, manufactured by Bristol-Myers Squibb and AstraZeneca. Dapagliflozin is the first drug in the class of sodium-glucose co-transporter 2 (SGLT2) inhibitors, developed as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 5, 2011. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before June 24, 2011. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 27, 2011.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Paul Tran at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 6, 2011.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2011–14343 Filed 6–9–11; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIH Support for Conferences and Scientific Meetings.

*Date:* July 25–28, 2011.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6700B Rockledge Drive, 3201, Bethesda, MD 20817 (Virtual Meeting).

*Contact Person:* Brandt R. Burgess, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2584, *bburgess@niaid.nih.gov.*

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Peer Review Meeting.

*Date:* July 28, 2011.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

*Contact Person:* Dharmendar Rathore, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Rm 3134, Bethesda, MD 20892–7616, 301–435–2766, *rathored@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 6, 2011.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2011–14441 Filed 6–9–11; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, NIDDK Telephone SEP.

*Date:* July 6, 2011.

*Time:* 10 to 11 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Xiaodu Guo, MD, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Nephrotic Syndrome Ancillary Studies.

*Date:* July 13, 2011.

*Time:* 2 to 2:45 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Lakshmanan Sankaran, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38z@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 6, 2011.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2011–14440 Filed 6–9–11; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Mandatory Guidelines for Federal Workplace Drug Testing Programs; Request for Information Regarding Specific Issues Related to the Use of the Oral Fluid Specimen for Drug Testing

**AGENCY:** Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

**ACTION:** Request for Information.

**SUMMARY:** This document is a request for information regarding specific aspects of the regulatory policies and standards that may be applied to the Mandatory Guidelines for Federal Workplace Drug Testing Programs (oral fluid specimen).

**DATES:** *Comment Close Date:* To be assured consideration, comments must be received at one of the addresses provided below on or before August 9, 2011.

**ADDRESSES:** Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

- *Electronically.* You may submit electronic comments to *http://www.regulations.gov.* Follow "Submit a comment" instructions.
- *By regular mail.* You may mail written comments to the following address only: Substance Abuse and Mental Health Services Administration, Attention: Division of Workplace Programs, 1 Choke Cherry Road, Room 2–1049, Rockville, MD 20857. Please allow sufficient time for mailed comments to be received before the close of the comment period.
- *By express or overnight mail.* You may send written comments to the following address only: Substance Abuse and Mental Health Services Administration, Attention: Division of Workplace Programs, 1 Choke Cherry

Road, Room 2–1049, Rockville, MD 20850.

• *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments only to the following address prior to the close of the comment period:

• For delivery in Rockville, MD: Substance Abuse and Mental Health Services Administration, Attention: Division of Workplace Programs, 1 Choke Cherry Road, Room 2–1049, Rockville, MD 20850. To deliver your comments to the Rockville address, call telephone number (240) 276–2600 in advance to schedule your delivery with one of our staff members. Because access to the interior of the Substance Abuse and Mental Health Services Administration Building is not readily available to persons without Federal government identification, commenters are encouraged to either schedule your drop off or leave your comments with the security guard in the main lobby of the building.

**FOR FURTHER INFORMATION CONTACT:** LT Eugene Hayes, Division of Workplace Programs, CSAP, SAMHSA, 1 Choke Cherry Road, Room 2–1033, Rockville, Maryland 20857, (240) 276–1459 (phone), (240) 276–2610 (Fax), or e-mail at *eugene.hayes@samhsa.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments. Comments received by the deadline will also be available for public inspection at the Substance Abuse and Mental Health Services Administration, Division of Workplace Programs, 1 Choke Cherry Road, Rockville, MD 20850, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (240) 276–1459.

I. *Background:* The Department of Health and Human Services (HHS) establishes the standards for Federal workplace drug testing programs under the authority of Section 503 of Public Law 100–71, 5 U.S.C. Section 7301, and Executive Order No. 12564. As required, HHS published the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Guidelines) in the **Federal Register** on April 11, 1988 [53 FR 11979]. SAMHSA subsequently revised the Guidelines on June 9, 1994 [59 FR 29908], September 30, 1997 [62 FR 51118], November 13, 1998 [63 FR 63483], April 13, 2004 [69 FR 19644], and on November 25, 2008 [73 FR 71858]. If there is an adequate scientific basis, HHS anticipates issuing further revisions to the Mandatory Guidelines to address the use of oral fluid specimen.

Section 503 of Public Law 100–71, 5 U.S.C. Section 7301 note, required the Department to establish scientific and technical guidelines and amendments in accordance with Executive Order 12564 and to publish Mandatory Guidelines which establish comprehensive standards for all aspects of laboratory drug testing and procedures, including standards that require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing. These revisions to the Mandatory Guidelines promote and establish standards that use the best available technology for ensuring the full reliability and accuracy of urine drug tests, while reflecting the ongoing process of review and evaluation of legal, scientific, and societal concerns.

SAMHSA's chartered CSAP Drug Testing Advisory Board (DTAB) will be the vehicle to provide recommendations for including alternative specimens (oral fluid) in the Mandatory Guidelines for Federal Workplace Drug Testing Programs. The overall intent of this effort will be publication of the proposed revisions to the Mandatory Guidelines in the **Federal Register** for public comment and the development of the Final Notice.

To assist the DTAB, we are soliciting written comments and statements from the general public and industry stakeholders regarding a variety of issues related to oral fluid specimen drug testing, including analytes, cutoffs, specimen validity, collection, collection devices, and testing.

II. *Solicitation of Comments:* As we develop our initial outline for the Mandatory Guidelines, we are seeking additional information that is current, scientific, and peer reviewed in reference to oral fluid specimen drug testing, specifically on the following questions:

• *Analytes/Cutoffs:* What analytes should be measured in oral fluid for the initial and confirmatory tests? What initial and confirmation cutoffs should be used for the oral fluid drug tests? Should the oral fluid drug testing panel be expanded to include schedule II prescription medications?

• *Specimen Validity:* Are bio-markers needed to validate the oral fluid specimen? Are there appropriate bio-markers or tests for the oral fluid specimen that would reveal adulteration, substitution, and/or dilution?

• *Collection:* How should an oral fluid specimen be collected? For an oral fluid *split* specimen collection, how should the collection of the two specimens be performed? As a donor, would you prefer to provide an oral fluid or a urine specimen?

• *Collection Devices:* What should be the technical requirements for an oral fluid specimen collection device?

• *Testing:* What technologies are available to perform initial and confirmatory testing on oral fluid specimens?

Dated: June 6, 2011.

**Elaine Parry,**

*Director, Office of Management, Technology and Operations.*

[FR Doc. 2011–14092 Filed 6–9–11; 8:45 am]

BILLING CODE 4162–20–P

## DEPARTMENT OF HOMELAND SECURITY

**[Docket No. DHS–2011–0027]**

## Broad Stakeholder Survey

**AGENCY:** National Protection and Programs Directorate, DHS.

**ACTION:** 60-day notice and request for comments; New Information Collection Request: 1670–NEW.

**SUMMARY:** The Department of Homeland Security (DHS), National Protection and Programs Directorate (NPPD), Office of Cybersecurity and Communications (CS&C), Office of Emergency Communications (OEC), has submitted the following Information Collection Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). NPPD is soliciting comments concerning the Broad Stakeholder Survey.

**DATES:** Comments are encouraged and will be accepted until August 9, 2011. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Written comments and questions about this Information Collection Request should be forwarded to DHS/NPPD/CS&C/OEC, Attn.: Richard Reed, 202–343–1666, *Richard.E.Reed@dhs.gov.* Written comments should reach the contact

person listed no later than August 9, 2011. Comments must be identified by "DHS–2011–0027" and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*
- *E-mail: Richard.E.Reed@dhs.gov.* Include the docket number in the subject line of the message.

*Instructions:* All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

**SUPPLEMENTARY INFORMATION:** OEC, formed under Title XVIII of the Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.,* as amended, was established to promote, facilitate, and support the continued advancement of communications capabilities for emergency responders across the Nation. The Broad Stakeholder Survey is designed to gather stakeholder feedback on the effectiveness of OEC services and to gather input on challenges and initiatives for interoperable emergency communications. The Broad Stakeholder Survey will be conducted electronically.

OMB is particularly interested in comments that:

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, e.g., permitting electronic submissions of responses.

**Analysis**

*Agency:* Department of Homeland Security, National Protection and Programs Directorate.

*Title:* Broad Stakeholder Survey.

*Form:* DHS Form 9041.

*OMB Number:* 1670–NEW.

*Frequency:* Annual.

*Affected Public:* Federal, state, local, tribal or territorial government.

*Number of Respondents:* 5,000.

*Estimated Time Per Respondent:* 15 minutes.

*Total Burden Hours:* 1,250 annual burden hours.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintaining):* $30,525.00.

Dated: May 17, 2011.

**David Epperson,**

*Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.*

[FR Doc. 2011–14378 Filed 6–9–11; 8:45 am]

**BILLING CODE P**

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## DEPARTMENT OF HOMELAND SECURITY

**[Docket No. DHS–2011–0039]**

## Homeland Security Advisory Council

**AGENCY:** The Office of Policy, DHS.

**ACTION:** Notice of Open Teleconference Federal Advisory Committee Meeting.

**SUMMARY:** The Homeland Security Advisory Council (HSAC) will meet via teleconference for the purpose of deliberating on recommendations by the HSAC's Community Resilience Task Force.

**DATES:** The HSAC conference call will take place from 1 p.m. to 2 p.m. E.D.T. on Monday, June 27, 2011. Please be advised that the meeting is scheduled for one hour and may end early if all business is completed before 2 p.m.

**ADDRESSES:** The HSAC meeting will be held via teleconference. Members of the public interested in participating in this teleconference meeting may do so by following the process outlined below (see "Public Participation").

Written comments must be submitted and received by June 23, 2011. Comments must be identified by Docket No. DHS–2011–0039 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: HSAC@dhs.gov.* Include docket number in the subject line of the message.
- *Fax:* (202) 282–9207.
- *Mail:* Homeland Security Advisory Council, Department of Homeland Security, Mailstop 0445, 245 Murray Lane, SW., Washington, DC 20528.

*Instructions:* All submissions received must include the words "Department of Homeland Security" and DHS–2011—0039, the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

*Docket:* For access to the docket to read comments received by the DHS Homeland Security Advisory Council, go to *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Erika Nixon at hsac@dhs.gov or 202–447–3135.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. The HSAC provides independent advice to the Secretary of the Department of Homeland Security to aid in the creation and implementation of critical and actionable policies and capabilities across the spectrum of homeland security operations. The HSAC will meet to review and approve the Community Resilience Task Force's report of findings and recommendations.

*Public Participation:* Members of the public will be in listen-only mode. The public may register to participate in this HSAC teleconference via afore mentioned procedures. Each individual must provide his or her full legal name, e-mail address and phone number no later than 5 p.m. E.D.T. on June 23, 2011, to a staff member of the HSAC via e-mail at *HSAC@dhs.gov* or via phone at (202) 447–3135. HSAC conference call details and the Community Resilience Task Force's report will be provided to interested members of the public at this time.

*Information on Services for Individuals with Disabilities:* For information on facilities or services for individuals with disabilities, or to request special assistance during the teleconference, contact Erika Nixon at the afore mentioned number (202) 447–3135.

Dated: June 3, 2011.

**Becca Sharp,**

*Executive Director, Homeland Security Advisory Council, DHS.*

[FR Doc. 2011–14381 Filed 6–9–11; 8:45 am]

**BILLING CODE 9910–9M–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–3322–EM; Docket ID FEMA–2011–0001]**

### Louisiana; Emergency and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of an emergency for the State of Louisiana (FEMA–3322–EM), dated May 6, 2011, and related determinations.

**DATES:** *Effective Date:* May 6, 2011.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated May 6, 2011, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5208 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Louisiana resulting from flooding beginning on April 25, 2011, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* ("the Stafford Act"). Therefore, I declare that such an emergency exists in the State of Louisiana.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program. This assistance excludes regular time costs for subgrantees' regular employees.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Gerard M. Stolar, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Louisiana have been designated as adversely affected by this declared emergency:

The parishes of Avoyelles, Ascension, Assumption, Catahoula, Concordia, East Carroll, Iberia, Iberville, LaSalle, Madison, Pointe Coupee, East Baton Rouge, St. Charles, St. James, St. John, St. Landry, St. Martin, St. Mary, Tensas, Terrebonne, West Baton Rouge, and West Feliciana for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Dated: June 3, 2011.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2011–14362 Filed 6–9–11; 8:45 am]

BILLING CODE 9111–23–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–1980–DR; Docket ID FEMA–2011–0001]**

### Missouri; Amendment No. 4 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Missouri (FEMA–1980–DR), dated May 9, 2011, and related determinations.

**DATES:** *Effective Date:* June 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Missouri is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 9, 2011.

Barry, Carter, Christian, Douglas, Oregon, Ozark, Polk, Shannon, Texas, Washington, Webster, and Wright Counties for Public Assistance, including direct Federal assistance.

Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Ripley, St. Francois, and Stone Counties for Public Assistance, including direct Federal assistance (already designated for Individual Assistance).

Jasper and Newton Counties for Public Assistance [Categories C–G] (already designated for Individual Assistance and debris removal and emergency protective measures [Categories A and B], including direct Federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Dated: June 3, 2011.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2011–14364 Filed 6–9–11; 8:45 am]

BILLING CODE 9111–23–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–1981–DR; Docket ID FEMA–2011–0001]**

### North Dakota; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA–1981–DR), dated May 10, 2011, and related determinations.

**DATES:** *Effective Date:* May 10, 2011.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated May 10, 2011, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of North Dakota resulting from flooding beginning on February 14, 2011, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of North Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Willie G. Nunn, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of North Dakota have been designated as adversely affected by this major disaster:

Barnes, Benson, Bottineau, Burke, Cass, Cavalier, Dickey, Eddy, Foster, Grand Forks, Grant, Griggs, Kidder, LaMoure, Logan, McHenry, McIntosh, McLean, Mercer, Morton, Mountrail, Nelson, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sheridan, Steele, Stutsman, Towner, Traill, Walsh, Ward, Wells, and Williams Counties and the Spirit Lake Nation, the Three Affiliated Tribes of the Fort Berthold Indian Reservation, and the Turtle Mountain Band of Chippewa Reservation for Public Assistance.

All counties and Indian Tribes within the State of North Dakota are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Dated: June 3, 2011.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2011–14358 Filed 6–9–11; 8:45 am]

**BILLING CODE 9111–23–P**

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–1980–DR; Docket ID FEMA–2011–0001]**

### Missouri; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1980–DR), dated May 9, 2011, and related determinations.

**DATES:** *Effective Date:* May 9, 2011.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated May 9, 2011, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe storms, tornadoes, and flooding beginning on April 19, 2011, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas and Hazard Mitigation throughout the State. Direct Federal assistance is authorized. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Elizabeth Turner, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Missouri have been designated as adversely affected by this major disaster:

Butler, Mississippi, New Madrid, St. Louis, and Taney Counties for Individual Assistance.

St. Louis County for Public Assistance. Direct Federal assistance is authorized.

All counties and the Independent City of St. Louis within the State of Missouri are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Dated: June 3, 2011.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2011–14360 Filed 6–9–11; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5484–N–22]**

### Notice of Proposed Information Collection: Comment Request; Form HUD–9834 Management Review for Multifamily Housing Projects

**AGENCY:** Office of the Assistant Secretary for Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date: August 9, 2011.*

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

**FOR FURTHER INFORMATION CONTACT:** Harry Messner, Office of Asset Management, Policy and Participation Standards Division, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Management Review for Multifamily Housing Projects.

*OMB Control Number, if applicable:* 2502–0178.

*Description of the need for the information and proposed use:* This information collection is used by HUD, by Mortgagees, and by Contract Administrators (CAs) to evaluate the quality of project management; determine the causes of project problems; devise corrective actions to stabilize projects and prevent defaults; and to ensure that fraud, waste and mismanagement are not problems for the community. The information collected also supports enforcement actions when owners fail to implement corrective actions.

*Agency form numbers, if applicable:* form HUD–9834 Management Review for Multifamily Housing Projects.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The number of burden hours is 194,928. The number of respondents is 24,366, the number of responses is 24,366, the frequency of response is annually, and the burden hour per response is 8 hours.

*Status of the proposed information collection:* This is an extension of a currently approved collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 4, 2011.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2011–14470 Filed 6–9–11; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5484–N–18]**

### Notice of Proposed Information Collection for Public Comment; FHA Lender Approval, Annual Renewal, Periodic Updates and Noncompliance Reporting by FHA Approved Lenders

**AGENCY:** Office of the Assistant Secretary for Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* August 9, 2011.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received within sixty (60) days from the date of this Notice. Comments should refer to the proposal by name/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

**FOR FURTHER INFORMATION CONTACT:** Joy Hadley, Director, Office of Lender Activities and Program Compliance, Department of Housing and Urban Development, 451 7th Street SW., Room B133–P3214, Washington, DC 20410, telephone (202) 708–1515 (this is not a toll free number). Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Hadley.

**SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the

burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* FHA Lender Approval, Annual Renewal, Periodic Updates and Noncompliance Reports by FHA Approved Lenders.

*OMB Control Number, if applicable:* 2502–0005.

*Description of the need for the information and proposed use:* The information is used by FHA to verify that lenders meet all approval, renewal, update and compliance requirements at all times. It is also used to assist FHA in managing its financial risks and protect consumers from lender noncompliance with FHA rules and regulations.

*Agency form numbers, if applicable:* HUD–92001–A, FHA Lender Approval Application Form.

HUD–92001–B, FHA Branch Registration Form.

HUD 92001–C, Noncompliances on Title I Lenders.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The number of burden hours is 15,940. The number of respondents is 4,160, the number of responses is 20,513, the frequency of response is on occasion, and the burden hour per response is .78.

*Status of the proposed information collection:* Revision of currently approved collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 4, 2011.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2011–14476 Filed 6–9–11; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5484–N–19]**

### Notice of Proposed Information Collection, Comment Request; Office of Hospital Facilities Insured Mortgage Comprehensive Listing of Transactional Documents for Mortgagors, Mortgagees, Contractors and Their Agents

**AGENCY:** Office of the Assistant Secretary for Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date: August 9, 2011.*

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

**FOR FURTHER INFORMATION CONTACT:** *Program Contact:* James E. Bolinger, Director, Office of Hospital Facilities, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0599 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Comprehensive Transactional Documents for the Office of Hospital Facilities.

*OMB Control Number, if applicable:* 2502–XXXX (Collection not yet assigned).

*Description of the need for the information and proposed use:* The included documents are necessary for the application, review, commitment, administration, technical oversight, audit and initial/final endorsement of Office of Hospital Facilities projects pursuant to FHA Programs 242, 241, 223(f), 223(a)(7).

*Agency form numbers, if applicable:* FHA 2264, HUD Forms: 92434, 92451, 92530, 92580, 3305, 41901, 91725, 92010, 92013–Hosp, 92023, 92403, 92403.1, 92432, 92441, 92248, 92452, 92452–A, 92457, 92415, 2466–GP, 2466–Reg, 2576, 4128, HUD–2. 2330, 2330–a, 2415, 2450–CA, 2464, 9250, 92476.1, 2453. With the new collection all the above documents should have the suffix of: "OHF" (*i.e.* HUD 4128–OHF).

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The number of burden hours is 5,957.5. The number of respondents is 1,165, the number of responses is 4,535, the frequency of response is on occasion, and the burden hour per response is approximately 1 hour.

*Status of the proposed information collection:* This is a new collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 4, 2011.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2011–14475 Filed 6–9–11; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5484–N–21]**

### Notice of Proposed Information Collection, Comment Request; Model Manufactured Home Installation Program Rules and Regulations

**AGENCY:** Office of the Assistant Secretary for Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date: August 9, 2011.*

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to

the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

**FOR FURTHER INFORMATION CONTACT:** Program Contact, Associate Deputy Assistant Secretary Teresa B. Payne, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–6423 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Manufactured Housing Installation Program Reporting Requirements.

*OMB Control Number, if applicable:* 2502–0578.

*Description of the need for the information and proposed use:* The information collected in the HUD default states is used to build a permanent record of each home installed in HUD responsible states. From the manufacturer to the retailer and then to the installer.

*Agency form numbers, if applicable:* Form HUD–305, Form HUD–306, Form HUD–307, Form HUD–308, Form HUD–309, Form HUD–312.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The number of burden hours is 148,813. The number of respondents is 6,479, the annual number of responses is 343,490, the frequency of response is on occasion, and the burden hour per response is 7.

*Status of the proposed information collection:* This is an extension of a currently approved collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 4, 2011.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2011–14472 Filed 6–9–11; 8:45 am]

**BILLING CODE 4210–67–P**

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5484–N–20]**

### Notice of Proposed Information Collection: Comment Request; Land Survey Report/Multifamily Housing Development

**AGENCY:** Office of the Assistant Secretary for Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date: August 9, 2011.*

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

**FOR FURTHER INFORMATION CONTACT:** Joyce Allen, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, 471 7th Street, SW., Washington DC 20410, telephone (202) 402–6130 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Land Survey Report for Insured MF Projects.

*OMB Control Number, if applicable:* 2502–0010.

*Description of the need for the information and proposed use:*

*Agency form numbers, if applicable:* HUD–92457

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The number of burden hours is 200. The number of respondents is 200, the number of responses is 400, the frequency of response is on occasion, and the burden hour per response is .50.

*Status of the proposed information collection:* This is a new collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 4, 2011.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2011–14473 Filed 6–9–11; 8:45 am]

**BILLING CODE 4210–67–P**

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5477–N–23]**

### 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 7266, 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 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.DC).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Rita, Division of Property Management, Program Support Center, HHS, Room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll-free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Coast Guard:* Commandant, United States Coast Guard, *Attn:* Jennifer Stomber, 2100 Second St., SW., Stop 7901, Washington, DC 20593–0001; (202) 475–5609; *GSA:* Mr. Gordon Creed, Acting Deputy Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th & F Streets, NW., Washington, DC 20405; (202) 501–0084;

*Navy:* Mr. Albert Johnson, Director of Real Estate, Department of the Navy, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave., SW., Suite 1000, Washington, DC 20374; (202) 685–9305; (these are not toll-free numbers).

Dated: June 2, 2011.

**Mark R. Johnston,**

*Deputy Assistant Secretary for Special Needs.*

**TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM Federal Register REPORT FOR 06/10/2011**

**Suitable/Available Properties**

*Building*

Missouri

FAA NDB Facility,
N. Farm Rd. 95,
Willard MO,
Landholding Agency: GSA,
Property Number: 54201120012,
Status: Surplus,
GSA Number: 7–U–MO–0689,
Comments: 48 sq. ft., recent use: electrical equipment storage, chain-link fence surrounds property.

Texas

FAA RML Facility,
11262 N. Houston Rosslyn Rd.,
Houston TX 77086,
Landholding Agency: GSA,
Property Number: 54201110016,
Status: Surplus,
GSA Number: 7–U–TX–1129.
Comments: *Correction:* This property was initially published in the 04/15/2011 **Federal Register** so, the property is still in its initial 60 day no disposal phrase until 06/15/2011. Subsequently, this property was republished in the 06/03/2011 **Federal Register**; however, there will be no re-starting the 60 day waiting period for this property from the 06/03/2011 publication. (448 sq. ft., recent use: Storage, asbestos has been identified in the floor).

*Land*

Louisiana

Almonaster
4300 Almonaster Ave.,
New Orleans LA 70126,
Landholding Agency: GSA,
Property Number: 54201110014,
Status: Surplus,
GSA Number: 7–D–LA–0576,
Comments: *Correction:* This property was initially published in the 04/15/2011 **Federal Register** so, the property is still in its initial 60 day no disposal phrase until 06/15/2011. Subsequently, this property was republished in the 06/03/2011 **Federal Register**; however, there will be no re-starting the 60 day waiting period for this property from the 06/03/2011 publication. (9.215 acres).

New Mexico

FAA RML Facility- West Mesa,
Lost Horizon Drive,
Albuquerque NM,
Landholding Agency: GSA,
Property Number: 54201120013,
Status: Surplus,
GSA Number: 7–U–NM–0486–6,
Comments: 0.3462 acres, recent use: FAA RML Facility, chain-link fence surrounds property.

**Unsuitable Properties**

*Building*

Alaska

Quarters 108,
602 Cedar Street,
Cordova AK 99574,
Landholding Agency: GSA,
Property Number: 54201120004,
Status: Excess,
GSA Number: 9–U–AK–834,
Reasons: Within 2000 ft. of flammable or explosive material.

California

7 Bldgs.,
NB Point Loma,
San Diego CA,
Landholding Agency: Navy,
Property Number: 77201120006,
Status: Underutilized,
Directions: 2, 612, 613, 614, T629, T638, T639,
Reasons: Secured Area.

Florida

Bldg. 1811,
Naval Air Station,
Pensacola FL,
Landholding Agency: Navy,
Property Number: 77201120005,
Status: Excess,
Reasons: Secured Area.

North Carolina

Storage Shed,
Station Wrightsville Beach,
Wrightsville NC,
Landholding Agency: Coast Guard,
Property Number: 88201120009,
Status: Excess,
Reasons: Secured Area, Extensive deterioration.

[FR Doc. 2011–14105 Filed 6–9–11; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

**[FWS–R9–IA–2011–N122; 96300–1671–0000–P5]**

## Endangered Species Receipt of Applications for Permit

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications for permit.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless a Federal permit is issued that allows such activities. The ESA requires that we invite public comment before issuing these permits.

**DATES:** We must receive comments or requests for documents on or before July 11, 2011.

**ADDRESSES:** Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or e-mail *DMAFR@fws.gov.*

**FOR FURTHER INFORMATION CONTACT:** Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (e-mail).

**SUPPLEMENTARY INFORMATION:**

### I. Public Comment Procedures

*A. How do I request copies of applications or comment on submitted applications?*

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an e-mail or address not listed under **ADDRESSES**. If you provide an e-mail address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

*B. May I review comments submitted by others?*

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

### II. Background

To help us carry out our conservation responsibilities for affected species, the Endangered Species Act of 1973, section 10(a)(1)(A), as amended (16 U.S.C. 1531 *et seq.*) requires that we invite public comment before final action on these permit applications.

### III. Permit Applications

*A. Endangered Species*

Applicant: Yale University, New Haven, CT; PRT–44690A

The applicant requests a permit to import brain specimens from lar gibbon (*Hylobates lar*), orangutan (*Pongo pygmaeus*), and gorilla (*Gorilla gorilla*), from the Primate Brain Bank, the Netherlands, for the purpose of scientific research.

Applicant: Michelle Sauther, University of Colorado, Boulder, CO; PRT–040035

The applicant requests a renewal of the permit to import biological samples from ring-tailed lemur (*Lemur catta*), collected in the wild in Madagascar, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Duke Lemur Center, Duke University, Durham, NC; PRT–43685A

The applicant requests a permit to import biological samples from mouse lemur species (*Microcebus* spp.), collected in the wild in Madagascar, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Smithsonian National Zoological Park, Washington, DC; PRT–42315A

The applicant requests a permit to import 1.1, live, captive-born cheetahs (*Acinonyx jubatus jubatus*), from South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Robert Janes, Jacksonville, FL; PRT–42758A

The applicant requests a permit to import a sport-hunted trophy of one

male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

**Brenda Tapia,**

*Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.*

[FR Doc. 2011–14421 Filed 6–9–11; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLWYP00000–L51100000–GA0000–LVEMK09CK330; WYW172585]**

### Notice of Availability of the Record of Decision for the Final Environmental Impact Statement and the South Gillette Area West Coal Creek Coal Lease-by-Application, Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the West Coal Creek Coal Lease-by-Application (LBA) included in the South Gillette Area Coal Lease Applications Final Environmental Impact Statement (EIS).

**ADDRESSES:** The document is available electronically on the following Web site: *http://www.blm.gov/wy/st/en/info/NEPA/HighPlains/SouthGillette.html.* Paper copies of the ROD are also available at the following BLM office locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009; and
- Bureau of Land Management, Wyoming High Plains District Office, 2987 Prospector Drive, Casper, Wyoming 82604.

**FOR FURTHER INFORMATION CONTACT:** Ms. Teresa Johnson, EIS Project Manager, at 307–261–7510 or Mr. Tyson Sackett, Acting Wyoming Coal Coordinator, at 307–775–6487. Ms. Johnson's office is located at the BLM High Plains District Office, 2987 Prospector Drive, Casper, Wyoming 82604. Mr. Sackett's office is located at the BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

**SUPPLEMENTARY INFORMATION:** The West Coal Creek coal tract ROD addresses leasing Federal coal in Campbell County, Wyoming, administered by the BLM Wyoming High Plains District Office. The BLM approves Alternative 1, the No Action alternative for this LBA in the South Gillette Area Coal Final EIS, which is to reject this application. A large portion of the West Coal Creek LBA study area contains lands held by a qualified surface owner who currently has not consented to coal leasing. As a result, the BLM has determined that there are insufficient coal reserves in the remaining lands within the study area to configure a tract that would be in the public interest. Rejection of the lease application does not preclude an application to lease the same tract, or a tract configured with the lands included in the study area, in the future. The BLM will not schedule or conduct a competitive coal lease sale for the West Coal Creek LBA.

This decision is subject to appeal to the Interior Board of Land Appeals (IBLA), as provided in 43 CFR part 4, within thirty (30) days from the date of publication of this NOA in the **Federal Register**. The ROD contains instructions for filing an appeal with the IBLA.

**Donald A. Simpson,**

*State Director.*

[FR Doc. 2011–14238 Filed 6–9–11; 8:45 am]

**BILLING CODE 4310–22–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLUTG01100–11–L13100000–EJ0000]**

### Notice of Availability of a Supplement to the Draft Environmental Impact Statement for the Greater Natural Buttes Area Gas Development Project, Uintah County, UT

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** Under the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act of 1976 (FLPMA) and associated regulations, the Bureau of Land Management (BLM) has prepared a Supplement to the Draft Environmental Impact Statement (EIS) that evaluates, analyzes, and discloses to the public additional air quality impacts of the Greater Natural Buttes proposal to develop natural gas in Uintah County, Utah. All other environmental impacts are incorporated by reference to the Draft EIS. This notice announces a 45-day public comment period to meet the requirements of the NEPA.

**DATES:** The Supplement to the Draft EIS will be available for public review for 45 calendar days following the date that the Environmental Protection Agency publishes its NOA in the **Federal Register**. The BLM can best use comments and resource information submitted within this 45-day review period.

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

- *Mail:* Bureau of Land Management, Attn: Stephanie Howard, Vernal Field Office, 170 South 500 East, Vernal, UT 84078.
- *E-mail: UT_Vernal_Comments@blm.gov.*
- *Fax:* (435) 781–4410.

Please reference the Greater Natural Buttes Supplement when submitting your comments. Comments and information submitted on the Supplement to the Draft EIS for the Greater Natural Buttes project, including names, e-mail addresses, and street addresses of respondents will be available for public review at the Vernal Field Office. The BLM will not accept anonymous comments. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Howard, Project Manager, BLM Vernal Field Office, 170 South 500 East, Vernal, UT 84078; telephone, 435–781–4400.

**SUPPLEMENTARY INFORMATION:**

The Greater Natural Buttes Project Area (GNBPA) is located in Uintah County, Utah.

*Salt Lake Meridian, Utah*

T. 8 S., R. 20–23 E.,
T. 9 S., R. 20–24 E.,
T. 10 S., R. 20–23 E.,
T. 11 S., R. 21–22 E.

The areas described aggregate approximately 162,911 acres in an existing gas producing area, according to the official plats of the surveys of the said lands, on file in the Bureau of Land Management.

In response to a proposal submitted by Kerr-McGee Oil & Gas Onshore LP (KMG), a wholly-owned subsidiary of Anadarko Petroleum Corporation, the BLM published in the October 5, 2007,

**Federal Register**, a Notice of Intent (NOI) to prepare an EIS. In addition, a 45-day public comment period for the Draft EIS began on July 16, 2010, when the EPA published a Notice of Availability for the Draft EIS in the **Federal Register**, and ended on August 30, 2010.

This notice announces a Supplement to the Draft EIS, which is located online at *http://www.blm.gov/ut/st/en/fo/vernal/planning/nepa_.html.* The Supplement to the Draft EIS analyzes only new information relating to the project's conformance with the National Ambient Air Quality Standards for 1-hour nitrogen dioxide ($NO_2$) and sulfur dioxide ($SO_2$), and discloses recent ozone monitoring data. All other environmental impacts are incorporated by reference to the Draft EIS. A Final EIS will be prepared after the comment period for the Supplement closes. All comments received during the Draft EIS comment period and the Supplement comment period will be responded to in the Final EIS.

The BLM asks that those submitting comments make them as specific as possible with reference to chapters, page numbers, and paragraphs in the Supplement to the Draft EIS. Comments that contain only opinions or preferences will not receive a formal response; however, they will be considered, and included, as part of the BLM decision-making process. The most useful comments will contain new technical or scientific information, identify data gaps in the impact analysis, or provide technical or scientific rationale for opinions or preferences.

**Jeff Rawson,**

*Associate State Director.*

[FR Doc. 2011–14405 Filed 6–9–11; 8:45 am]

**BILLING CODE 4310–DQ–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNVL00000.L51010000.ER0000. LVRWF09F3450 241A; N–78803; 11–08807; MO#4500020763; TAS: 14X5017]**

### Notice of Availability of the Draft Environmental Impact Statement, Including a Draft Programmatic Agreement, for the Clark, Lincoln, and White Pine Counties Groundwater Development Project, NV

**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 National Historic Preservation Act of 1966 (NHPA), as amended, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) and a Draft Programmatic Agreement (PA), which is included as an Appendix to the EIS, for the Southern Nevada Water Authority's (SNWA) Clark, Lincoln, and White Pine Counties Groundwater Development Project (SNWA Project), and by this notice is announcing the opening of the comment period.

**DATES:** To ensure comments will be considered, the BLM must receive written comments on the SNWA Project Draft EIS and Draft PA within 90 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media releases, and/or mailings.

**ADDRESSES:** You may submit comments related to the Draft EIS or the Draft PA for the SNWA Project by any of the following methods:

- *E-mail: nvgwprojects@blm.gov.*
- *Fax:* (775) 861–6689.
- *Mail:* SNWA Project, Bureau of Land Management, *Attn:* Penny Woods, P.O. Box 12000, Reno Nevada 89520.

For a copy of the SNWA Project Draft EIS and Draft PA you may: send a written request to BLM at the above address; call project manager Penny Woods at (775) 861–6466; e-mail *penny_woods@blm.gov;* or download the document from the BLM's Web site at *http://www.blm.gov/5w5c.* A list of where review copies are available is in the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Penny Woods, Project Manager, telephone (775) 861–6466; address P.O. Box 12000, Reno, Nevada 89520; e-mail *penny_woods@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:** Cooperating Agencies: *Federal*—Fish and Wildlife Service, Bureau of Reclamation, Bureau of Indian Affairs, National Park Service, Forest Service, Army Corps of Engineers, Nellis Air Force Base; *State*—Nevada Department of Wildlife, State of Utah; *Counties and County Organizations*—Central Nevada Regional Water Authority, White Pine, Lincoln, and Clark counties (NV); and Juab, Millard, and Tooele counties (UT).

Review copies are also available in the following locations:

**BLM Offices in Nevada**

Nevada State Office, 1340 Financial Blvd., Reno
Ely District Office, 702 N. Industrial Way, Ely
Caliente Field Office, U.S. Hwy. 93, Building #1, Caliente
Southern Nevada District Office, 4701 N. Torrey Pines Drive, Las Vegas.

**Libraries in Nevada**

Nevada State Library, 100 N. Stewart St., Carson City
White Pine County Library, 950 Campton St., Ely
Lincoln County Library, 100 Depot Ave., Caliente
Lincoln County Library, 100 N. First St. E., Alamo
Mesquite Library, 121 W. First N. St., Mesquite
Clark County Library, 1401 E. Flamingo Road, Las Vegas.

**BLM Offices in Utah**

Utah State Office, 440 W. 200 S., Salt Lake City
West Desert District Office, 2370 S. 2300 W., Salt Lake City
Color Country District Office, 1760 East DL Sargent Drive, Cedar City
Fillmore Field Office, 35 E. 500 N., Fillmore
St George Field Office, 345 E. Riverside Drive, St. George.

**Libraries in Utah**

Utah State Library, 250 N. 1950 W., Salt Lake City
Delta City Library, 76 N. 200 W., Delta
Cedar City Library, 303 N. 100 E., Cedar City
Washington County Library, 88 W. 100 S., St George
Tooele City Library, 128 W. Vine St., Tooele
Nephi Library, 21 E. 100 N., Nephi
Beaver Library, 55 W. Center St., Beaver.

The Draft EIS describes and analyzes SNWA's rights-of-way (ROW) request over public land for the SNWA Project, which would develop and convey groundwater rights that may be granted by the Nevada State Engineer (NSE) to SNWA in Spring, Snake, Delamar, Dry Lake, and Cave valleys based on applications that are currently pending before the NSE. The Draft EIS addresses the ROW request as submitted by SNWA; alternative alignments of pipelines, power lines and other ancillary facilities; alternative pumping

locations/scenarios; and a no action alternative.

A programmatic agreement is a program alternative allowed under the regulations of the Advisory Council on Historic Preservation (ACHP) for complying with the historic properties review process required of every Federal undertaking pursuant to section 106 of NHPA and its implementing regulations (36 CFR 800.14). When executed by the BLM, the Nevada State Historic Preservation Officer (SHPO), the U.S. Army Corps of Engineers, ACHP, and SNWA, the terms of the executed PA will set forth the conditions for satisfying the SNWA Project's obligations under section 106 of the NHPA.

Under the proposed action, SNWA could be granted a ROW that would permit the development and operation of a system of regional water facilities that could be used to convey up to 217,655 acre-feet-per-year (afy) of groundwater rights, including 184,655 afy of SNWA groundwater rights (if permitted by the NSE) with the remaining capacity reserved for future use by Lincoln County. The exact amount of groundwater available to the proposed project is dependent upon the future action by the NSE. The EIS and ROW application do not authorize or address permitting of water rights. The NSE is solely responsible for those issues.

The proposed ROW project would include approximately 306 miles of a buried water pipeline between 16 and 84 inches in diameter; approximately 323 miles of 230 kilovolt (kV), 69 kV and 25 kV overhead power lines; 2 primary electrical substations, 5 secondary substations, 3 pressure-reducing facilities; 5 pumping stations; 6 regulating tanks; a 40-million-gallon-per-day buried storage reservoir; a 165 million-gallon-per-day water treatment facility; and associated access roads.

This is the initial EIS in a tiered NEPA evaluation process. As described in Council on Environmental Quality Regulations, a tiered NEPA process can be used for Proposed Actions such as the SNWA Project when specific locations have not been defined for all phases. Under NEPA, tiering involves a two-fold approach wherein general analyses are first covered in a broad EIS and more detailed issues are tiered (referenced) to that broader EIS. Once the broader EIS is completed, subsequent narrower statements or environmental assessments incorporate the general discussions from the broader EIS by reference, allowing the subsequent document to concentrate on the issues specific to the project or project phase. The NEPA regulations encourage Federal agencies to tier environmental documents for multi-stage projects to eliminate repetitive discussions of the same issues and to focus on the issues that are ready for decision at each level of environmental review.

This EIS is broad in scope and evaluates the potential environmental effects of granting SNWA's proposed ROW, including: (1) Pumping up to 184,655 afy of SNWA groundwater rights (if permitted by the NSE); and (2) Construction of the SNWA Project's proposed main pipeline, power facilities, and water storage and treatment facilities which are part of the current ROW request. These mainline facilities are not all of the facilities ultimately required for construction and operation of the SNWA Project, if fully developed. Full development of the SNWA Project would likely require between 108 and 131 groundwater production wells, 100–250 miles of collector pipeline and overhead power lines, and 2 additional pumping stations and electrical substations. The specific locations of these additional facilities are dependent upon future rulings of the NSE (whether and where the SNWA's groundwater right applications are granted), exploratory drilling (which would determine where SNWA can best access its groundwater rights), and agency agreements (SNWA may agree to change the location, timing, and quantity of pumping to minimize or mitigate effects to sensitive resources). When SNWA later applies for site-specific ROWs for these additional groundwater production wells and associated facilities, then additional NEPA compliance, tiered to this EIS, would consider the site-specific effects of future facility construction and operation. The sources of water for the reserved Lincoln County capacity have not been determined at this time, and would be subject to additional NEPA compliance, tiered to this EIS, before it could be conveyed and delivered by the SNWA Project.

A permanent ROW of up to 100 feet in width and temporary construction ROWs of an additional 100 feet would be required for the main and lateral pipelines. In areas of level terrain and stable soil conditions, the amount of disturbance of the temporary ROWs may be reduced, however, any potential reductions would not be known until after detailed alignment surveys and project design have been completed.

The permanent ROW needed for power line combinations containing 230 kV and/or 69 kV conductors would be 100 feet in width. This width is required for safety considerations to allow for displacement of the conductors. Only a portion of the permanent ROWs would be disturbed for installation of power poles and access roads where needed. The permanent ROWs for the power lines carrying only 25 kV are 50 feet in width. Temporary ROWs for the power lines are not required because the permanent ROWs are sufficient for construction needs.

In connection with the development of the Draft PA, the BLM identified 15 federally recognized Indian tribes with a traditional or historic connection to the areas potentially impacted by the proposed project. The BLM has initiated government-to-government consultation and invited those 15 tribes to sign the PA as concurring parties. The BLM has also granted consulting party status to certain interested organizations, groups, and agencies that have requested such status for the Section 106 process.

The Draft PA describes the roles and responsibilities of the signatories, the procedures and standards for determining the areas of potential effects from the project for direct, visual, indirect and cumulative effects. This document also describes the roles of Indian tribes and consulting parties in the Section 106 consultation process, and describes the procedures that will be used to encourage participation and take into account the comments of the public. The Draft PA also describes procedures for identifying historic properties that may be affected by the project, determine the eligibility of such properties for the National Register of Historic Places, assessing effects from the project to qualified historic properties, and seeking ways to avoid, minimize, mitigate or otherwise resolve any identified adverse effects to such properties. The Draft PA provides procedures for dealing with unanticipated discoveries of cultural resources, monitoring certain segments of construction by qualified archaeologists and Indian tribal monitors, resolving disputes among the signatories and concurring parties, and otherwise comply with Section 106 obligation.

The BLM notified the public of nine scoping meetings that were held in various communities in Clark, Lincoln, and White Pine counties (Nevada) and Tooele and Juab counties (Utah) between April 26 and May 11, 2005. The public was offered the opportunity to provide oral and written comments at the scoping meetings. A total of 648 individuals attended the scoping meetings, of which 210 individuals provided oral comments. During this first scoping period a total of 954

substantive letters were received from agencies, organizations, businesses, and individuals, and a total of 4,958 form letters (mainly email) were received from non-governmental organizations.

In the summer of 2006, additional scoping was conducted to provide opportunity for public comment on substantive SNWA Project changes: (1) Providing additional pipeline capacity for use by Lincoln County; and (2) Removal of the Tikaboo Lateral in Tikaboo Valley North. A total of 256 substantive letters and no form letters were received during the second scoping period.

During both scoping periods, a total of 1,210 substantive letters were received. Of this total, 597 were received from Nevada, 459 from Utah, and 154 from other states or countries. Key issues identified by individuals, groups, and governmental entities include water supply and use, competing or conflicting land uses, and cumulative impacts and connected actions.

The BLM has prepared the current draft version of the PA in consultation with the Nevada SHPO, ACHP and SNWA. In 2007, the BLM initiatiated government-to-government consultation with the interested tribes in the project area. In 2011, the BLM convened tribal information sessions in Ely and Las Vegas, Nevada, to discuss the Draft PA and to receive comments and suggestions on the Draft PA and other aspects of the project from interested Indian tribes. In March 2011, the BLM also coordinated with the nine other consulting parties that requested to participate in the Section 106 process.

Please note that public comments will be available for public review and disclosure at the BLM Nevada State Office, 1340 Financial Blvd., Reno, Nevada 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, 40 CFR 1506.10.

**Amy Lueders,**

*Acting Nevada State Director.*

[FR Doc. 2011–14149 Filed 6–9–11; 8:45 am]

**BILLING CODE 4310–HC–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–DPOL–611–7592; 0004–SYP]**

### Meeting of the National Park System Advisory Board

**AGENCY:** National Park Service, Department of the Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix, that the National Park System Advisory Board will conduct a teleconference meeting on June 30, 2011. Members of the public may attend the meeting in person in Washington, DC. During this teleconference, the Board will make recommendations to the Director of the National Park Service concerning the National Park Service's 2016 centennial anniversary.

**DATES:** The teleconference meeting will be held on June 30, 2011, from 1 p.m., to 3 p.m., Eastern Daylight Time, inclusive.

*Location:* The teleconference meeting will be conducted in Meeting Room B of the American Geophysical Union, 2000 Florida Avenue, NW., Washington, DC 20009, telephone 202–462–6900.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the National Park System Advisory Board or to request to address the Board, contact Shirley Sears Smith, National Park Service, 1201 I Street, NW., 12th Floor, Washington, DC 20005, telephone 202–354–3955, e-mail *shirley_s_smith@nps.gov.*

**SUPPLEMENTARY INFORMATION:** Due to the limited scope of this meeting, the National Park Service has determined that a teleconference will be the most efficient way to convene the Board members. The Board meeting will be open to the public in the same way that other Board meetings have been open to the public. Space and facilities to accommodate the public are limited and attendees will be accommodated on a first-come basis. Opportunities for oral comment will be limited to no more than 3 minutes per speaker and no more than 15 minutes total. The Board's Chairman will determine how time for oral comments will be allotted. Anyone may file with the Board a written statement concerning matters to be discussed. Before including your address, telephone 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.

Draft minutes of the meeting will be available for public inspection about 12 weeks after the meeting in the 12th floor conference room at 1201 I Street, NW., Washington, DC.

Dated: June 7, 2011.

**Bernard Fagan,**

*Chief, Office of Policy.*

[FR Doc. 2011–14458 Filed 6–9–11; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NRNHL–0511–7546; 2280–665]**

### National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before May 21, 2011. Pursuant to § 60.13 of 36 CFR Part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by June 27, 2011. 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.

**J. Paul Loether,**

*Chief, National Register of Historic Places/ National Historic Landmarks Program.*

**ALABAMA**

**Madison County**

Dallas Mill Village Historic District, Dickson St. NE. to Russell St. NE., Rison Ave. NE. to Pratt Ave. NE., Huntsville, 11000406

**Mobile County**

Davis Avenue Recreation Center, 1361 Dr. Martin Luther King, Jr. Ave., Mobile, 11000407

International Longshoreman's Association Hall, 505 Dr. Martin Luther King, Jr. Ave., Mobile, 11000408

**KANSAS**

**Butler County**

Yingling Brothers Auto Company, (Roadside Kansas MPS) 411 S. Main St., El Dorado, 11000409

**Sedgwick County**

Butts, J. Arch, Packard Building, (Roadside Kansas MPS) 1525 E. Douglas Ave., Wichita, 11000410

**Shawnee County**

Hughes Conoco Service Station, (Roadside Kansas MPS) 400 SW. Taylor St., Topeka, 11000411

**NEW JERSEY**

**Passaic County**

Hinchliffe Stadium, Maple and Liberty Sts., Paterson, 11000412

**NORTH DAKOTA**

**Williams County**

Williston High School, 612 1st Ave. W., Williston, 11000413

**PUERTO RICO**

**San Juan Municipality**

Casa Dra. Concha Melendez Ramirez, 1400 Vila Mayo, San Juan, 11000414

**SOUTH CAROLINA**

**Greenville County**

Fountain Inn Principal's House and Teacherage, 105 Mt. Zion Dr., Fountain Inn, 11000415

**WISCONSIN**

**Milwaukee County**

Oak Creek Parkway, (Milwaukee County Parkway System) Between Grant Park at Hawthorne Ave. & Rawson Ave., South Milwaukee, 11000416

[FR Doc. 2011–14373 Filed 6–9–11; 8:45 am]

**BILLING CODE 4312–51–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain GPS Navigation Products, Components Thereof, and Related Software,* DN 2814; the Commission is soliciting comments on any public interest issues raised by the complaint.

**FOR FURTHER INFORMATION CONTACT:** James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint filed on behalf of Honeywell International Inc. on June 6, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain GPS navigation products, components thereof, and related software. The complaint names as respondents Furuno Electric Co., Ltd of Japan and Furuno U.S.A., Inc. of Camas, WA.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number ("Docket No. 2814") in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the

Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

Issued: June 6, 2011.

By order of the Commission.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2011–14379 Filed 6–9–11; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–384 and 731–TA–806–808 Second Review]**

## Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil, Japan, and Russia

### Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that termination of the suspension agreement on hot-rolled flat-rolled carbon-quality steel products from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission further determines that revocation of the countervailing duty order on hot-rolled flat-rolled carbon-quality steel products from Brazil and revocation of the antidumping duty orders on hot-rolled flat-rolled carbon-quality steel products from Brazil and Japan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

### Background

The Commission instituted these reviews on April 1, 2010 (75 FR 16504) and determined on July 6, 2010 that it would conduct full reviews (75 FR 42782, July 22, 2010). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on October 12, 2010 (75 FR 62566). The hearing was held in Washington, DC, on April 6, 2011, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these reviews to the Secretary of Commerce on June 6, 2011. The views of the Commission are contained in USITC Publication 4237 (June 2011) entitled *Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and Russia: Investigation Nos. 701–TA–384 and 731–TA–806–808 (Second Review).*

By order of the Commission.

Issued: June 6, 2011.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2011–14375 Filed 6–9–11; 8:45 am]

**BILLING CODE 7020–02–P**

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Charlotte R. Lane and Dean A. Pinkert dissent with respect to the determinations regarding hot-rolled flat-rolled carbon-quality steel products from Brazil and Japan.

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–709]**

## In the Matter of Certain Integrated Circuits, Chipsets, and Products Containing Same Including Televisions, Media Players, and Cameras; Notice of Commission Determination Not To Review a Final Determination of No Violation of Section 337; Termination of the Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the final initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on April 4, 2011, finding no violation of section 337 in the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:** Jia Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–4737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on March 29, 2010, based on a complaint filed by Freescale Semiconductor, Inc. of Austin Texas. 75 FR 16837 (Mar. 29, 2010). The complaint alleged violations of Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain integrated circuits, chipsets, and products containing same including televisions, media players, and cameras by reason of infringement of certain claims of U.S. Patent Nos. 5,467,455 ("the '455 patent"), 5,715,014, and 7,199,306. The complaint, as amended, named the following respondents: Panasonic Corporation of Osaka, Japan; Panasonic Corporation of North America of Secaucus, New Jersey; Funai Electric Co., Ltd. of Osaka, Japan, Funai Corporation, Inc. of Rutherford, New Jersey Funai (collectively "Funai"); JVC Americas Corp. of Wayne, New Jersey; Victor Company of Japan Limited of Yokohama, Japan; Best Buy Purchasing, LLC, Best Buy.Com, LLC, Best Buy Stores, L.P., all of Richfield, Minnesota (collectively "Best Buy"); B&H Foto & Electronics Corp. of New York, New York; Huppin's Hi-Fi Photo & Video, Inc. of Spokane, Washington; Buy.com Inc. of Aliso Viejo, California; QVC, Inc. of West Chester, Pennsylvania; Crutchfield Corporation of Charlottesville, VA. Only Funai, Best-Buy, and Wal-Mart remain as respondents, and only the '455 patent is currently at issue.

On April 4, 2011, the presiding ALJ issued a final ID finding no violation of section 337 by respondents Funai, Best-Buy and Wal-Mart. The ALJ concluded that none of the accused products infringe the '455 patent because the third-party documents relied on by complainant to show infringement were entitled to no evidentiary weight. The ALJ further concluded that otherwise all

of the elements for proving a violation were shown and that respondents have not established that the '455 patent is invalid under 35 U.S.C. 102 for anticipation, under 35 U.S.C. 103 for obviousness, or under 35 U.S.C. 112 for failure to comply with the written description requirement. On April 28, 2011, complainant filed a petition for review of the ID. On the same day, respondents filed a contingent petition seeking review only if the Commission otherwise determined to review the ID.

Having examined the record of this investigation, including the ALJ's final ID and the submissions of the parties, the Commission has determined not to review the ID.

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 210.42–46 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46 and 210.50).

Issued: June 6, 2011.

By order of the Commission.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2011–14433 Filed 6–9–11; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under The Clean Air Act

Pursuant to 28 CFR 50.7, notice is hereby given that on May 16, 2011, a proposed Consent Decree in *United States* v. *Allied Metal Company,* Civil Action No. 11 C 3228, was lodged with the United States District Court for the Northern District of Illinois.

In a civil action filed simultaneously with the Consent Decree, the United States seeks a civil penalty against Allied Metal Company ("Allied"), pursuant to Section 113(b) of the Clean Air Act ("CAA"), 42 U.S.C. 7413(b), for alleged environmental violations of 40 CFR Part 63, Subpart RRR. These violations are alleged to have occurred at Allied's facility located at 4528 W. Division Street, Chicago, Illinois.

Under the proposed settlement, Allied will be required to (1) permanently shut down its thermal chip dryer and remove it as an emission source from its permit; (2) surrender all pollution credits relating to emissions from the chip dryer; (3) perform a supplemental environmental project by spending $132,627 to retrofit municipal or school bus diesel vehicles within Cook County by installing pollution control devices to reduce the emissions of particulate matter and hydrocarbons; (4) perform a supplemental environmental project by spending $132,627 to restore, cleanup, rebuild and re-vegitate with plants which have high adsorption capacity for dioxins and furans, the river edge of Allied's property located along the Chicago River; (5) provide periodic reports to EPA regarding its implementation of its obligations under the decree, and (6) pay a civil penalty of $92,210.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Allied Metal Company,* D.J. Ref. 90–5–2–1–08732.

The Consent Decree may be examined at the Office of the United States Attorney, Attn. Kurt N. Lindland, Assistant United States Attorney, 219 S. Dearborn Street, 5th Flr., Chicago, Illinois, and at U.S. EPA Region 5, 77 West Jackson Blvd., 14th Flr., Chicago, Illinois. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $9.25 payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen M. Katz,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2011–14380 Filed 6–9–11; 8:45 am]

**BILLING CODE 4410–15–P**

## LEGAL SERVICES CORPORATION

### Request for Comments—LSC Budget Request for FY 2013

**AGENCY:** Legal Services Corporation.

**ACTION:** Request for Comments—LSC Budget Request for FY 2013.

**SUMMARY:** The Legal Services Corporation is beginning the process of developing its FY 2013 budget request to Congress and is soliciting suggestions as to what the request should be.

**DATES:** Written comments will be accepted until 12 noon Eastern Time on June 15, 2011.

**ADDRESSES:** Written comments may be submitted by mail, fax or e-mail to David L. Richardson, Treasurer, Legal Services Corporation, 3333 K St., NW., Washington, DC 20007; 202–295–1630 (phone); 202–337–6834 (fax); *david.richardson@lsc.gov.*

**FOR FURTHER INFORMATION CONTACT:** David L. Richardson, Comptroller & Treasurer, Legal Services Corporation, 3333 K St., NW., Washington, DC 20007; 202–295–1510 (phone); 202–337–6834 (fax); *david.richardson@lsc.gov.*

**SUPPLEMENTARY INFORMATION:** The mission of the Legal Services Corporation ("LSC" or "Corporation") is to promote equal access to justice in our Nation and to provide for high-quality civil legal assistance to low income persons. LSC submits an annual budget request directly to Congress and receives an annual direct appropriation to carry out its mission. For the current fiscal year, FY 2011, after a rescission, LSC received an appropriation of $404,190,000 of which $378,641,200 is for basic field programs and required independent audits; $4,191,600 is for the Office of Inspector General; $16,966,000 is for management and grants oversight; $3,393,200 is for technology initiative grants; and $998,000 is for loan repayment assistance. Public Law 112–10, 125 Stat. 38 (April 15, 2011).

As part of its annual budget and appropriation process, LSC notifies the Office of Management and Budget ("OMB") in September as to what the LSC budget request to Congress will be for the next fiscal year. Accordingly, LSC is currently in the process of formulating its FY 2013 budget request. The Finance Committee of the LSC Board of Directors will meet on June 16, 2011, to hear testimony and commence deliberations on what to recommend to the full Board for adoption as the Corporation's FY 2013 budget request.

LSC invites public comment on what its FY 2013 budget request should be. Interested parties may submit comments to LSC by 12 noon Eastern Time on Wednesday, June 15, 2011. More information about LSC may be found at LSC's Web site: *http://www.lsc.gov.*

Dated: June 3, 2011.

**Victor M. Fortuno,**

*Vice President & General Counsel.*

[FR Doc. 2011–14368 Filed 6–9–11; 8:45 am]

**BILLING CODE 7050–01–P**

## NATIONAL CREDIT UNION ADMINISTRATION

### Sunshine Act; Notice of Agency Meeting

**TIME AND DATE:** 5:30 p.m., Thursday, June 9, 2011.

**PLACE:** Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Consideration of Supervisory Activity. Closed pursuant to some or all of the following: exemptions (8), (9)(A)(ii) and 9(B).

**FOR FURTHER INFORMATION CONTACT:** Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

**Mary Rupp,**

*Board Secretary.*

[FR Doc. 2011–14597 Filed 6–8–11; 4:15 pm]

**BILLING CODE**

## NATIONAL SCIENCE FOUNDATION

### President's Committee on the National Medal of Science; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

**NAME:** President's Committee on the National Medal of Science (1182).

**DATE AND TIME:** Wednesday, July 6, 2011, 8:30 a.m.–3:30 p.m.

**PLACE:** National Science Foundation, 4201 Wilson Boulevard, Arlington, VA, 22230.

**TYPE OF MEETING:** Closed.

**CONTACT PERSON:** Ms. Mayra Montrose, Program Manager, Room 1282, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. *Telephone:* 703–292–4757.

**PURPOSE OF MEETING:** To provide advice and recommendations to the President in the selection of the 2011 National Medal of Science recipients.

**AGENDA:** To review and evaluate nominations as part of the selection process for awards.

**REASON FOR CLOSING:** The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act.

Dated: June 7, 2011.

**Susanne Bolton,**

*Committee Management Officer.*

[FR Doc. 2011–14402 Filed 6–9–11; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

### Atomic Safety and Licensing Board

**[Docket No. 70–7015–M; ASLBP No. 10–899–02–ML–BD01]**

### In the Matter of Areva Enrichment Services, LLC (Eagle Rock Enrichment Facility); Notice of Hearing, (Notice of Evidentiary Hearing and Opportunity To Provide Oral and Written Limited Appearance Statements)

June 2, 2011.

Before Administrative Judges: G. Paul Bollwerk, III, Chairman, Dr. Kaye D. Lathrop, Dr. Craig M. White.

The Atomic Safety and Licensing Board hereby gives notice that it will convene an evidentiary session to receive testimony and exhibits in the "mandatory hearing" portion of this proceeding regarding the December 2008 application by AREVA Enrichment Services, LLC (AES) seeking a license under 10 CFR Parts 30, 40, and 70 authorizing (1) the construction and operation of a gas centrifuge uranium enrichment facility—denoted as the Eagle Rock Enrichment Facility (EREF)—in Bonneville County, Idaho; and (2) the receipt, possession, use, delivery, and transfer of byproduct (e.g., calibration sources), source and special nuclear material at the EREF. This evidentiary hearing session will concern environmental matters relating to the proposed issuance of the requested license. In addition, the Licensing Board gives notice that, in accordance with 10 CFR 2.315(a), it will entertain oral and written limited appearance statements from members of the public in connection with this proceeding.

#### A. Matters To Be Considered

As set forth by the Commission in the July 30, 2009 notice of hearing regarding this proceeding,[1] relative to environmental matters the Board is required independently to (1) determine whether the requirements of section 102(2)(A), (C) and (E) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(A), (C), (E), and Subpart A of 10 CFR part 51 have been complied with in the proceeding; (2) determine whether the review conducted by the NRC staff pursuant to Part 51 has been adequate; (3) consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (4) determine, after weighing the environmental, economic, technical, and other benefits against the environmental and other costs, and considering reasonable alternatives, whether a license should be issued, denied, or appropriately conditioned to protect environmental values. More specifically with regard to this portion of the proceeding that concerns generally the environmental-related aspects of the AES environmental report and the associated staff final environmental impact statement (FEIS),[2] AES and the staff will make evidentiary presentations to the Board regarding the purpose and need for the proposed EREF; "preconstruction" activities; greenhouse gas impacts of the EREF's production power consumption; construction air quality impacts; the facility's radiological effluent monitoring program; and the status of the historic/cultural resources memorandum of agreement and associated mitigation measures.

#### B. Date, Time, and Location of Environmental-Related Portion of the Mandatory Hearing

The Board will conduct the portion of the mandatory hearing regarding environmental matters beginning at 9:30 a.m. Mountain Time (MT) on Tuesday, July 12, 2011, at the Red Lion on the Falls Convention Center, Targhee/Bonneville Rooms, 475 River Parkway,

[1] *See* Notice of Receipt of Application for License; Notice of Consideration of Issuance of License; Notice of Hearing and Commission Order and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation; In the Matter of Areva Enrichment Services, LLC (Eagle Rock Enrichment Facility), 74 FR 38,052, 38,054 (July 30, 2009) (CLI–09–15, 70 NRC 1, 7–8 (2009)).

[2] After conducting a January 2011 evidentiary hearing session concerning safety-related matters relative to the AES safety analysis report and the associated staff safety evaluation report, in an April 2011 partial initial decision the Licensing Board provided its findings and conclusions, determining that (1) the AES application contains sufficient information to support license issuance; and (2) the staff's review of the application had been adequate to support license issuance, subject to a license condition regarding the qualifications of the facility's nuclear criticality safety manager and an unresolved decommissioning funding financial assurance issue that awaits Commission consideration of a pending Board-certified question. *See* LBP–11–11, 73 NRC, _, _-_ (slip op. at 82–84) (Apr. 8, 2011).

Idaho Falls, Idaho. The hearing will continue from day-to-day until concluded. AES and the staff will be parties to the mandatory hearing and will present witnesses and evidentiary material.

Any member of the public who plans to attend the mandatory hearing is advised that security measures may be employed at the entrance to the room housing the hearing, including searches of hand-carried items such as briefcases or backpacks, and is reminded to allow sufficient time for security screening.

**C. Date, Time, and Location of Oral Limited Appearance Statement Sessions**

Oral limited appearance sessions regarding the AREVA mandatory hearing proceeding will be on the following dates at the specified location and times:

1. *Date:* Sunday, July 10, 2011 (if there is sufficient interest).

*Time:* 3 to 5 p.m. MT.

*Location:* Bennion Student Union Multipurpose Room, 1784 Science Center Drive, University Place in Idaho Falls, Idaho Falls, Idaho.

2. *Date:* Monday, July 11, 2011 (if there is sufficient interest).

*Time:* 7 to 9 p.m. MT.

*Location:* Same as Session 1 above.

**D. Participation Guidelines for Oral Limited Appearance Statements**

Any person not a party, or the representative of a party, to this mandatory hearing proceeding will be permitted to make an oral statement setting forth his or her position on matters of concern relating to the proceeding. Although these statements do not constitute testimony or evidence, they nonetheless may help the Licensing Board and/or the parties in their consideration of the issues in this portion of the mandatory hearing.

Oral limited appearance statements will be entertained during the hours specified above, or such lesser time as may be necessary to accommodate the speakers who are present. In this regard, if all scheduled and unscheduled speakers present at a session have made a presentation, the Licensing Board reserves the right to terminate the session before the ending times listed above. The Board also reserves the right to cancel the Sunday afternoon and/or Monday evening sessions scheduled above if there has not been a sufficient showing of public interest as reflected by the number of preregistered speakers.

Any member of the public who plans to attend the limited appearance sessions is strongly advised to arrive early to allow time to pass through any security measures that may be employed. Attendees are also requested not to bring any unnecessary hand-carried items, such as packages, briefcases, backpacks, or other items that might need to be examined individually. Items that could readily be used as weapons will not be permitted in the room where these sessions will be held. Also, during these sessions, signs no larger than 18 inches by 18 inches will be permitted, but may not be attached to sticks, held over one's head, or moved about in the room.

The time allotted for each limited appearance statement normally will be no more than five minutes, but may be further limited depending on the number of written requests to make an oral statement that are submitted in accordance with section E below and/or the number of persons present at the designated times to ensure everyone will have an opportunity to speak. In addition, in the case of the Monday evening session, although an individual who previously addressed the Licensing Board at the Sunday afternoon limited appearance session may request an opportunity to make an additional presentation, the Board reserves the right to defer such additional presentations until after it has heard from speakers who have not had an opportunity to make an initial presentation.

**E. Submitting a Request To Make an Oral Limited Appearance Statement**

A person wishing to make an oral statement who has submitted a timely written request to do so will be given priority over those who have not filed such a request. To be considered timely, a written request to make an oral statement must either be mailed, faxed, or sent by e-mail so as to be received by 5 p.m. Eastern Time (ET) on Friday, July 1, 2011. The request must specify the session (Sunday or Monday) during which the requester wishes to make an oral statement. Based on its review of the requests received by July 1, 2011, the Licensing Board may decide that the Sunday afternoon and/or Monday evening sessions will not be held due to a lack of adequate interest in those sessions.

Written requests to make an oral statement should be submitted to:

*Mail:* Administrative Judge G. Paul Bollwerk, III, Atomic Safety and Licensing Board Panel, Mail Stop T–3F23, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

*Fax:* (301) 415–5599 (verification (301) 415–6094).

*E-mail: jonathan.eser@nrc.gov* and *paul.bollwerk@nrc.gov.*

**F. Submitting Written Limited Appearance Statements**

As provided in 10 CFR 2.315(a), any person not a party, or the representative of a party, to the proceeding may submit a written statement setting forth his or her position on matters of concern relating to this proceeding. Although these statements do not constitute testimony or evidence, they nonetheless may help the Board or the parties in their consideration of the issues in this proceeding.

A written limited appearance statement may be submitted at any time and should be sent to the Office of the Secretary using one of the methods prescribed below:

*Mail:* Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

*Fax:* (301) 415–1101 (verification (301) 415–1966).

*E-mail: hearingdocket@nrc.gov.*

In addition, using the same method of service, a copy of the written limited appearance statement should be sent to the Chairman of this Licensing Board as follows:

*Mail:* Administrative Judge G. Paul Bollwerk, III, Atomic Safety and Licensing Board Panel, Mail Stop T–3F23, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

*Fax:* (301) 415–5599 (verification (301) 415–6094).

*E-mail: paul.bollwerk@nrc.gov.*

**G. Availability of Documentary Information Regarding the Proceeding**

The AES application and various staff documents relating to the application are available on the NRC Web site at *http://www.nrc.gov/materials/fuel-cycle-fac/arevanc.html.*

These and other documents relating to this proceeding are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically from the publicly-available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* (the Public Electronic Reading Room).[3] Persons who do not

[3] Some documents determined by the staff to contain "sensitive" information are publicly available only in redacted form; non-sensitive documents are publicly available in their complete form. In addition, some documents that may contain information proprietary to AES are publicly available only in redacted form.

have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at (800) 397–4209 or (301) 415–4737 (available between 8 a.m. and 4 p.m. ET, Monday through Friday except federal holidays), or by e-mail to *pdr@nrc.gov.*

**H. Information Updates to Schedule**

Any updates or revisions to the mandatory hearing schedule or the schedule for limited appearance sessions can be found on the NRC Web site at *http://www.nrc.gov/public-involve/public-meetings/index.cfm,* or by calling (800) 368–5642, extension 5036 (available between 7 a.m. and 9 p.m. ET, Monday through Friday, except federal holidays), or by calling (301) 415–5036 (available seven days a week, twenty-four hours a day).

*It is so ordered.*

Dated: June 2, 2011.

For the Atomic Safety and Licensing Board.

**G. Paul Bollwerk, III,**

*Chairman, Rockville, Maryland.*

[FR Doc. 2011–14416 Filed 6–9–11; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–320; License No. DPR–73; NRC–2010–0358]**

## FirstEnergy Nuclear Operating Company; Notice of Issuance of Director's Decision

Notice is hereby given that the Director, Office of Federal and State Materials and Environmental Management Programs (FSME), has issued a Director's Decision with regard to a petition dated September 30, 2010, filed by Eric J. Epstein, hereinafter referred to as the "Petitioner." The petition was supplemented during an October 19, 2010, Petition Review Board (PRB) meeting, via teleconference, with the Petitioner and FirstEnergy Corporation, hereinafter referred to as FENOC. [NOTE: GPU Nuclear is the license holder for Three Mile Island, Unit 2 (TMI–2).] The transcript of this teleconference is available in the Agencywide Documents Access and Management System (ADAMS No. ML103120216). The petition concerns the decommissioning funding for TMI–2.

The petition requested that the U.S. Nuclear Regulatory Commission (NRC) take enforcement action in the form of a Demand for Information from FENOC relating to inadequate financial assurance provided by the licensee for TMI–2's nuclear decommissioning fund.

As the basis for the September 30, 2010, request, the Petitioner states that the current radiological decommissioning cost estimate is $831.5 million and the current amount in the decommissioning trust fund is $484.5 million, as of December 31, 2008. Further, the Petitioner states that FENOC's decommissioning report is inadequate, and fails to account for the special status of TMI–2, the current level of underfunding, or the fact that decommissioning rate recovery for Metropolitan Edison and Pennsylvania Electric ceases per Pennsylvania Public Utility Commission Orders on December 31, 2010.

On October 19, 2010, the Petitioner and licensee met with the staff's PRB via teleconference. The meeting gave the Petitioner and the licensee an opportunity to provide additional information and to clarify issues identified in the petition.

The NRC sent a copy of the proposed Director's Decision to the Petitioner and to the licensee for comment on April 5, 2011 (ADAMS Nos. ML110680183 and ML110940183). The Petitioner responded with comments on May 1, 2011 (ADAMS No. ML111260128) and the licensee responded on April 18, 2011 (ADAMS No. ML11116A073). Comments submitted by the Petitioner and licensee, and the NRC staff responses, are discussed in the attachment to the Director's Decision.

The Director of FSME has determined that the request for NRC to demand information relating to inadequate financial assurance provided by the licensee for TMI–2's nuclear decommissioning fund, be denied. The request is denied because the updated decommissioning funding status report submitted by GPU Nuclear on March 29, 2010, for TMI–2, which is the latest site-specific decommissioning funding plan, provides adequate decommissioning funding assurance in accordance with NRC regulations. GPU Nuclear is owned by FENOC. A complete discussion of the reasons for this decision are explained in the Director's Decision pursuant to 10 CFR 2.206 (DD–11–04), the complete text of which is available in ADAMS for inspection at the Commission's Public Document Room, located at One White Flint, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, and from the ADAMS Public Library component on the NRC's Web site, *http://www.nrc.gov* (the public Electronic Reading Room).

As provided in 10 CFR 2.206(c), a copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission to review. As provided for by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of the Decision unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 2nd day of June 2011.

For the Nuclear Regulatory Commission.

**Scott W. Moore,**

*Acting Director, Office of Federal and State Materials and Environmental Management Programs.*

[FR Doc. 2011–14424 Filed 6–9–11; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[NRC–2011–0107; Docket Nos. 50–325 and 50–324]**

## Carolina Power & Light Company, Brunswick Steam Electric Plant Units 1 and 2; Exemption

**1.0 Background**

Carolina Power & Light Company, et al. (the licensee), is the holder of Facility Operating License Nos. DPR–71 and DPR–62, which authorize operation of the Brunswick Steam Electric Plant (BSEP), Units 1 and 2, respectively. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, Commission) now or hereafter in effect.

The facility consists of two boiling water reactors located in Southport, North Carolina.

**2.0 Request/Action**

By letter dated December 16, 2010 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML103630405, as supplemented by letter dated January 27, 2011 (ADAMS Accession No. ML110400193), and pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 26.9, "Specific exemptions," the licensee requested an exemption from the requirements of 10 CFR 26.205(c), "Work hours scheduling," and (d), "Work hour controls," during declarations of severe weather conditions such as tropical storm and hurricane-force winds at the BSEP site. Subsequent letters dated March 7 and April 13, 2011 (ADAMS Accession Nos. ML110730275 and ML11110A021, respectively) provided responses to the NRC staff's requests for additional information (RAIs).

The NRC staff has reviewed the licensee's request using the regulations contained in 10 CFR 26.205 and 10 CFR 26.207, and related Statement of Considerations in the 10 CFR Part 26, "Fitness for Duty Programs" Final Rule published in the **Federal Register** on March 31, 2008 (73 FR 16966–17235).

As stated in 10 CFR Part 26, Subpart I, "Managing Fatigue," the requirements in 10 CFR 26.205 apply to individuals identified in 10 CFR 26.4(a)(1) through (a)(5). These individuals' duties are: (1) Operating or onsite directing of the operation of structures, systems and components (SSCs) that a risk-informed evaluation process has shown to be significant to public health and safety; (2) performing health physics or chemistry duties required as a member of the onsite emergency response organization's minimum shift complement; (3) performing the duties of a fire brigade member who is responsible for understanding the effects of fire and fire suppressants on safe shutdown capability; (4) performing maintenance or onsite directing of the maintenance of SSCs that a risk-informed evaluation process has shown to be significant to public health and safety; and (5) performing security duties as an armed security force officer, alarm station operator, response team leader, or watchperson.

The regulations in 10 CFR 26.205(c) require that an individual's work hours be scheduled consistent with the objective of preventing impairment from fatigue due to the duration, frequency, or sequencing of successive shifts.

Paragraph 26.205(d) of 10 CFR provides the actual work hour controls, which include a maximum of 16 work hours in any 24-hour period, 26 work hours in any 48-hour period, and 72 work hours in any 7-day period. This section also specifies the minimum break times between work periods and the minimum number of days off that should be provided by a licensee to the identified individuals.

Paragraph 10 CFR 26.205(b) provides the requirement and method to calculate work hours and days worked. Paragraph 10 CFR 26.205(b)(3) provides the requirement to include in the "calculation period" all work hours performed for the licensee prior to beginning or resuming duties subject to work hour controls.

Paragraph 10 CFR 26.207(d) provides an allowance for licensees to not meet the requirements of 10 CFR 26.205(c) and (d) during declared emergencies, as defined in the licensee's emergency plan.

The licensee in its letter dated December 16, 2010, states that the requested exemption applies to individuals who perform duties identified in 10 CFR 26.4(a)(1) through (a)(5) who are designated by BSEP as "covered workers." The requested exemption is to support effective response to severe weather conditions when travel to and from the BSEP site may not be safe or even possible. During these times, the licensee sequesters sufficient individuals, including covered workers, to perform work as a member of the storm crew. The licensee staffs those who will be sequestered onsite during the severe wind event to perform two 12-hour shifts. The licensee states that the storm crews are augmented by the emergency response organization (ERO) personnel based on the severity category of the storm. Therefore, the exemption request would also apply to members of the ERO who are subject to work hour controls and who will also be sequestered on site during the severe weather conditions. The exemption request specifies that the exemption is not for discretionary maintenance activities.

The licensee requested an exemption from the requirements of 10 CFR 26.206(c) and (d) during the period of time defined by the following entry and exit conditions.

*Entry Condition:* This is the start time when individuals designated to the storm crew performing duties identified in 10 CFR 26.4(a)(1) through (a)(5) will not have to meet the requirements of 10 CFR 26.205(c) and (d). This occurs when the site enters procedure 0AI–68, "Brunswick Nuclear Plant Response to Severe Weather Warnings," and senior plant management determines that travel conditions to the site will potentially become hazardous such that storm crew staffing will be required based on verifiable weather conditions. Verifiable weather conditions are defined as when the site is located within the National Hurricane Center 5-day cone of probability for predicted winds of tropical storm or hurricane-force impact.

*Exit Condition:* This is the time when BSEP personnel must fully comply with the requirements of 10 CFR 26.205(c) and (d) following severe weather involving tropical storm or hurricane force winds. This date and time will be determined by senior plant management and will be when sufficient personnel are available to meet the requirements of 10 CFR 26.205(c) and (d).

The licensee added that upon exiting the exemption the work hour controls will be applied and that the affected individuals will be provided a minimum of a 10-hour break prior to the start of the first shift following exiting the exemption.

The licensee states that there is no need for an exemption for BSEP covered workers during the period of declared emergency when the sustained wind speed is greater than 100 miles per hour (mph), since, in accordance with 10 CFR 26.207(d), licensees are not required to meet the requirements of 10 CFR 26.205(c) and (d) during a declared emergency. The licensee indicated that the exemption will be applied during the period defined by the entry and exit conditions, regardless of whether BSEP enters the period of declared emergency. As a result, there will be only one set of entry and exit conditions.

In its letter dated December 16, 2010, the licensee committed to maintain the following guidance in a site procedure:

- The entry conditions necessary to sequester site personnel that are consistent with the conditions specified in the BSEP exemption request.
- Provisions for ensuring that personnel who are not performing duties are provided an opportunity as well as accommodations for restorative rest.
- The condition for departure from the exemption, consistent with conditions specified in the exemption request.

## 3.0 Discussion

Pursuant to 10 CFR 26.9, the Commission may, upon application of an interested person or on its own initiative, grant exemptions from the requirements of 10 CFR part 26 when it determines the exemptions are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

### Authorized by Law

The exemption being requested for BSEP would allow the site to sequester specific individuals on site and to not meet the work hour scheduling and control requirements of 10 CFR 26.205(c) and (d) prior and subsequent to severe weather conditions such as tropical storms and hurricanes. As stated above, 10 CFR 26.9 allows the NRC to grant exemptions from the requirements of 10 CFR part 26. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, and is authorized by the Commission's regulations. Therefore, the exemption is authorized by law.

**Will Not Endanger Life or Property or the Common Defense and Security**

The fatigue management provisions found in 10 CFR Part 26, Subpart I are designed as an integrated approach to managing both cumulative and acute fatigue by the licensees and individuals employed at licensed facilities. It is the responsibility of the licensees to provide training to individuals regarding fatigue management. It is also the responsibility of the licensee to provide covered workers with work schedules that are consistent with the objective of preventing impairment from fatigue due to duration, frequency or sequencing of successive shifts. Individuals are required to remain fit for duty while at work.

BSEP Units 1 and 2 are located in southeastern North Carolina, at the mouth of the Cape Fear River. As such, the site can be impacted by tropical storms and hurricane force winds, typically from June to November. The proposed exemption would support effective response to severe weather conditions when travel to and from the BSEP site may not be safe or even possible. During these times BSEP plans to sequester sufficient individuals to staff two 12-hour shifts to maintain the safe and secure operation of the facility.

As a tropical storm or hurricane approaches landfall, high wind speeds in excess of wind speeds that create unsafe travel conditions may occur. The National Hurricane Center defines hurricane-force winds as sustained winds of 74 mph or higher. Severe wind preparedness activities become difficult once winds reach tropical storm force; a tropical storm warning is issued 36 hours in advance of the anticipated onset of tropical storm-force winds (39 to 73 mph). Lessons learned that are included in NUREG–1474, "Effect of Hurricane Andrew on the Turkey Point Nuclear Generating Station from August 20–30, 1992," include the acknowledgement that detailed, methodical preparations should be made prior to the onset of hurricane-force winds. The NRC staff finds the BSEP proceduralized severe weather actions are consistent with the lessons learned.

The entry condition for the exemption can occur, even though the wind speed necessary for the declaration of an unusual event (defined in the licensee's emergency response plan as when sustained wind speed is greater than 100 mph) is not reached. This circumstance may still require sequestering a storm crew and a recovery period. Also, high winds that make travel unsafe but that fall below the threshold of a declared emergency, could be present for several days. After the high wind condition has passed, with or without a declared emergency, sufficient numbers of personnel may not be able to access the site to relieve the sequestered individuals. An exemption during these conditions is consistent with the intent of 10 CFR 26.207(d).

The exemption allows the licensee to sequester individuals, who are needed to maintain the safe operation of the facility during storm conditions, to staff two 12-hour shifts of workers consisting of personnel from operations, maintenance, health physics, chemistry and security and augmented by ERO individuals. Sequestered individuals will be allowed a 12-hour break between successive work periods and no worker will be scheduled to work more than 12 consecutive hours. The BSEP site procedure 0AI–68 provides for the establishment of sleeping areas (bunking facilities) that provide an accommodation for restorative rest for the off-crew. A 12-hour break provides each individual with an opportunity for restorative rest. However, the accommodations and potentially stressful circumstances may not be as restful as individuals would otherwise desire. Under the circumstances, these actions are consistent with the acceptable practice of fatigue management.

The exemption allows the licensee to provide for the use of whatever plant staff and resources are necessary to respond to a plant emergency and ensure that the BSEP units achieve and maintain a safe and secure status and can be safely restarted. The exemption also allows maintenance activities for structures, systems and components that are significant to public health and safety to be performed, if required. However, the exemption does not apply to discretionary maintenance activities. The NRC staff finds the exclusion of discretionary maintenance from the exemption consistent with the intent of the exemption, since it supports the use of necessary plant staff resources to respond to a plant emergency.

Following the severe weather event, BSEP will return to work hour controls when senior plant management determines that sufficient personnel are available to return to the site to make the reinstitution of work hour controls possible. When this determination is made, full compliance with 10 CFR 26.205(c) and (d) is again required.

When the exemption period(s) ends, the licensee is immediately subject to the scheduling requirements of 10 CFR 26.205(c) and the work hour/rest break/days off requirements of 10 CFR 26.205(d), and must ensure that any individual performing covered work complies with these requirements. Paragraph 10 CFR 26.205(b)(3) requires the licensee to "look back" over the calculation period and count the hours the individual has worked and the rest breaks and days off he/she has had, including those that occurred during the licensee-declared emergency. Hours worked must be below the maximum limits and rest breaks must be above the minimum requirements in order for the licensee to allow the individual to perform covered work. Days off and hours and shifts worked during the licensee-declared emergency and the exempted period before and after the declared emergency, would be counted as usual in the establishment of the applicable shift schedule and compliance with the minimum number of days off requirements.

Granting this exemption is consistent with the intent of 10 CFR 26.207(d) that allows the licensee to not meet the requirements of 10 CFR 26.205 (c) and (d) during declared emergencies as defined in the licensee's emergency plan. The 10 CFR part 26 Final Rule (73 FR 17148) states, "Plant emergencies are extraordinary circumstances that may be most effectively addressed through staff augmentation that can only be practically achieved through the use of work hours in excess of the limits of 10 CFR 26.205(c) and (d)." The objective of the exemption is to ensure that the control of work hours do not impede a licensee's ability to use whatever staff resources may be necessary to respond to a plant emergency and ensure that the plant reaches and maintains a safe and secure status. The actions described in the exemption request and submitted procedures are consistent with the recommendations in NUREG–1474, "Effect of Hurricane Andrew on the Turkey Point Nuclear Generating Station from August 20–30, 1992." Consistent with NUERG–1474, NRC staff expects the licensee would have completed a reasonable amount of hurricane preparation prior to the need to sequester personnel, in order to minimize personnel exposure to high winds.

The underlying purposes of 10 CFR 26.205(c) and (d) are to prevent impairment from fatigue due to duration, frequency, or sequencing of successive shifts. Based on the above evaluation, no new accident precursors are created by the licensee maintaining the additional staff on site necessary to respond to a plant emergency during a severe storm to ensure that the plant maintains a safe and secure status; therefore, the probability of postulated

accidents is not increased. Even though the licensee will utilize whatever staff resources may be necessary during severe weather preparation and storm crew activation, opportunities for restorative sleep will be maintained. Also, the consequences of postulated accidents are not increased because there is no change in the types of accidents previously evaluated. Further, the exemption supports sequestering enough essential security personnel to provide for shift relief, which is necessary to ensure adequate protection of the plant and personnel safety. Therefore, the exemption will not endanger life or property or the common defense and security.

**Otherwise in the Public Interest**

The proposed exemption would increase the availability of the licensee staff. The exemption would allow licensee staff to remain at or return to the site and perform additional duties to ensure the plant is in a safe configuration during the emergency. Therefore, granting this exemption is in the public interest.

**4.0 Conclusion**

Accordingly, the Commission has determined that, pursuant to 10 CFR 26.9, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants Carolina Power & Light Company an exemption from the requirements of 10 CFR 26.205(c) and (d) for BSEP, Units 1 and 2 during periods of severe weather conditions such as tropical storm and hurricane force winds at the site.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (76 FR 28481).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 2nd day of June 2011.

For the Nuclear Regulatory Commission.

**Joseph G. Giitter,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2011–14425 Filed 6–9–11; 8:45 am]

**BILLING CODE 7590–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Review: Representative Payee Survey (RI 38–115)

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** 30-Day Notice and request for comments.

**SUMMARY:** The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0208, Representative Payee Survey. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on March 21, 2011 at Volume 76 FR 15350 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of 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, *e.g.,* permitting electronic submissions of responses.

**DATES:** Comments are encouraged and will be accepted until July 11, 2011. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, *Attention:* Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, *Attention:* Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

**SUPPLEMENTARY INFORMATION:** The Representative Payee Survey is used to collect information about how the benefits paid to a representative payee have been used or conserved for the benefit of the incompetent annuitant.

**Analysis**

*Agency:* Retirement Operations, Retirement Services, Office of Personnel Management.

*Title:* Representative Payee Survey.

*OMB Number:* 3206–0208.

*Frequency:* Annually.

*Affected Public:* Individuals or Households.

*Number of Respondents:* 11,000.

*Estimated Time per Respondent:* 20 minutes.

Total Burden Hours: 3,667.

U.S. Office of Personnel Management.

**John Berry,**

*Director.*

[FR Doc. 2011–14456 Filed 6–9–11; 8:45 am]

**BILLING CODE 6325–38–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Review: Alternative Annuity Election (RI 20–80)

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** 60-Day Notice and request for comments.

**SUMMARY:** The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0168, Alternative Annuity Election. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of 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, e.g., permitting electronic submissions of responses.

**DATES:** Comments are encouraged and will be accepted until August 9, 2011. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to U.S. Office of Personnel Management, Linda Bradford (Acting) Deputy Associate Director, Retirement Operations, Retirement Services, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500 or sent via electronic mail to *Martha.Moore@opm.gov.*

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team. Office of Personnel Management, 1900 E Street, NW., Room 4332, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

**SUPPLEMENTARY INFORMATION:** RI 20–80 is used for individuals who are eligible to elect whether to receive a reduced annuity and a lump-sum payment equal to their retirement contributions (alternative form of annuity) or an unreduced annuity and no lump sum.

**Analysis**

*Agency:* Retirement Operations, Retirement Services, Office of Personnel Management.

*Title:* Alternative Annuity Election.

*OMB Number:* 3206–0168.

*Frequency:* On occasion.

*Affected Public:* Individuals or Households.

*Number of Respondents:* 200.

*Estimated Time per Respondent:* 20 minutes.

*Total Burden Hours:* 67 hours.

U.S. Office of Personnel Management.

**John Berry,**

*Director.*

[FR Doc. 2011–14457 Filed 6–9–11; 8:45 am]

**BILLING CODE 6325–38–P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–2833.

*Extension:*

Rule 30b1–5; SEC File No. 270–520; OMB Control No. 3235–0577.

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 (the "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 ("OMB") for extension and approval.

Rule 30b1–5 (17 CFR 270.30b1–5) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the "Investment Company Act") requires registered management investment companies, other than small business investment companies registered on Form N–5 (17 CFR 239.24 and 274.5) ("funds"), to file a quarterly report via the Commission's EDGAR system on Form N–Q (17 CFR 249.332 and 274.130), not more than sixty calendar days after the close of each first and third fiscal quarter, containing their complete portfolio holdings. The purpose of the collection of information required by rule 30b1–5 is to meet the disclosure requirements of the Investment Company Act and to provide investors with information necessary to evaluate an interest in the fund by improving the transparency of information about the fund's portfolio holdings.

The Commission estimates that there are 2,580 management investment companies, with a total of approximately 9,160 portfolios, that are governed by the rule. For purposes of this analysis, the burden associated with the requirements of rule 30b1–5 has been included in the collection of information requirements of Form N–Q, rather than the rule.

The collection of information under rule 30b1–5 is mandatory. The information provided under rule 30b1–5 is not kept confidential. 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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 written comments to Thomas A. Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: June 6, 2011.

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–14391 Filed 6–9–11; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

*Extension:*

Rule 22d–1; Sec File No. 270–275; OMB Control No. 3235–0310.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 22d–1 under the Investment Company Act of 1940 (the "Act") (17 CFR 270.22d–1) provides registered

investment companies that issue redeemable securities ("funds") an exemption from section 22(d) of the Investment Company Act (15 U.S.C. 80a–22(d)) to the extent necessary to permit scheduled variations in or elimination of the sales load on fund securities for particular classes of investors or transactions, provided certain conditions are met. The rule imposes an annual burden per series of a fund of approximately 15 minutes, so that the total annual burden for the approximately 4862 series of funds that might rely on the rule is estimated to be 1215.5 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study. 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.

Written comments are requested on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden(s) of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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 written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov*.

Dated: June 6, 2011.

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–14392 Filed 6–9–11; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549.

*Extension:*

Rule 32a–4; SEC File No. 270–473; OMB Control No. 3235–0530.

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 collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget ("OMB") for extension and approval.

Section 32(a)(2) of the Investment Company Act (15 U.S.C. 80a–31(a)(2)) requires that shareholders of a registered investment management or face-amount certificate company (collectively, "funds") ratify or reject the selection of the fund's independent public accountant. Rule 32a–4 (17 CFR 270.32a–4) exempts funds from this requirement if (i) The fund's board of directors establishes an audit committee composed solely of independent directors with responsibility for overseeing the fund's accounting and auditing processes,[1] (ii) the fund's board of directors adopts an audit committee charter setting forth the committee's structure, duties, powers and methods of operation, or sets forth such provisions in the fund's charter or bylaws,[2] and (iii) the fund maintains a copy of such an audit committee charter, and any modifications to the charter, permanently in an easily accessible place.[3]

Each fund that chooses to rely on rule 32a–4 incurs two collection of information burdens. The first, related to the board of directors' adoption of the audit committee charter, occurs once, when the committee is established. The second, related to the fund's maintenance and preservation of a copy of the charter in an easily accessible place, is an ongoing annual burden. The information collection requirement in rule 32a–4 enables the Commission to monitor the duties and responsibilities of an independent audit committee formed by a fund relying on the rule.

Commission staff estimates that, on average, the board of directors takes 15 minutes to adopt the audit committee charter. Commission staff has estimated that with an average of 8 directors on the board,[4] total director time to adopt the charter is 2 hours. Combined with an estimated 1 hour of paralegal time to prepare the charter for board review, the staff estimates a total one-time collection of information burden of 3 hours for each fund. Once a board adopts an audit committee charter, a fund generally maintains it in a file cabinet or as a computer file. Commission staff has estimated that there is no annual hourly burden associated with maintaining the charter in this form.[5]

Because virtually all funds extant have now adopted audit committee charters, the annual one-time collection of information burden associated with adopting audit committee charters is limited to the burden incurred by newly established funds. Commission staff estimates that fund sponsors establish approximately 117 new funds each year,[6] and that all of these funds will adopt an audit committee charter in order to rely on rule 32a–4. Thus, Commission staff estimates that the annual one-time hour burden associated with adopting an audit committee charter under rule 32a–4 going forward will be approximately 351 hours.[7]

As noted above, all funds that rely on rule 32a–4 are subject to the ongoing collection of information requirement to preserve a copy of the charter in an easily accessible place. This ongoing requirement, which Commission staff has estimated has no hourly burden, applies to new funds that adopt an audit committee charter each year and to all funds that have previously adopted the charter and continue to maintain it.

When funds adopt an audit committee charter in order to rely on rule 32a–4, they also may incur one-time costs related to hiring outside counsel to prepare the charter. Commission staff estimates that those costs average approximately $1500 per fund.[8]

[1] Rule 32a–4(a).

[2] Rule 32a–4(b).

[3] Rule 32a–4(c).

[4] This estimate is based on staff discussions with a representative of an entity that surveys funds and calculates fund board statistics based on responses to its surveys.

[5] No hour burden related to such maintenance of the charter was identified by the funds the Commission staff surveyed. Commission staff understands that many audit committee charters have been significantly revised after their adoption in response to the Sarbanes-Oxley Act (Pub. L. 107–204, 116 Stat. 745) and other developments. However, the costs associated with these revisions are not attributable to the requirements of rule 32a–4.

[6] This estimate is based on the number of Form N–8As filed from January 2010 through December 2010.

[7] This estimate is based on the following calculation: (3.0 burden hours for establishing charter × 117 new funds = 351 burden hours).

[8] Costs may vary based on the individual needs of each fund. However, based on the staff's conversations with outside counsel that prepare these charters, legal fees related to the preparation and adoption of an audit committee charter usually average $1500 or less. The Commission also understands that the ICI has prepared a model audit committee charter, which most legal professionals

Commission staff understands that virtually all funds now rely on rule 32a–4 and have adopted audit committee charters, and thus estimates that the annual cost burden related to hiring outside legal counsel is limited to newly established funds.

As noted above, Commission staff estimates that approximately 117 new funds each year will adopt an audit committee charter in order to rely on rule 32a–4. Thus, Commission staff estimates that the ongoing annual cost burden associated with rule 32a–4 in the future will be approximately $175,500.[9]

The estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

The collections of information required by rule 32a–4 are necessary to obtain the benefits of the rule. The Commission is seeking OMB approval, because 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 control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimates of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections 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 written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

use when establishing audit committees, thereby reducing the costs associated with drafting a charter.

[9] This estimate is based on the following calculations: ($1500 cost of adopting charter × 117 newly established funds = $175,500).

Dated: June 6, 2011.

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–14390 Filed 6–9–11; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–64604; File No. SR–FICC–2011–04]**

## Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit Brokers To Process Specified Pool Trade Activity at the Mortgage-Backed Securities Division in Broker Accounts

June 6, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on May 31, 2011, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared primarily by FICC. FICC filed the proposal pursuant to Section 19(b)(3)(A) of the Act[2] and Rule 19b–4(f)(4)[3] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will permit brokers to process specified pool trade ("SPT") activity at the Mortgage-Backed Securities Division ("MBSD") in broker accounts.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A).

[3] 17 CFR 240.19b–4(f)(4).

[4] The Commission has modified the text of the summaries prepared by FICC.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of this proposed rule change is to implement certain technical enhancements necessary to permit brokers to process SPT activity at MBSD in their broker accounts. SPT activity is currently processed by brokers in their dealer accounts.

MBSD's systems do not currently permit processing of SPT activity in broker accounts. If, after a broker submits an SPT through its dealer account the dealer counterparty submits the other side of the transaction against the broker's broker account (instead of the broker's dealer account), the dealer is required to make a correction to trade input to reflect the correct account. By permitting brokers to process SPT activity in their broker accounts, the proposed change would eliminate a cause of the corrections to trade input and thereby improve efficiency and reduce operational risk. The proposed change enhances FICC's existing services and does not eliminate any of FICC's existing services.[5] FICC will notify members of the effective date of the proposed rule change by Important Notice.

FICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder applicable to FICC because it is designed to promote the prompt and accurate clearance and settlement of securities transactions by enhancing an existing service offering and eliminating a cause of corrections to trade input.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

FICC does not believe that the proposed rule change will have any impact or impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

[5] MBSD will continue to support the processing of SPT activity in dealer accounts.

[6] 15 U.S.C. 78q–1.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(4)[8] thereunder because the proposed rule change effects a change in an existing service of a registered clearing agency that: (i) Does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible; and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. 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.

**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–FICC–2011–04 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–FICC–2011–04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://dtcc.com/downloads/legal/rule_filings/2011/ficc/2011-04.pdf*. 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–FICC–2011–04 and should be submitted on or before July 1, 2011.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Cathy H. Ahn,**

*Deputy Secretary .*

[FR Doc. 2011–14388 Filed 6–9–11; 8:45 am]

**BILLING CODE 8011–01–P**

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(4).

[9] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–64608; File No. SR–NYSEArca–2011–31]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade the Shares of the WisdomTree Dreyfus Euro Debt Fund Under NYSE Arca Equities Rule 8.600

June 6, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on May 24, 2011, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to list and trade the shares ("Shares") of the following fund of the WisdomTree Trust (the "Trust") under NYSE Arca Equities Rule 8.600 ("Managed Fund Shares"): WisdomTree Dreyfus Euro Debt Fund. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to list and trade the Shares of the WisdomTree Dreyfus Euro Debt Fund ("Fund") under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange.[3] The Shares will be offered

[3] The Commission approved NYSE Arca Equities Rule 8.600 and the listing and trading of certain funds of the PowerShares Actively Managed Funds Trust on the Exchange pursuant to Rule 8.600 in Securities Exchange Act Release No. 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR–NYSEArca–2008–25). The Commission also previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively managed funds of the WisdomTree Trust); 58564 (September 17, 2008), 73 FR 55194 (September 24, 2008) (SR–NYSEArca–2008–86) (order approving Exchange listing and trading of WisdomTree Dreyfus Emerging Currency Fund); 62604 (July 30, 2010), 75 FR 47323 (August 5, 2010) (SR–NYSEArca–2010–49) (order approving listing and trading of WisdomTree Emerging Markets Local Debt Fund); 62623 (August 2, 2010), 75 FR 47652 (August 6, 2010) (SR–NYSEArca–2010–51) (order approving listing and trading of WisdomTree Dreyfus Commodity Currency Fund); 63598 (December 22, 2010), 75 FR 82106 (December 29, 2010) (SR–NYSEArca–2010–98) (order approving listing and trading of WisdomTree Managed Futures Strategy Fund); and 63919 (February 16, 2011), 76 FR 10073 (February 23, 2011) (SR–NYSEArca–

by the Trust, which was established as a Delaware statutory trust on December 15, 2005. The Trust is registered with the Commission as an investment company and the Fund has filed a registration statement on Form N–1A ("Registration Statement") with the Commission. The Fund is currently known as the "WisdomTree Dreyfus Euro Fund" and is an actively managed exchange-traded fund. The Commission approved listing and trading on the Exchange of the WisdomTree Dreyfus Euro Fund pursuant to Section 19(b)(2) of the Exchange Act on May 8, 2008 ("May 2008 Order").[4] On April 14, 2011, the WisdomTree Dreyfus Euro Fund filed a supplement to its Registration Statement (the "Supplement") pursuant to Rule 497 under the Securities Act of 1933.[5] As stated in the Supplement, the WisdomTree Dreyfus Euro Fund, effective on or after June 27, 2011, will change its investment objective and strategy and will be renamed the "WisdomTree Dreyfus Euro Debt Fund."[6] The WisdomTree Dreyfus Euro Fund's new name, investment objective, and investment strategies, which are not reflected in the May 2008 Order, are described below. Shareholders of the WisdomTree Dreyfus Euro Fund who wish to remain in the Fund do not need to take any action. Shareholders who do not wish to remain invested in the Fund may sell their Shares at any time.

Description of the Shares and the Fund

WisdomTree Asset Management, Inc. ("WisdomTree Asset Management") is the investment adviser ("Adviser") to the Fund.[7] The Dreyfus Corporation serves as sub-adviser for the Fund ("Sub-Adviser").[8] The Bank of New York Mellon is the administrator, custodian and transfer agent for the Trust. ALPS Distributors, Inc. serves as the distributor for the Trust.[9]

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the Investment Company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio.[10] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not affiliated with any broker-dealer. The Sub-Adviser is affiliated with multiple broker-dealers and has implemented a "fire wall" with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, Sub-Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, they [sic] will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

WisdomTree Dreyfus Euro Debt Fund

As noted above, effective on or after June 27, 2011, the WisdomTree Dreyfus Euro Fund will change its investment objective and investment strategies and be renamed the "WisdomTree Dreyfus Euro Debt Fund." Upon implementation of the change, the Fund's new investment objective will be to seek a high level of total returns consisting of both income and capital appreciation and its investment strategies will be changed as described below.[11]

Euro-Denominated Debt

Under normal circumstances, the Fund will invest at least 80% of its net assets in Fixed Income Securities denominated in Euros.[12] For purposes of this proposed rule change, Fixed Income Securities include bonds, notes or other debt obligations, such as government or corporate bonds, denominated in Euros, including issues denominated in Euros that are issued by "supranational issuers," such as the European Investment Bank, International Bank for Reconstruction and Development, and the International Finance Corporation, or other regional

2010–116) (order approving listing and trading of WisdomTree Asia Local Debt Fund).

[4] *See* Securities Exchange Act Release No. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively managed funds of the WisdomTree Trust).

[5] 15 U.S.C. 77a *et seq.*

[6] *See* Form 497, Supplement to Registration Statement on Form N–1A for the Trust, dated April 14, 2011 (File Nos. 333–132380 and 811–21864). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Supplement and the Registration Statement.

[7] WisdomTree Investments, Inc. ("WisdomTree Investments") is the parent company of WisdomTree Asset Management.

[8] The Sub-Adviser is responsible for day-to-day management of the Fund and, as such, typically makes all decisions with respect to portfolio holdings. The Adviser has ongoing oversight responsibility.

[9] The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) ("1940 Act"). *See* Investment Company Act Release No. 28171 (October 27, 2008) (File No. 812–13458). In compliance with Commentary .05 to NYSE Arca Equities Rule 8.600, which applies to Managed Fund Shares based on an international or global portfolio, the Trust's application for exemptive relief under the 1940 Act states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933 (15 U.S.C. 77a).

[10] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[11] The Adviser represents that the Supplement has been sent to existing Shareholders of the Fund to notify them of the planned change. The Supplement and additional information have been posted on the Fund's website at *http://www.wisdomtree.com.*

[12] The term "under normal market circumstances" includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

development banks, as well as development agencies supported by other national governments. Under normal circumstances, the Fund may invest up to 20% of its assets in Fixed Income Securities denominated in U.S. dollars. The Fund may invest in Money Market Securities and derivative and other instruments, as described below.[13]

The Fund intends to focus its investments on "Sovereign Debt." For these purposes, Sovereign Debt means Fixed Income Securities issued by governments, government agencies and government-sponsored enterprises of countries in the European Union ("EU") that are denominated in Euros.[14] This includes inflation-linked bonds designed to provide protection against increases in general inflation rates. The Fund may invest up to 20% of its net assets in corporate debt of companies organized in EU countries or that have significant economic ties to EU countries. The Fund will invest only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid. Generally, a corporate bond must have $200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment. Economic and other conditions may, from time to time, lead to a decrease in the average par amount outstanding of bond issuances. Therefore, although the Fund does not intend to do so, the Fund may invest up to 5% of its net assets in corporate bonds with less than $200 million par amount outstanding if (i) the Adviser or Sub-Adviser deems such security to be sufficiently liquid based on its analysis of the market for such security (based on, for example, broker-dealer quotations or its analysis of the trading history of the security or the trading history of other securities issued by the issuer), (ii) such investment is consistent with the Fund's goal of providing exposure to a broad range of Fixed Income Securities denominated in Euros, and (iii) such investment is deemed by the Adviser or Sub-Adviser to be in the best interest of the Fund.

The Fund intends to provide broad exposure to countries in the EU. As a general matter, the Fund will invest a higher percentage of its assets in countries with larger and more liquid debt markets. The Fund's exposure to any single country generally will be limited to 20% of the Fund's assets. The percentage of Fund assets invested in a specific country or issuer will change from time to time.

The universe of Euro-denominated Fixed Income Securities currently includes securities that are rated "investment grade" as well as "non-investment grade." As the Fund intends to provide broad-based exposure to Euro-denominated Fixed Income Securities, the Fund will invest in both investment-grade and non-investment-grade securities. Securities rated investment grade generally are considered to be of higher credit quality and subject to lower default risk. Although securities rated below investment grade may offer the potential for higher yields, they generally are subject to a higher potential risk of loss. The Fund expects to have 75% or more of its assets invested in investment grade bonds, though this percentage may change from time to time in accordance with market conditions and the debt ratings assigned to countries and issuers.

Because the debt ratings of issuers will change from time to time, the exact percentage of the Fund's investments in investment grade and non-investment grade Fixed Income Securities will change from time to time in response to economic events and changes to the credit ratings of such issuers. Within the non-investment grade category some issuers and instruments are considered to be of lower credit quality and at higher risk of default. In order to limit its exposure to these more speculative credits, the Fund will not invest more than 10% of its assets in securities rated BB or below by Moody's, or equivalently rated by S&P or Fitch. The Fund does not intend to invest in unrated securities. However, it may do so to a limited extent, such as where a rated security becomes unrated, if such security is determined by the Adviser and Sub-Adviser to be of comparable quality. In determining whether a security is of "comparable quality," the Adviser or Sub-Adviser will consider, for example, current information about the credit quality of the issuer and whether or not the issuer of the security has issued other rated securities.

The Fund attempts to limit interest rate risk by maintaining an aggregate portfolio duration of between two and eight years under normal market conditions. Aggregate portfolio duration is important to investors as an indication of the Fund's sensitivity to changes in interest rates. Funds with higher durations generally are subject to greater interest rate risk. An aggregate portfolio duration of between two and eight years generally would be considered to be "intermediate." The Fund's actual portfolio duration may be longer or shorter depending upon market conditions. The Fund may also invest in short-term Money Market Securities (as defined below) denominated in the currencies of countries in which the Fund invests.

The Fund intends to invest in Fixed Income Securities of at least 13 non-affiliated issuers. The Fund will not concentrate 25% or more of the value of its total assets (taken at market value at the time of each investment) in any one industry, as that term is used in the 1940 Act (except that this restriction does not apply to obligations issued by the U.S. government, or any non-U.S. government, or their respective agencies and instrumentalities or government-sponsored enterprises).[15]

The Fund intends to qualify each year as a regulated investment company (a "RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended.[16] The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M. The Subchapter M diversification tests generally require that (i) the Fund invest no more than 25% of its total assets in securities (other than securities of the U.S. government or other RICs) of any one issuer or two or more issuers that are controlled by the Fund and that are engaged in the same, similar or related trades or businesses, and (ii) at least 50% of the Fund's total assets consist of cash and cash items, U.S. government securities, securities of other RICs and other securities, with investments in such other securities limited in respect of any one issuer to an amount not greater than 5% of the value of the Fund's total assets and 10% of the outstanding voting securities of such issuer.

In addition to satisfying the above referenced RIC diversification requirements, no portfolio security held by the Fund (other than U.S. government securities and non-U.S. government securities) will represent

[13] As of February 17, 2011, the amount of Euro-denominated debt outstanding exceeded US$19.2 trillion. Source: Deutsche Bundesbank, at *http://www.bundesbank.de/statistik/statistik_eszb_neuesfenster_tabelle.php?stat=debt_securities&lang=.en.*

[14] As of February 17, 2011, the amount of sovereign Euro-denominated debt outstanding exceeded US$8.02 trillion. Source: Deutsche Bundesbank, at *http://www.bundesbank.de/statistik/statistik_eszb_neuesfenster_tabelle.php?stat=debt_securities&lang=.en.*

[15] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[16] 26 U.S.C. 851.

more than 30% of the weight of the Fund's portfolio and the five highest weighted portfolio securities of the Fund (other than U.S. government securities and/or non-U.S. government securities) will not in the aggregate account for more than 65% of the weight of the Fund's portfolio. For these purposes, the Fund may treat repurchase agreements collateralized by U.S. government securities or non-U.S. government securities as U.S. or non-U.S. government securities, as applicable.

Money Market Securities

Assets not invested in Fixed Income Securities generally will be invested in Money Market Securities. The Fund intends to invest in Money Market Securities in order to help manage cash flows in and out of the Fund, such as in connection with payment of dividends or expenses, and to satisfy margin requirements, to provide collateral or to otherwise back investments in derivative instruments. For these purposes, Money Market Securities include: short-term, high-quality obligations issued or guaranteed by the U.S. Treasury or the agencies or instrumentalities of the U.S. government; short-term, high-quality securities issued or guaranteed by non-U.S. governments, agencies and instrumentalities; repurchase agreements backed by short-term U.S. government securities or non-U.S. government securities; money market mutual funds; and deposits and other obligations of U.S. and non-U.S. banks and financial institutions. All Money Market Securities acquired by the Fund will be rated investment grade, except that the Fund may invest in unrated Money Market Securities that are deemed by the Adviser or Sub-Adviser to be of comparable quality to Money Market Securities rated investment grade. In determining whether a security is of "comparable quality," the Adviser or Sub-Adviser will consider, for example, current information about the credit quality of the issuer and whether or not the issuer of the security has issued other rated securities.

Derivative Instruments and Other Investments

The Fund may use derivative instruments as part of its investment strategies. Examples of derivative instruments include listed futures contracts,[17] forward currency contracts, non-deliverable forward currency contracts, currency and interest rate swaps, currency options, options on futures contracts, swap agreements and credit-linked notes.[18] The Fund's use of derivative instruments (other than credit-linked notes) will be collateralized or otherwise backed by investments in short term, high-quality U.S. Money Market Securities. Under normal circumstances, the Fund will invest no more than 20% of the value of the Fund's net assets in derivative instruments. Such investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

With respect to certain kinds of derivative transactions entered into by the Fund that involve obligations to make future payments to third parties, including, but not limited to, futures, forward contracts, swap contracts, the purchase of securities on a when-issued or delayed delivery basis, or reverse repurchase agreements, the Fund, in accordance with applicable federal securities laws, rules, and interpretations thereof, will "set aside" liquid assets to "cover" open positions with respect to such transactions.[19]

The Fund may engage in foreign currency transactions, and may invest directly in foreign currencies in the form of bank and financial institution deposits, certificates of deposit, and bankers acceptances denominated in a specified non-U.S. currency. The Fund may enter into forward currency contracts in order to "lock in" the exchange rate between the currency it will deliver and the currency it will receive for the duration of the contract.

The Fund may enter into swap agreements, including interest rate swaps and currency swaps (*e.g.,* Euro vs. U.S. dollar), and may buy or sell put and call options on foreign currencies, either on exchanges or in the over-the-counter market. The Fund may enter into repurchase agreements with counterparties that are deemed to present acceptable credit risks, and may enter into reverse repurchase agreements, which involve the sale of securities held by the Fund subject to its agreement to repurchase the securities at an agreed upon date or upon demand and at a price reflecting a market rate of interest.

The Fund may invest in the securities of other investment companies (including money market funds and exchange-traded funds ("ETFs")). The Fund may invest up to an aggregate amount of 15% of its net assets in (a) illiquid securities and (b) Rule 144A securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets.[20]

The Fund will not invest in non-U.S. equity securities.

The Shares

The Fund issues and redeems Shares on a continuous basis at net asset value ("NAV")[21] only in large blocks of Shares ("Creation Units") in transactions with authorized participants. Creation Units

[17] The listed futures contracts in which the Fund will invest may be listed on exchanges in the U.S. or in London, Hong Kong or Singapore. Each of the United Kingdom's primary financial markets regulator, the Financial Services Authority, Hong Kong's primary financial markets regulator, the Securities and Futures Commission, and Singapore's primary financial markets regulator, the Monetary Authority of Singapore, are signatories to the International Organization of Securities Commissions ("IOSCO") Multilateral Memorandum of Understanding ("MMOU"), which is a multi-party information sharing arrangement among major financial regulators. Both the Commission and the Commodity Futures Trading Commission are signatories to the IOSCO MMOU.

[18] The Fund may invest in credit-linked notes. A credit linked note is a type of structured note whose value is linked to an underlying reference asset. Credit linked notes typically provide periodic payments of interest as well as payment of principal upon maturity. The value of the periodic payments and the principal amount payable upon maturity are tied (positively or negatively) to a reference asset such as an index, government bond, interest rate or currency exchange rate. The ongoing payments and principal upon maturity typically will increase or decrease depending on increases or decreases in the value of the reference asset. The Fund's investments in credit-linked notes will be limited to notes providing exposure to Fixed Income Securities denominated in Euros. The Fund's overall investment in credit-linked notes will not exceed 25% of the Fund's assets.

[19] *See* 15 U.S.C. 80a–18. *See also* Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); Dreyfus Strategic Investing, Commission No-Action Letter (June 22, 1987); Merrill Lynch Asset Management, L.P., Commission No-Action Letter (July 2, 1996).

[20] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 14617 (March 18, 2008), footnote 34. *See also* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the ETF. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[21] The NAV of the Fund's Shares generally is calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4:00 p.m. Eastern time (the "NAV Calculation Time"). NAV per Share is calculated by dividing the Fund's net assets by the number of Fund Shares outstanding. For more information regarding the valuation of Fund investments in calculating the Fund's NAV, see the Registration Statement.

generally will consist of 100,000 Shares, though this may change from time to time. Creation Units are not expected to consist of less than 50,000 Shares. The Fund generally will issue and redeem Creation Units in exchange for a portfolio of Fixed Income Securities closely approximating the holdings of the Fund and/or a designated amount of cash in U.S. dollars. Once created, Shares of the Fund will trade on the secondary market in amounts less than a Creation Unit. Shares may be redeemed from the Fund only in Creation Unit aggregations. Upon delivery and settlement of the Shares upon redemption, the Fund will deliver to the redeeming authorized participant a designated basket of Fixed Income Securities and an amount of cash. Together, such Fixed Income Securities and amount of cash constitute the "Redemption Payment." The Redemption Payment may consist entirely of cash at the discretion of the Fund.

Additional information regarding the Shares and the Fund, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement.

Availability of Information

The Fund's Web site (*http://www.wisdomtree.com*), which will be publicly available prior to the public offering of Shares, will include a form of the Prospectus for the Fund that may be downloaded. The website will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),[22] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session [23] on the Exchange, the Trust will disclose on its website the identities and quantities of the portfolio of securities and other assets (the "Disclosed Portfolio") held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[24] The Disclosed Portfolio will include, as applicable, the names, quantity, percentage weighting and market value of Fixed Income Securities, and other assets held by the Fund and the characteristics of such assets. The website and information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 8.600 as the "Portfolio Indicative Value," that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. The Portfolio Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session on the Exchange. In addition, during hours when the markets for Fixed Income Securities in the Fund's portfolio are closed, the Portfolio Indicative Value will be updated at least every 15 seconds during the Core Trading Session to reflect currency exchange fluctuations.

The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to provide a close estimate of that value throughout the trading day.

Information regarding market price and volume of the Shares is and will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association high-speed line.

Intra-day and end-of-day prices are readily available through major market data providers and broker-dealers for the Fixed Income Securities, Money Market Securities and derivative instruments held by the Fund.

Initial and Continued Listing

The Shares will be subject to Rule 8.600, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Exchange Act,[25] as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Shares of the Fund will be halted if the "circuit breaker" parameters in NYSE Arca Equities Rule 7.12 are reached. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. Eastern time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

[22] The Bid/Ask Price of the Fund is determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of such Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[23] The Core Trading Session is 9:30 a.m. to 4 p.m. Eastern time.

[24] Under accounting procedures followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[25] *See* 17 CFR 240.10A–3.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products (which includes Managed Fund Shares) to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange may obtain information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[26]

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit ("ETP") Holders in an Information Bulletin ("Bulletin") of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Exchange Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4 p.m. Eastern time each trading day.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)[27] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. According to the Registration Statement, under normal circumstances, the Fund will invest at least 80% of its net assets in Fixed Income Securities denominated in Euros. The Fund intends to focus its investments on Sovereign Debt, as described above. The Fund will invest up to 20% of its net assets only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid. Generally a corporate bond must have $200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment. The Fund expects to have 75% or more of its assets invested in investment grade bonds, though this percentage may change from time to time in accordance with market conditions and the debt ratings assigned to countries and issuers. Under normal circumstances, the Fund will invest no more than 20% of the value of the Fund's net assets in derivative instruments. Such investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. The Fund will not invest in non-U.S. equity securities.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on its website daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the Portfolio Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares is and will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The website for the Fund will include a form of the Prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed

[26] For a list of the current members of ISG, see *http://www.isgportal.org*. The Exchange notes that not all of the components of the Disclosed Portfolio for the Fund may trade on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[27] 15 U.S.C. 78f(b)(5).

Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

*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 that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission shall:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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–NYSEArca–2011–31 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–NYSEArca–2011–31. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 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 will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2011–31 and should be submitted on or before July 1, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–14415 Filed 6–9–11; 8:45 am]

**BILLING CODE 8011–01–P**

[28] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–64605; File No. SR–DTC–2011–05]**

## Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change To Amend Rules Relating to the Memo Segregation Function

June 6, 2011.

### I. Introduction

On April 15, 2011, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR–DTC–2011–05 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on May 4, 2011.[2] The Commission received no comment letters. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

### II. Description

DTC's Memo Segregation Service ("MSEG") is an optional service which offers a mechanism for broker-dealer participants to protect fully-paid or excess margin securities by allowing the participant to shield from unintended delivery a designated quantity of securities that are in the participant's DTC free account or that may be received during the daily processing cycle. Currently, a participant may set a "counter" for a specified minimum quantity of each security to be held in its account as a threshold to any intraday redelivery. When the counter for a security is greater than the inventory of the participant, MSEG will prevent the delivery of any quantity of the security out of the participant's account unless: (1) The delivery is a permitted delivery (*e.g.,* a free of value ACATS delivery or a "turnaround" as described below) or (2) the participant provides DTC with new instructions to reduce the MSEG counter.

The MSEG procedures currently support two optional "turnaround" MSEG indicators which enable participants to make deliveries for certain transaction types (including, but not limited to, stock loans and stock loan returns) from certain positions received intraday regardless of any MSEG-related deficit. Recently, DTC was advised by the Regulatory and Clearance Committee of the Securities

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 64360 (April 28, 2011), 76 FR 25389 (May 4, 2011).

Operations Section of SIFMA that several broker-dealer participants had expressed concern that their practices for turnaround of stock loans and stock loan returns (*i.e.,* MSEG overrides) may be deemed by FINRA to be contrary to the Commission's Rule 15c3–3 ("Customer Protection Rule").[3] DTC also communicated directly with participants affected through their use of this functionality, and they expressed similar concerns. In order to accommodate its participants in this regard, DTC is revising its procedures so that MSEG will no longer permit stock loan or stock loan return-related turnaround deliveries for a security when there is an MSEG deficit in the account.

In order to effect the rule change described above, DTC is amending its Settlement Service Guide ("Service Guide"), which is incorporated into DTC's procedures, to make existing indicators that allow for the turnaround of stock loans and stock loan returns more restrictive. As a result, the procedures will no longer permit deliveries for stock loans, stock loan returns, The Options Clearing Corporation ("OCC") stock loans, OCC stock loan returns, American Depository Receipt ("ADR") stock loans, and ADR stock loan returns to be completed from turnaround shares when an MSEG deficit exists.[4]

## III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[5] The Commission finds that DTC's rule change, which should reduce the risk of unintended deliveries by broker-dealer participants of customer fully paid and excess margin securities in violation of the Customer Protection Rule, is consistent with this obligation under the Exchange Act because it should help DTC participants to better protect and have possession of customer fully-paid and excess margin securities that are held at DTC and in general, because it helps protect investors and the public interest.

Accordingly, for the reasons stated above the Commission believes that the proposed rule change is consistent with DTC's obligation under Section 17A of the Exchange Act, as amended, and the rules and regulations thereunder.[6]

## IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, particularly with the requirements of Section 17A of the Act, and the rules and regulations thereunder.

*It Is Therefore Ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2011–05) be and hereby is approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[7]

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–14389 Filed 6–9–11; 8:45 am]

**BILLING CODE 8011–01–P**

[3] 17 CFR 204.15c3–3.

[4] The proposed change will also eliminate references in the Settlement Service Guide that MSEG-related functions are processed through the Participant Terminal System (PTS), as participants may currently use various platforms to communicate with DTC.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 17 CFR 200.30–3(a)(12).

# SMALL BUSINESS ADMINISTRATION

## Action Subject to Intergovernmental Review

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** Under Executive Order 12372, the Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 22 existing Small Business Development Centers (SBDCs) for refunding on October 1, 2011, subject to the availability of funds. Nine states do not participate in the EO 12372 process; therefore, their addresses are not included. A short description of the SBDC program follows in the **SUPPLEMENTARY INFORMATION** section below.

The SBA is publishing this notice at least 90 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the address section. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

**DATES:** A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding within 30 days from the date of publication of this notice to the SBDC.

**ADDRESSES:** *Addresses of Relevant SBDC State Directors:*

Mr. Al Salgado, Region Director, Univ. of Texas at San Antonio, 501 West Durango Blvd., San Antonio, TX 78207, (210) 458–2450.

Ms. Kristina Oliver, State Director, West Virginia Development Office, 1900 Kanawha Blvd., East, Bldg. 6, Rm. 504, Charleston, WV 25305, (304) 558–2960.

Mr. Clinton Tymes, State Director, University of Delaware, One Innovation Way, Suite 301, Newark, DE 19711, (302) 831–2747.

Ms. Carmen Marti, SBDC Director, Inter American University of Puerto Rico, Ponce de Leon Avenue, #416, Edificio Union Plaza, Seventh Floor, Hato Rey, PR 00918, (787) 763–6811.

Mr. Michael Young, Region Director, University of Houston, 2302 Fannin, Suite 200, Houston, TX 77002, (713) 752–8425.

Ms. Becky Naugle, State Director, University of Kentucky, One Quality Street, Lexington, KY 40507, (859) 257–7668.

Ms. Liz Klimback, Region Director, Dallas Community College, 1402 Corinth Street, Dallas, TX 75212, (214) 860–5835.

Ms. Rene Sprow, State Director, Univ. of Maryland at College Park, 7100 Baltimore Avenue, Suite 401, Baltimore, MD 20742–1815, (301) 403–8300.

Mr. Craig Bean, Region Director, Texas Tech University, 2579 South Loop 289, Suite 114, Lubbock, TX 79423–1637, (806) 745–3973.

Ms. Leonor Dottin, SBDC Director, University of the Virgin Islands, 8000 Nisky Center, Suite 720, St. Thomas, USVI 00802–5804, (340) 776–3206.

Mr. Max Summers, State Director, University of Missouri, 410 South Sixth Street, 200, Engineering North, Columbia, MO 65211, (573) 882–1348.

Mr. Jim Heckman, State Director, Iowa State University, 2321 North Loop Drive, Suite 202, Ames, IA 50011, (515) 294–2037.

Ms. Lenae Quillen-Blume, State Director, Vermont Technical College, P.O. Box 188, Randolph Center, VT 05061–0188, (802) 728–9101.

**FOR FURTHER INFORMATION CONTACT:** Antonio Doss, Associate Administrator for SBDCs, U.S. Small Business Administration, 409 Third Street, SW., Sixth Floor, Washington, D.C. 20416.

**SUPPLEMENTARY INFORMATION:**

## Description of the SBDC Program

A partnership exists between SBA and an SBDC. SBDCs offer training,

counseling and other business development assistance to small businesses. Each SBDC provides services under a negotiated Cooperative Agreement with SBA, the general management and oversight of SBA, and a state plan initially approved by the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

**Program Objectives**

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) Strengthen the small business community;

(b) increase economic growth;

(c) assist more small businesses; and

(d) broaden the delivery system to more small businesses.

**SBDC Program Organization**

The lead SBDC operates a statewide or regional network of SBDC service centers. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

**SBDC Services**

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

**SBDC Program Requirements**

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

(a) Locate service centers so that they are as accessible as possible to small businesses;

(b) Open all service centers at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) Develop working relationships with financial institutions, the investment community, professional associations, private consultants and small business groups; and

(d) Maintain lists of private consultants at each service center.

Dated: June 2, 2011.

**Antonio Doss,**

*Associate Administrator, Office of Small Business Development Centers.*

[FR Doc. 2011–14377 Filed 6–9–11; 8:45 am]

BILLING CODE P

## SMALL BUSINESS ADMINISTRATION

### Action Subject to Intergovernmental Review

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** Under Executive Order 12372, the Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 39 existing Small Business Development Centers (SBDCs) for refunding on January 1, 2012 subject to the availability of funds. Twenty states do not participate in the EO 12372 process therefore, their addresses are not included. A short description of the SBDC program follows in the supplementary information below.

The SBA is publishing this notice at least 90 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the address section. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

**DATES:** A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding within 30 days from the date of publication of this notice to the SBDC.

**ADDRESSES:**

ADDRESSES OF RELEVANT SBDC STATE DIRECTORS

Mr. Sherman Wilkinson, Acting State Director, Salt Lake Community College, 9750 South 300 West, Sandy, UT 84070, (801) 957–3481.

Ms. Michelle Abraham, State Director, University of South Carolina, 1705 College Street, Columbia, SC 29208, (803) 777–4907.

Ms. Diane R. Howerton, Regional Director, University of California, Merced, 550 East Shaw, Suite 100, Fresno, CA 93710, (559) 241–7406.

Ms. Debbie Trujillo, Regional Director, SW Community College District, 900 Otey Lakes Road, Chula Vista, CA 91910, (619) 482–6388.

Mr. Casey Jeszenka, SBDC Director, University of Guam, P.O. Box 5014—U.O.G. Station, Mangilao, GU 96923, (671) 735–2590.

Mr. Dan Ripke, Regional Director, California State University, Chico, Building 35, CSU Chico, Chico, CA 95929, (530) 898–4598.

Ms. Priscilla Lopez, Regional Director, California State University, Fullerton, 800 North State College Blvd., Fullerton, CA 92834, (657) 278–2719.

Mr. Herbert Thweatt, Director, American Samoa Community College, P.O. Box 2609, Pago Pago, American Samoa 96799, 011–684–699–4830.

Jerry Cartwright, State Director, University of West Florida, 401 East Chase Street, Suite 100, Pensacola, FL 32502, (866) 737–7232.

Mr. Sam Males, State Director, University of Nevada Reno, College of Business Admin., Room 411, Reno, NV 89557–0100, (775) 784–1717.

Mr. Mark DeLisle, State Director, University of Southern Maine, 96 Falmouth Street, Portland, ME 04103, (207) 780–4420.

Mr. James Alva, Interim Regional Director, Long Beach Community College, 4900 E. Conant Street, Suite 108, Lakewood, CA 90712, (562) 938–5004.

Ms. Kristin Johnson, Regional Director, Humboldt State University, Office of Economic & Community Dev., 1 Harpst Street, House 71, Room 110, Arcata, CA 95521, (707) 826–3920.

**FOR FURTHER INFORMATION CONTACT:** Antonio Doss, Associate Administrator for SBDCs, U.S. Small Business Administration, 409 Third Street, SW., Sixth Floor, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:**

**Description of the SBDC Program**

A partnership exists between SBA and an SBDC. SBDCs offer training,

counseling and other business development assistance to small businesses. Each SBDC provides services under a negotiated Cooperative Agreement with the SBA. SBDCs operate on the basis of a state plan to provide assistance within a state or geographic area. The initial plan must have the written approval of the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

**Program Objectives**

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) Strengthen the small business community;

(b) Increase economic growth;

(c) Assist more small businesses; and

(d) Broaden the delivery system to more small businesses.

**SBDC Program Organization**

The lead SBDC operates a statewide or regional network of SBDC service centers. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

**SBDC Services**

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

**SBDC Program Requirements**

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

(a) Locate service centers so that they are as accessible as possible to small businesses;

(b) Open all service centers at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) Develop working relationships with financial institutions, the investment community, professional associations, private consultants and small business groups; and

(d) Maintain lists of private consultants at each service center.

Dated: June 2, 2011.

**Antonio Doss,**

*Associate Administrator, Office of Small Business Development Centers.*

[FR Doc. 2011–14376 Filed 6–9–11; 8:45 am]

BILLING CODE P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #12584 and #12585]**

### Alabama Disaster Number AL–00037

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 4.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Alabama (FEMA-1971-DR), dated 04/28/2011.

*Incident:* Severe storms, tornadoes, straight-line winds, and flooding.

*Incident Period:* 04/15/2011 through 05/31/2011.

*Effective Date:* 05/31/2011.

*Physical Loan Application Deadline Date:* 06/27/2011.

*Economic Injury (EIDL) Loan Application Deadline Date:* 01/30/2012.

**ADDRESSES:** *Submit completed loan applications to:* U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Alabama, dated 04/28/2011, is hereby amended to establish the incident period for this disaster as beginning 04/15/2011 and continuing through 05/31/2011. All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008.)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2011–14256 Filed 6–9–11; 8:45 am]

BILLING CODE 8025–01–M

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #12578 and #12579]**

### Missouri Disaster Number MO–00049

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Missouri (FEMA–1980–DR), dated 05/09/2011.

*Incident:* Severe Storms, Tornadoes, and Flooding.

*Incident Period:* 04/19/2011 and continuing.

*Effective Date:* 05/27/2011.

*Physical Loan Application Deadline Date:* 07/08/2011.

*Economic Injury (EIDL) Loan Application Deadline Date:* 02/09/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Missouri, dated 05/09/2011, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties*: Bollinger, Butler, Howell, Iron, Madison, Mcdonald, Perry, Reynolds, Sainte Genevieve, Scott, Stoddard, Taney, Wayne.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2011–14116 Filed 6–9–11; 8:45 am]

BILLING CODE 8025–01–M

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #12545 and #12546]**

### Alabama Disaster Number AL–00036

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment #7.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Alabama (FEMA–1971–DR), dated 04/28/2011.

*Incident:* Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

*Incident Period:* 04/15/2011 and continuing.

*Effective Date:* 06/01/2011.

*Physical Loan Application Deadline Date:* 06/27/2011.

*EIDL Loan Application Deadline Date:* 01/30/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the Presidential disaster declaration for the State of Alabama, dated 04/28/2011 is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties:* (Physical Damage and Economic Injury Loans): Escambia.

*Contiguous Counties:* (Economic Injury Loans Only):

Alabama: Covington.

Florida: Okaloosa, Escambia, Santa Rosa.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2011–14252 Filed 6–9–11; 8:45 am]

**BILLING CODE 8025–01–M**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #12576 and #12577]**

### Missouri Disaster Number MO–00048

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 3.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1980–DR), dated 05/09/2011.

*Incident:* Severe Storms, Tornadoes, and Flooding.

*Incident Period:* 04/19/2011 and continuing.

*Effective Date:* 05/27/2011.

*Physical Loan Application Deadline Date:* 07/08/2011.

*EIDL Loan Application Deadline Date:* 02/09/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the Presidential disaster declaration for the State of Missouri, dated 05/09/2011 is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties: (Physical Damage and Economic Injury Loans):*

Bollinger, Dunklin, Pemiscot, Phelps, Reynolds, Saint Francois.

*Contiguous Counties: (Economic Injury Loans Only):*

Missouri: Crawford, Dent, Gasconade, Iron, Madison, Sainte Genevieve, Washington.

Arkansas: Craighead, Greene.

Mississippi

Tennessee: Dyer.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2011–14114 Filed 6–9–11; 8:45 am]

**BILLING CODE 8025–01–M**

## DEPARTMENT OF STATE

**[Public Notice 7499]**

### 30-Day Notice of Proposed Information Collection: NEA/PI Online Performance Reporting System (PRS)

**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 30 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:* NEA/PI Online Performance Reporting System (PRS).
- *OMB Control Number:* 1405–0183.
- *Type of Request:* Renewal.
- *Originating Office:* NEA/PI.
- *Form Number:* DS–4127.
- *Respondents:* Recipients of NEA/PI grants.
- *Estimated Number of Respondents:* 70 respondents annually.
- *Estimated Number of Responses:* 280 per year.
- *Average Hours per Response:* 20.
- *Total Estimated Burden:* 5,600 hours per year.
- *Frequency:* Quarterly.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

**DATES:** The Department will accept comments from the public up to 30 days from June 10, 2011.

**ADDRESSES:** Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by any of the following methods:

- *E-mail: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. *Attention:* Desk Officer for Department of State.

**FOR FURTHER INFORMATION CONTACT:** Please 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 Neil Stormer, U.S. Department of State, Office of the Middle East Partnership Initiative (NEA/PI), Bureau of Near Eastern Affairs, NEA Mail Room—Room 6258, 2201 C St., NW., Washington, DC 20520, who may be reached on 202–776–8595 or at *stormernc@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**

Since 2002, MEPI has obligated more than $600 million to over 550 organizations, which carry out more than 850 projects in support of political, economic, education and women's rights reform in 20 countries of the Middle East and North Africa. As a

normal course of business and in compliance with OMB Guidelines contained in Circular A–110, recipient organizations are required to provide, and the U.S. State Department is required to collect, periodic program and financial performance reports. The responsibility of the State Department to track and monitor the programmatic and financial performance necessitates a database that can help facilitate this in a consistent and standardized manner. The MEPI Performance Reporting System (PRS) enables enhanced monitoring and evaluation of grants through standardized collection and storage of relevant award elements, such as quarterly progress reports, workplans, results monitoring plans, grant agreements, financial reports, and other business information related to MEPI implementers. The PRS streamlines communication with implementers and allows for rapid identification of information gaps for specific projects.

**Methodology**

Information will be entered into PRS electronically by respondents. Non-respondents will submit their quarterly reports on paper.

**Additional Information**

Dated: June 3, 2011.

**Catherine Bourgeois,**

*Deputy Director, Bureau of Near Eastern Affairs NEA/PI, Department of State.*

[FR Doc. 2011–14450 Filed 6–9–11; 8:45 am]

BILLING CODE 4710–31–P

## DEPARTMENT OF STATE

**[Public Notice 7501]**

### Culturally Significant Objects Imported for Exhibition Determinations: "Lee Ufan: Marking Infinity"

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the object to be included in the exhibition "Lee Ufan: Marking Infinity," imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the Solomon R. Guggenheim Museum, New York, NY, from on or about June 24, 2011, until on or about September 28, 2011, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including the exhibit object list, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: June 6, 2011.

**Ann Stock,**

*Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2011–14447 Filed 6–9–11; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF STATE

**[Public Notice 7498]**

### Determination Related to Serbia Under Section 7072(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010 as Carried Forward Under the Full-Year Continuing Appropriations Act, 2011

Pursuant to the authority vested in me as Deputy Secretary of State, including under section 7072(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010 (Div. F, Pub. L. 111–117), as carried forward under the Full-Year Continuing Appropriations Act, 2011 (Div. B, Pub. L. 112–10), the President's Delegation of Responsibilities Related to the Federal Republic of Yugoslavia, dated March 22, 2001, I hereby determine and certify that the Government of Serbia is:

(1) cooperating with the International Criminal Tribunal for the former Yugoslavia, including access for investigators, the provision of documents, timely information on the location, movement, and sources of financial support of indictees, and the surrender and transfer of indictees or assistance in their apprehension, including Ratko Mladic;

(2) taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

(3) taking steps to implement policies which reflect a respect for minority rights and the rule of law.

This Determination and related Memorandum of Justification shall be provided to the appropriate committees of the Congress. This Determination shall be published in the **Federal Register**.

Dated: June 1, 2011.

**Hilary Rodman Clinton,**

*Secretary of State.*

[FR Doc. 2011–14448 Filed 6–9–11; 8:45 am]

BILLING CODE 4710–23–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 25th Meeting: RTCA Special Committee 206: Aeronautical Information and Meteorological Data Link

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 206: Aeronautical Information and Meteorological Data Link Services meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 206: Aeronautical Information and Meteorological Data Link Services

**DATES:** The meeting will be held June 27–July 1, 2011 from 9 a.m. to 5 p.m.

**ADDRESSES:** The meeting will be held at Vail Marriott, 715 West Lionshead Circle, Vail, CO 81657. Point of Contact is Jeff Rex at (303) 501–4359.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a RTCA Special Committee 206: EUROCAE WG 76 Plenary: AIS and MET Data Link Services meeting.

The agenda will include:

**27 June—Monday**

- 9 a.m.
- Opening Plenary
- Chairmen's remarks and Host's comments
- Introductions
- Approval of previous meeting minutes
- Review and approve meeting agenda
- Schedule for this week
- Action Item Review
- Working Group 1, Work Plan—WG1 Chairmen
- Working Group 2 Work Plan—WG2 Chairmen

- Working Group 3 Work Plan—WG3 Chairmen
- 11 a.m.
- WG1, WG2, and WG3 Meetings

**28 June—Tuesday**

- 9 a.m.
  - Joint Plenary meeting with AEEC Systems Architecture & Interface SC
- 10 a.m.
  - WG1, WG2, and WG3 Meetings

**29 June—Wednesday**

- 9 a.m.
  - WG1, WG2, and WG3 Meetings

**30 June—Thursday**

- 9 a.m.
  - WG1, WG2, and WG3 Meetings
- 3 p.m.
  - Plenary Session
  - Working Group Reports
  - Action Item Review
  - Meeting Plans and Dates
  - Other Business

**1 July—Friday**

- 9 a.m.
  - WG1, WG2, and WG3 Meetings
- 12 p.m.
  - Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 3, 2011.

**Robert L. Bostiga,**

*RTCA Advisory Committee.*

[FR Doc. 2011–14370 Filed 6–9–11; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### RTCA Program Management Committee

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Program Management Committee meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

**DATES:** The meeting will be held June 22, 2011 from 8:30 a.m. to 1:30 p.m.

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, NW., Suite 850, Washington, DC, 20036; *telephone* (202) 833–9339; fax (202) 833–9434; *Web site http://www.rtca.org.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., appendix (2)), notice is hereby given for a RTCA Program Management Committee meeting. The agenda will include:

- Opening Plenary (Welcome and Introductions).
- Review/Approve Summaries:
- March 17, 2011, RTCA Paper No. 085–11/PMC–889.
- May 26, 2011, RTCA Paper No. 102–11/PMC–895.
- Publication Consideration/ Approval.
- Final Draft, New Document, *Safety, Performance, and Interoperability Requirements Document for Airborne Spacing—Flight Deck Interval Management (ASPA–FIM),* RTCA Paper No. 103–11/PMC–896, prepared by SC–186.
- Final Draft, Revised DO–230B, *Integrated Security System Performance Standard for Airport Access Control,* RTCA Paper No. 104–11/PMC–897, prepared by SC–224.
- Final Draft, Revised DO–315A, *Minimum Aviation System Performance Standards (MASPS) for Enhanced Vision Systems, Synthetic* Vision Systems, Combined Vision Systems and Enhanced Flight Vision Systems, prepared by SC–213.
- Integration and Coordination Committee (ICC)—Status Review.
- Action Item Review:
- SC–225—Small and Medium Sized Rechargeable Lithium Batteries and Battery Discussion—Terms of Reference.
- SC–223—Airport Surface Wireless Communications—Discussion .
- SC–222—Inmarsat AMS(R)S—Discussion—Review/Approve Revised Terms of Reference.
- Discussion:
- Aircraft Audio Systems and Equipment—Discussion—Possible New Special Committee to Revise DO–214.
- SC–214—Status, Terms of Reference.
- SC–213—Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS)—Revised Terms of Reference.
- SC–205—Status, Document Delivery Dates and Terms of Reference.
- SC–203—Unmanned Aircraft Systems—Discussion—MASPS and MOPS Schedules.
- SC–159—Global Positioning System—Discussion—.
- NAC/Trajectory Operations—Discussion—Status.
- FAA Actions Taken on Previously Published Documents.
- Special Committees—Chairmen's Reports and Meeting Management.
- Other Business.
- Schedule for Committee Deliverables and Next Meeting Date.
- Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, June 3, 2011.

**Robert L. Bostiga,**

*RTCA Advisory Committee.*

[FR Doc. 2011–14369 Filed 6–9–11; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Civil Supersonic Aircraft Panel Discussion

*Correction*

In notice document 2011–12742 appearing on page 30231 in the issue of Tuesday, May 24, 2011, make the following correction:

Beginning in the second line from the bottom of the first column and continuing to the second line in the second column, the Web site address should read as follows: *https://spreadsheets.google.com/spreadsheet/viewform?formkey=dEFEdlRnYzBiaHZtTUozTHVtbkF4d0E6MQ.*

[FR Doc. C1–2011–12742 Filed 6–9–11; 8:45 am]

**BILLING CODE 1505–01–D**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Monthly Notice of PFC Approvals and Disapprovals. In May 2011, there were six applications approved. This notice also includes information on three applications, approved in April 2011, inadvertently

left off the April 2011 notice. Additionally, nine approved amendments to previously approved applications are listed.

**SUMMARY:** The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

**PFC Applications Approved**

*Public Agency:* County of San Joaquin, Stockton, California.

*Application Number:* 11–05–C–00–SCK.

*Application Type:* Impose and use a PFC.

*PFC Level:* $4.50.

*Total PFC Revenue Approved in this Decision:* $336,996.

*Earliest Charge Effective Date:* September 1, 2011.

*Estimated Charge Expiration Date:* September 1, 2012.

*Class of Air Carriers Not Required To Collect PFC's:* Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Stockton Metropolitan Airport.

*Brief Description Of Projects Approved for Collection and Use:*

Rehabilitation of taxiways H and J.

Terminal hold room expansion.

Aircraft rescue and firefighting building modification.

Rehabilitate runway 11R/29L lighting system.

Rehabilitate airfield markings.

Modify runway 11R/29L distance-to-go signs.

Reconstruct terminal ramp—design.

Reconstruct terminal ramp—construction.

Security equipment—fingerprinting machine (replacement).

PFC Administrative costs.

*Brief Description of Project Partially Approved for Collection and Use:* Aircraft rescue and firefighting radio/crash phone system.

*Determination:* The FAA determined that the proposed hand held radio equipment is not PFC eligible in accordance with § 158.15(b).

*Decision Date:* April 20, 2011.

*For Further Information Contact:* Gretchen Kelly, San Francisco Airports District Office, (650) 876–2778, extension 623.

*Public Agency:* Jacksonville Airport Authority, Jacksonville, Florida.

*Application Number:* 11–10–C–00–JAX.

*Application Type:* Impose and use a PFC.

*PFC Level:* $4.50.

*Total PFC Revenue Approved in this Decision:* $11,352,575.

*Earliest Charge Effective Date:* October 1, 2023.

*Estimated Charge Expiration Date:* July 1, 2024.

*Class Of Air Carriers Not Required To Collect PFC's:* Air taxi/commercial operators.

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Jacksonville International Airport.

*Brief Description Of Projects Approved for Collection and Use at a $4.50 PFC Level:*

Design concourse B apron.

Construct concourse B apron (phase I)—bypass taxiways.

Design and construct runways 13/31, 7/24, and air cargo apron joint seal rehabilitation.

Airfield lighting upgrades.

Aircraft rescue and firefighting vehicle replacement.

Electrical substation and distribution system rehabilitation.

Rehabilitate internal circulation road (aircraft rescue and firefighting access).

Rehabilitate taxiways T and H.

*Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:*

Schematic design of concourse B.

Rehabilitate baggage information display screens.

Rehabilitate internal circulation road (tug road improvements).

PFC implementation and administrative costs.

*Decision Date:* April 26, 2011.

**FOR FURTHER INFORMATION CONTACT:** Susan Moore, Orlando Airports District Office, (407) 812–6331.

*Public Agency:* Port of Portland, Portland, Oregon.

*Application Number:* 11–11–C–00–PDX.

*Application Type:* Impose and use a PFC.

*PFC Level:* $4.50.

*Total PFC Revenue Approved in This Decision:* $327,509,220.

*Earliest Charge Effective Date:* August 1, 2020.

*Estimated Charge Expiration Date:* March 1, 2031.

*Classes of Air Carriers Not Required To Collect PFC'S:*

(1) Air taxi/commercial operators that offer non-scheduled/on-demand air operations that enplane less than 2,500 passengers per year at Portland International Airport (PDX); and (2) commuters or small certificated air carriers that enplane less than 2,500 passengers per year at PDX.

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at PDX.

*Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:*

South runway reconstruction (10R/28L).

Deicing project.

North runway reconstruction (10L/28R).

*Decision Date:* April 28, 2011.

**FOR FURTHER INFORMATION CONTACT:** Dave Roberts, Seattle Airports District Office, (425) 227–2629.

*Public Agency:* Los Angeles World Airports, Los Angeles, California.

*Application Number:* 11–08–C–00–LAX.

*Application Type:* Impose and use a PFC.

*PFC Level:* $3.00.

*Total PFC Revenue Approved in This Decision:* $29,107,609.

*Earliest Charge Effective Date:* March 1, 2019.

*Estimated Charge Expiration Date:* June 1, 2019.

*Class of Air Carriers Not Required To Collect PFC's:*

Air taxi/commercial operators—nonscheduled/on-demand air carriers filing FAA Form 1800–31.

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Los Angeles International Airport.

*Brief Description of Project Partially Approved for Collection and Use:*

Lennox Schools soundproofing program.

*Determination:* The FAA determined that several components of the project were not PFC eligible in accordance with § 158.15(b). Specifically, the FAA disapproved all soundproofing work associated with portable or relocatable classrooms as well as soundproofing of several proposed rooms where activities would not be disrupted by aircraft noise. The FAA also disapproved the use of PFC revenue to replace existing

flooring with carpeting because carpeting does not provide sound attenuation for aircraft noise. Finally, the FAA disapproved design costs listed in the detailed cost information provided in the PFC application because the public agency did not include design in its description and justification of the project.

BRIEF DESCRIPTION OF PROJECT PARTIALLY APPROVED FOR COLLECTION:

Lennox Schools soundproofing program (future sites).

*Determination:* The FAA determined that several components of the project were not PFC eligible in accordance with § 158.15(b). Specifically, the FAA disapproved all soundproofing work associated with relocatable classrooms. The FAA also disapproved the use of PFC revenue to install flooring as a part of the sound mitigation measures because flooring does not provide sound attenuation for aircraft noise. The FAA disapproved the line item identified as "move management" as not being justified for this new construction. Finally, the FAA disapproved design costs listed in the detailed cost information provided in the PFC application because the public agency did not include design in its description and justification of the project.

*Decision Date:* May 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Darlene Williams, Los Angeles Airports District Office, (310) 725–3625.

*Public Agency:* County of Westchester, White Plains, New York.

*Application Number:* 11–06–C–00–HPN.

*Application Type:* Impose and use a PFC.

*PFC Level:* $4.50.

*Total PFC Revenue Approved in This Decision:* $8,000,000.

*Earliest Charge Effective Date:* October 1, 2011.

*Estimated Charge Expiration Date:* August 1, 2013.

Class of Air Carriers Not Required To Collect PFC's:

Non-scheduled/on-demand air carriers, filing FAA Form 1800–31.

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Westchester County Airport.

BRIEF DESCRIPTION OF PROJECT APPROVED FOR COLLECTION AND USE:

Design and construction of conveyance and disposal system for aircraft deicing fluid.

*Decision Date:* May 5, 2011.

*For Further Information Contact:* Andrew Brooks, New York Airports District Office, (516) 227–3816.

*Public Agency:* Roanoke Regional Airport Commission, Roanoke, Virginia.

*Application Number:* 11–03–C–00–ROA.

*Application Type:* Impose and use a PFC.

*PFC Level:* $4.50.

*Total PFC Revenue Approved in This Decision:* $2,191,701.

*Earliest Charge Effective Date:* November 1, 2011.

*Estimated Charge Expiration Date:* January 1, 2013.

Class of Air Carriers Not Required To Collect PFC's:

Carriers required to file FAA Form 1800–31.

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Roanoke Regional Airport.

*Brief Description of Projects Approved for Collection and Use:*

Noise mitigation program (65–69 DNL) phases 5 through 8.

Rehabilitate apron (design and construction) phase 2.

Update airport master plan.

Rehabilitate runway 15/33—phase 3.

Rehabilitate taxiways A and G—phase 3.

Rehabilitate taxiway T.

Acquire aircraft rescue and firefighting land.

Remove obstructions in runway 15 runway protection zone.

Acquire aircraft rescue and firefighting vehicle.

Acquire aircraft deicing equipment.

Acquire runway sweeper.

PFC program formulation.

Annual PFC administrative costs.

*Decision Date:* May 16, 2011.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Breeden, Washington Airports District Office, (703) 661–1363.

*Public Agency:* Airport Authority District Number 1 Calcasiu Parish, Lake Charles, Louisiana.

*Application Number:* 11–03–C–00–LCH.

*Application Type:* Impose and use a PFC.

*PFC Level:* $4.50.

*Total PFC Revenue Approved in This Decision:* $650,000.

*Earliest Charge Effective Date:* November 1, 2013.

*Estimated Charge Expiration Date:* September 1, 2015.

*Class of Air Carriers Not Required To Collect PFC's:*

Air taxi/commercial operators filing FAA Form 1800–31.

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Lake Charles Regional Airport.

*Brief Description of Projects Approved for Collection and Use:*

Acquisition of airport training system.

Loading bridge baggage delivery systems.

Airport access road lighting improvements.

Airfield fencing improvements.

Professional fees.

*Decision Date:* May 20, 2011.

*For Further Information Contact:* Justin Barker, Louisiana/New Mexico Airports Development Office, (817) 222–5628.

*Public Agency:* City of Tyler, Texas.

*Application Number:* 11–05–C–00–TYR.

*Application Type:* Impose and use a PFC.

*PFC Level:* $4.50.

*Total PFC Revenue Approved in This Decision:* $1,782,732.

*Earliest Charge Effective Date:* October 1, 2011.

*Estimated Charge Expiration Date:* September 1, 2017.

*Class of Air Carriers Not Required To Collect PFC's*: None.

*Brief Description of Projects Approved for Collection and Use:*

Construct service road.

Planning study—airport update.

Airfield lighting.

Aircraft rescue and firefighting truck.

Runway 13/31 safety area and visibility zone improvements.

Runway 4/22 safety area improvements. Construct taxiway K.

Gates.

Wildlife hazard assessments.

Security fencing.

Install terminal flight information display system.

Security improvements—finger print.

PFC application and administration fees.

*Decision Date:* May 20, 2011.

*For Further Information Contact*:

Guillermo Villalobos, Texas Airports Development Office, (817) 222–5657.

*Public Agency:* St Joseph County Airport Authority, South Bend, Indiana.

*Application Number:* 11–04–C–00–SBN.

*Application Type:* Impose and use a PFC.

*PFC Level:* $4.50.

*Total PEG Revenue Approved in This Decision:* $6,000,000.

*Earliest Charge Effective Date:* January 1, 2021.

*Estimated Charge Expiration Date:* July 1, 2029.

*Class of Air Carriers Not Required To Collect PFC's:* Non-scheduled/on-demand air carriers, filing FAA Form 1800–31.

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at South Bend Regional Airport.

*Brief Description of Projects Approved for Collection and Use:*

Terminal expansion.
Loading bridges.
Access control.
Public seating.
Architectural services.

*Decision Date:* May 23, 2011.

*For Further Information Contact*: Gregory Sweeny, Chicago Airports District Office, (847) 294–7526.

AMENDMENT TO PFC APPROVALS

| Amendment No. | Amendment approved | Original approved net PFC | Amended approved net PFC | Original estimated charge | Amended estimated charge |
|---|---|---|---|---|---|
| 09–05–C–01–HPN White Plains, NY | 04/25/11 | $18,000,000 | $10,000,000 | 08/01/13 | 10/01/11 |
| 99–05–C–02–SBP San Luis Obispo, CA | 05/02/11 | 1,040,111 | 1,057,676 | 07/01/15 | 06/01/14 |
| 02–07–C–01–SBP San Luis Obispo, CA | 05/02/11 | 1,652,880 | 1,730,271 | 07/01/19 | 07/01/15 |
| 10–16–C–01–BNA Nashville, TN | 05/03/11 | 4,290,000 | 5,502,500 | 12/01/16 | 01/01/17 |
| 08–08–C–01–SMF Sacramento, CA | 05/12/11 | 603,497,524 | 676,588,317 | 02/01/28 | 11/01/34 |
| 03–05–C–01–EUG Eugene, OR | 05/18/11 | 2,032,935 | 2,518,402 | 07/01/05 | 06/01/06 |
| 06–08–C–01–EUG Eugene, OR | 05/18/11 | 2,645,000 | 2,633,131 | 05/01/09 | 07/01/09 |
| *06–03–C–02–ABQ Albuquerque, NM | 05/19/11 | 68,885,899 | 78,203,803 | 07/01/16 | 10/01/17 |
| 04–08–C–04–RNO Reno, NV | 05/20/11 | 49,500,000 | 53,000,000 | 07/01/07 | 07/01/07 |

**Notes:** The amendment denoted by an asterisk (*) includes a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Albuquerque, NM, this change is effective on July 1, 2011.

Issued in Washington, DC, on June 2, 2011.

**Joe Hebert,**

*Manager, Financial Analysis and Passenger Facility Charge Branch.*

[FR Doc. 2011–14372 Filed 6–9–11; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2011–0125]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA).

**ACTION:** Notice of applications for exemption from the diabetes mellitus standard; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 15 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before July 11, 2011.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2011–0125 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 15 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b) (3), which applies to drivers of CMVs in interstate

commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

**Qualifications of Applicants**

*Richard A. Bosma*

Mr. Bosma, age 56, has had ITDM since 2007. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bosma understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bosma meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Drivers License from Illinois.

*Ronnie E. Combs, Jr.*

Mr. Combs, 48, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Combs understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Combs meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kentucky.

*Barbara A. Farrell*

Ms. Farrell, 42, has had ITDM since 1998. Her endocrinologist examined her in 2011 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Farrell understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Farrell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2011 and certified that she does not have diabetic retinopathy. She holds a Class A CDL from Washington.

*Tony D. Gayles*

Mr. Gayles, 50, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gayles understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gayles meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Kentucky.

*Dennis E. Hoffman*

Mr. Hoffman, 63, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hoffman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hoffman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

*Joshua D. Kohl*

Mr. Kohl, 28, has had ITDM since 2005. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kohl understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kohl meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Iowa.

*Clayton K. Lichtenberger*

Mr. Lichtenberger, 61, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lichtenberger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lichtenberger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Oklahoma.

*Steven C. Mulder*

Mr. Mulder, 31, has had ITDM since 1984. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mulder understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mulder meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Illinois.

*Judah A. Nell*

Mr. Nell, 23, has had ITDM since 1992. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or

resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Nell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

*Ronald A. Sherwood*

Mr. Sherwood, 54, has had ITDM since 1993. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sherwood understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sherwood meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a chauffeur license from Indiana.

*John A. Svedics*

Mr. Svedics, 35, has had ITDM since 1980. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Svedics understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Svedics meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

*Vincent H. Thomas, Jr.*

Mr. Thomas, 51, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thomas understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thomas meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

*Douglas E. Walter*

Mr. Walter, 59, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Walter understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Walter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

*Peter J. Wasko*

Mr. Wasko, 35, has had ITDM since 1983. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wasko understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wasko meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable proliferative retinopathy in the right eye and stable nonproliferative diabetic retinopathy in the left eye. He holds a Class C operator's license from Pennsylvania.

*Alfred S. Zaldana*

Mr. Zaldana, 46, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Zaldana understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Zaldana meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from California.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441). [1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety

[1] Section 4129(a) refers to the 2003 notice as a "final rule." However, the 2003 notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

required of all exemptions granted under 49 U.S.C. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary. The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: June 2, 2011.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2011–14462 Filed 6–9–11; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2011–0144]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA).

**ACTION:** Notice of applications for exemption from the diabetes mellitus standard; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 23 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before July 11, 2011.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2011–0144 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Chief, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 23 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b) (3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

### Qualifications of Applicants

*Edwin K. Anderson*

Mr. Anderson, age 59, has had ITDM since 2007. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Anderson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a Commercial Motor Vehicle (CMV) safely. Mr. Anderson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from Wisconsin.

*Albert E. Bankier*

Mr. Bankier, 60, has had ITDM since 2005. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bankier understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bankier meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Ohio.

*Justin C. Brewer*

Mr. Brewer, 26, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no

severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Brewer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Brewer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

*Paul H. Burroughs*

Mr. Burroughs, 44, has had ITDM since 2007. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Burroughs understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Burroughs meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Vermont.

*Roger W. Carr*

Mr. Carr, 43, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Carr understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carr meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maryland.

*Donald E. Flicek*

Mr. Flicek, 67, has had ITDM for 3 years. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Flicek understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Flicek meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Ronald J. Gasper*

Mr. Gasper, 41, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gasper understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gasper meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from South Dakota.

*David M. Gastelum*

Mr. Gastelum, 59, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gastelum understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gastelum meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from California.

*Vernon A. Grimmett*

Mr. Grimmett, 45, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Grimmett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Grimmett meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Missouri.

*Rodney T. Harper*

Mr. Harper, 61, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Harper understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Harper meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Utah.

*Stanley Ingram*

Mr. Ingram, 53, has had ITDM for greater than 10 years. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ingram understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV

safely. Mr. Ingram meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

*Rondal W. Kennedy*

Mr. Kennedy, 51, has had ITDM since 1998. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kennedy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kennedy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kentucky.

*Jerry W. Miller*

Mr. Miller, 56, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

*Richard G. Pellegrino*

Mr. Pellegrino, 58, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pellegrino understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pellegrino meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New Jersey.

*Gregg O. Price*

Mr. Price, 65, has had ITDM since 2007. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Price understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Price meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Mississippi.

*Gary D. Pugliese*

Mr. Pugliese, 55, has had ITDM since 2003. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pugliese understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pugliese meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New Jersey.

*Jeffrey A. Radel*

Mr. Radel, 37, has had ITDM since 1992. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Radel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Radel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

*Ray J. Stein*

Mr. Stein, 79, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stein understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stein meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Indiana.

*Vladimir V. Tayts*

Mr. Tayts, 41, has had ITDM since 2000. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Tayts understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tayts meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

*Jady R. Tengs*

Mr. Tengs, 37, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in

the last 5 years. His endocrinologist certifies that Mr. Tengs understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tengs meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

*Carl J. Thompson*

Mr. Thompson, 34, has had ITDM since 2007. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thompson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thompson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Indiana.

*Dennis M. Thorne*

Mr. Thorne, 59, has had ITDM since 1978. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thorne understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thorne meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable proliferative diabetic retinopathy and stable nonproliferative diabetic retinopathy in his right and left eye, respectively. He holds a Class A CDL from Washington.

*Hobert K. Tiller*

Mr. Tiller, 56, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Tiller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tiller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary. The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: June 7, 2011.

**Larry W. Minor,**

*Associate Administrator of Policy.*

[FR Doc. 2011–14459 Filed 6–9–11; 8:45 am]

BILLING CODE P

[1] Section 4129(a) refers to the 2003 notice as a "final rule." However, the 2003 notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2000–8398; FMCSA–2001–9258; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2009–0086]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 6 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective June 30, 2011. Comments must be received on or before July 11, 2011.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) numbers: FMCSA–2000–8398; FMCSA–2001–9258; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2009–0086, using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200

New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Chief, Medical Programs, (202)–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

## Exemption Decision

This notice addresses 6 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 6 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Edmund J. Barron, Roger K. Cox, Harold H. Cunning, Myron D. Dixon, Thomas E. Howard, Billy L. Johnson.

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

## Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 6 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 78256; 66 FR 16311; 66 FR 17743; 66 FR 33990; 68 FR 10301; 68 FR 13360; 68 FR 19596; 68 FR 35772; 70 FR 2701; 70 FR 16886; 70 FR 16887; 70 FR 17504; 70 FR 30997; 70 FR 33937; 70 FR 37891; 72 FR 27624; 72 FR 34062; 74 FR 19267; 74 FR 26471; 74 FR 28094). Each of these 6 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

## Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by *July 11, 2011.*

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 6 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The

Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: June 2, 2011.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2011–14463 Filed 6–9–11; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–1998–4334; FMCSA–2000–7363; FMCSA–2000–8398; FMCSA–2000–7006; FMCSA–2001–9258; FMCSA–2003–14223; FMCSA–2003–14504; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2006–24783; FMCSA–2006–26066; FMCSA–2007–27333]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 27 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective June 26, 2011. Comments must be received on or before July 11, 2011.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) numbers: FMCSA–1998–4334; FMCSA–2000–7363; FMCSA–2000–8398; FMCSA–2000–7006; FMCSA–2001–9258; FMCSA–2003–14223; FMCSA–2003–14504; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2006–24783; FMCSA–2006–26066; FMCSA–2007–27333, using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Chief, Medical Programs, (202)–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

### Exemption Decision

This notice addresses 27 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 27 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Gary A. Barrett, Ivan L. Beal, Johnny A. Beutler, Daniel R. Brewer, Darryl D. Cassatt, Brett L. Condon, Albion C. Doe, Sr., William K. Gullett, Daryl A. Jester, James P. Jones, Volga Kirkwood, Clyde H. Kitzan, Larry J. Lang, Spencer E. Leonard, John W. Locke, Herman G. Lovell, Ronald L. Maynard, Donald G. Meyer, William A. Moore, Jr., Steven A. Proctor, Richard S. Rehbein, Bernard E. Roche, David E. Sanders, David B. Speller, Lynn D. Veach, Harry S. Warren, Michael C. Wines.

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

**Basis for Renewing Exemptions**

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 27 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226; 65 FR 20245; 65 FR 45817; 65 FR 57230; 65 FR 77066; 65 FR 78256; 64 FR 16517; 66 FR 16311; 66 FR 17743; 66 FR 17994; 66 FR 33990; 67 FR 57266; 68 FR 10301; 68 FR 13360; 68 FR 19596; 68 FR 19598; 68 FR 33570; 68 FR 35772; 70 FR 2701; 70 FR 16887; 70 FR 17504; 70 FR 25878; 70 FR 30997; 70 FR 33937; 71 FR 32183; 71 FR 41310; 71 FR 63379; 72 FR 1050; 72 FR 12666; 72 FR 25831; 72 FR 28093; 72 FR 32705; 73 FR 60398 74 FR 26464; 74 FR 19270). Each of these 27 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

**Request for Comments**

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by July 11, 2011.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 27 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: June 2, 2011.

**Larry W. Minor,**

*Associate Administrator of Policy.*

[FR Doc. 2011–14461 Filed 6–9–11; 8:45 am]

BILLING CODE 4910–EX–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2011–0124]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemptions; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 13 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision standard.

**DATES:** Comments must be received on or before July 11, 2011.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2011–0124 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from

the Federal Motor Carrier Safety Regulations for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." FMCSA can renew exemptions at the end of each 2-year period. The 13 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

**Qualifications of Applicants**

*Eleazar R. Balli*

Mr. Balli, age 49, has had retinal scarring in his left eye due to a traumatic injury since childhood. The visual acuity in his right eye is 20/20 and in the left eye, 20/70. Following an examination in 2011, his optometrist noted, "In my medical opinion, Mr. Balli has sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Balli reported that he has driven tractor-trailer combinations for 4 years, accumulating 52,000 miles. He holds a Class A Commercial Drivers License (CDL) from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*James J. Doan*

Mr. Doan, 41, has had optic nerve hypoplasia in his right eye since childhood. The visual acuity in his right eye is hand motion vision and in the left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, "It is my medical opinion, that I find no reason from an ocular standpoint why he cannot continue to drive commercial vehicles." Mr. Doan reported that he has driven straight trucks for 22 years, accumulating 4.4 million miles and tractor-trailer combinations for 22 years, accumulating 330,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*James A. Ellis*

Mr. Ellis, 54, has had cataract in his left eye since birth. The best corrected visual acuity in his right eye is 20/20 and in his left eye is 20/200. Following an examination in 2011, his optometrist noted, "He has sufficient vision to drive a commercial vehicle." Mr. Ellis reported that he has driven straight trucks for 36 years, accumulating 72,000 miles and tractor-trailer combinations for 34 years, accumulating 3 million miles. He holds a Class A CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Allen M. Gamber*

Mr. Gamber, 62, has had complete loss of vision in his left eye due to a retinal vein occlusion since 2000. The visual acuity in his right eye is 20/25. Following an examination in 2011, his ophthalmologist noted, "Mr. Gamber has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Gamber reported that he has driven straight trucks for 43 years, accumulating 1.3 million miles. He holds a Class B CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Michael R. Gartin*

Mr. Gartin, 47, has had strabismic amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/200 and in the left eye, 20/15. Following an examination in 2010, his optometrist noted, "From these results, I believe Mr. Gartin does have sufficient visual acuity, visual field, and color discrimination to continue to safely operate a commercial vehicle." Mr. Gartin reported that he has driven tractor-trailer combinations for 25 years, accumulating 2.5 million miles. He holds a Class A CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Dale L. Giardine*

Mr. Giardine, 50, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/200 and in the left eye, 20/25. Following an examination in 2010, his optometrist noted, "I believe he has sufficient vision and field of vision to operate this vehicle for work." Mr. Giardine reported that he has driven straight trucks for 26 years, accumulating 62,400 miles. He holds a Class C operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Benjamin C. Hall*

Mr. Hall, 62, has had complete loss of vision in his left eye due to trauma since 2001. The visual acuity in his right eye is 20/20. Following an examination in 2011, his optometrist noted, "Mr. Hall, in my medical opinion has sufficient vision to perform the driving tasks to operate a commercial vehicle". Mr. Hall reported that he has driven straight trucks for 12½ years, accumulating 337,500 miles. He holds a Class C operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Richard A. McGuire*

Mr. McGuire, 47, has had histoplasmosis in his right eye since 1997. The best corrected visual acuity in his right eye is 20/70 and in the left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, "In my medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. McGuire reported that he has driven tractor-trailer combinations for 26 years, accumulating 2 million miles. He holds a Class A CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Dennis L. Morgan*

Mr. Morgan, 47, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/400 and in the left eye, 20/25. Following an examination in 2010, his optometrist noted, "I, Dr. Benjamin L. Waldo, O.D. certify that I have the medical opinion that Mr. Morgan has sufficient vision to perform tasks required to operate a commercial vehicle." Mr. Morgan reported that he has driven straight trucks for 10 weeks, accumulating 15,000 miles and tractor-trailer combinations for 4 years, accumulating 300,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Timothy A. Newberry*

Mr. Newberry, 52, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/100. Following an examination in 2010, his optometrist noted, "Patient has sufficient vision to operate commercial vehicle". Mr. Newberry reported that he has driven straight trucks for 23 years, accumulating 230,000 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows one crash, for which he was cited, and no convictions for moving violations in a CMV.

*Neville E. Owens*

Mr. Owens, 44, has loss of vision in his left eye due to a traumatic injury sustained as a child. The best corrected visual acuity in his right eye is 20/15 and in the left eye, 20/200. Following an examination in 2010, his optometrist noted, "It is my opinion that Mr. Owens has excellent vision in spite of limitations in the left eye. He has an excellent driving record even with his CDL privileges." Mr. Owens reported that he has driven straight trucks for 19 years, accumulating 190,000 miles and tractor-trailer combinations for 15 years, accumulating 75,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Peter M. Shirk*

Mr. Shirk, 28, has had exotropia in his right eye due to a traumatic injury that occurred in 2003. The best corrected visual acuity in his right eye is light perception and in the left eye, 20/20. Following an examination in 2011, his optometrist noted, "In my opinion and based on the reported clean driving record, Peter seems to have sufficient visual field and visual acuity to operate a commercial vehicle." Mr. Shirk reported that he has driven straight trucks for 6 years, accumulating 150,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Thomas C. Stromwall*

Mr. Stromwall, 51, has aphakia and amblyopia in his left eye due to cataract surgery at age 5. The best corrected visual acuity in his right eye is 20/20 and in his left eye hand motion vision. Following an examination in 2011, his optometrist noted, "It is my opinion that Mr. Stromwall has sufficient vision to safely perform the tasks required to operate a commercial motor vehicle." Mr. Stromwall reported that he has driven straight trucks for 33 years, accumulating 165,000 miles and tractor-trailer combinations for 33 years, accumulating 2.5 million miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business July 11, 2011. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: June 2, 2011.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2011–14460 Filed 6–9–11; 8:45 am]

**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2011–0001–N–6]**

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration, (FRA), Department of Transportation (DOT).

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirements (ICRs) abstracted below are being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on April 1, 2011 (76 FR 18294).

**DATES:** Comments must be submitted on or before July 11, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave., SE., 3rd Floor, Mail Stop 25, Washington, DC 20590 (*telephone:* (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., 3rd Floor, Mail Stop 35, Washington, DC 20590 (*telephone:* (202) 493–6132). (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:**

The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On April 1, 2011, FRA published a 60-day notice in the **Federal Register** soliciting comment on these ICRs for which the agency is seeking OMB approval. 76 FR 18294. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication of this Notice to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden for each ICR being submitted for clearance by OMB as required by the PRA.

*Title:* Railroad Operating Rules.

*OMB Control Number:* 2130–0035.

*Type of Request:* Extension of a currently approved collection.

*Affected Public:* Businesses.

*Abstract:* The collection of information is due to the railroad operating rules set forth in 49 CFR part 217 which require Class I and Class II railroads to file with FRA copies of their operating rules, timetables, and timetable special instructions, and subsequent amendments thereto. Class III railroads are required to retain copies of these documents at their systems headquarters. Also, 49 CFR 220.21(b) prescribes the collection of information which requires railroads to retain one copy of their current operating rules with respect to radio communications

and one copy of each subsequent amendment thereto. These documents must be made available to FRA upon request. Through these rules, FRA learns the condition of operating rules and practices with respect to trains and instructions provided by the railroad to their employees in operating practices.

*Form Number(s):* N/A.

*Total Annual Estimated Burden Hours:* 4,839,581 hours.

*Title:* Roadway Worker Protection.

*OMB Control Number:* 2130–0539.

*Type of Request:* Extension of a currently approved collection.

*Abstract:* This rule establishes regulations governing the protection of railroad employees working on or near railroad tracks. The regulation requires that each railroad devise and adopt a program of on-track safety to provide employees working along the railroad with protection from the hazards of being struck by a train or other on-track equipment. Elements of this on-track safety program include an on-track safety manual; a clear delineation of employers' responsibilities, as well as employees' rights and responsibilities thereto; well-defined procedures for communication and protection; and annual on-track safety training. The program adopted by each railroad is subject to review and approval by FRA.

*Form Number(s):* FRA 6180.119.

*Affected Public:* Businesses.

*Total Annual Estimated Burden Hours:* 817,358 hours.

*Title:* Locomotive Cab Sanitation Standards.

*OMB Control Number:* 2130–0552.

*Type of Request:* Extension of a currently approved collection.

*Affected Public:* Businesses.

*Form Number(s):* N/A

*Abstract:* The collection of information is used by FRA to promote rail safety and the health of railroad workers by ensuring that all locomotive crew members have access to toilet/sanitary facilities—on as needed basis—which are functioning and hygienic. Also, the collection of information is used by FRA to ensure that railroads repair defective locomotive toilet/sanitary facilities within 10 calendar days of the date on which these units becomes defective.

*Total Annual Estimated Burden Hours:* 1,272 hours.

*Addressee:* Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503, *Attention:* FRA Desk Officer. Comments may also be sent via e-mail to OMB at the following address: *oira-submissions@omb.eop.gov.*

*Comments are invited on the following:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

**Authority:** 44 U.S.C. 3501–3520.

Issued in Washington, DC on June 6, 2011.

**Kimberly Coronel,**

*Director, Office of Financial Management, Federal Railroad Administration.*

[FR Doc. 2011–14467 Filed 6–9–11; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2011–0027; Notice No. 2]**

### Northeast Corridor Safety Committee; Meeting Postponement

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of meeting; postponement.

**SUMMARY:** FRA announced the first meeting of the Northeast Corridor Safety Committee, a Federal Advisory Committee mandated by Section 212 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) on June 6, 2011 (See 76 FR 32391). This meeting is postponed until further notice and will be rescheduled at a future date.

**DATES:** The meeting of the Northeast Corridor Safety Committee scheduled to commence on Tuesday, June 14, 2011, at 9 a.m., is hereby postponed and will be rescheduled at a future date.

**ADDRESSES:** To be rescheduled at a future date and location.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry Woolverton, Northeast Corridor Safety Committee Administrative Officer/Coordinator, FRA, 1200 New Jersey Avenue, SE., Mailstop 25, Washington, DC 20590, (202) 493–6212; or Mr. Mark McKeon, Special Assistant to the Associate Administrator for Railroad Safety/Chief Safety Officer, FRA, 1200 New Jersey Avenue, SE., Mailstop 25, Washington, DC 20590, (202) 493–6350.

**SUPPLEMENTARY INFORMATION:** The Northeast Corridor Safety Committee is mandated by a statutory provision in Section 212 of the PRIIA (codified at 49 U.S.C. 24905(f)). This Committee is chartered by the Secretary of Transportation and is an official Federal Advisory Committee established in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. Title 5—Appendix.

Issued in Washington, DC, on June 7, 2011.

**Jo Strang,**

*Associate Administrator for Railroad Safety/Chief Safety Officer.*

[FR Doc. 2011–14547 Filed 6–8–11; 4:15 pm]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[U.S. DOT Docket No. NHTSA–2011–0073]**

### Reports, Forms, and Recordkeeping Requirements

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Request for extension of information collection 2127–0634.

**SUMMARY:** Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

**DATES:** Comments must be received on or before August 9, 2011.

**ADDRESSES:** You may submit comments identified by DOT Docket ID Number NHTSA–2011–0073 using any of the following methods:

*Electronic submissions:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

*Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

*Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the Docket number for this Notice. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Block, Contracting Officer's Technical Representative, Office of Behavioral Safety Research (NTI–131), National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., W46–499, Washington, DC 20590. Mr. Block's phone number is 202–366–6401 and his email address is *alan.block@dot.gov.*

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How 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, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA is requesting an extension of information collection 2127–0634:

**National Survey of Drinking and Driving Attitudes and Behavior**

*Type of Request*—Extension.

*OMB Clearance Number*—2127–0634.

*Form Number*—NHTSA Form 1050.

*Requested Expiration Date of Approval*—3 years from date of approval of extension.

*Summary of the Collection of Information*—NHTSA proposes to continue its periodic administration of the National Survey of Drinking and Driving Attitudes and Behavior. The survey was last administered in 2008. The next administration of the survey would be a minimum of 5 years after that date. It would be conducted by telephone among a national probability sample of 6,000 adults (age 16 and older) drawn from all 50 States and the District of Columbia. Participation by respondents would be voluntary. Survey topics would include frequency of drinking and driving and of riding with a driver who has been drinking, ways to prevent alcohol-impaired driving, enforcement of drinking and driving laws, and understanding of Blood Alcohol Concentration (BAC) levels and legal limits.

In conducting the proposed telephone interviews, the interviewers would use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers would be used to minimize language barriers to participation. The proposed survey would be anonymous; the survey would not collect any personal information that would allow anyone to identify respondents. Participant names would not be collected during the interview and the telephone number used to reach the respondent would be separated from the data record prior to its entry into the analytical database.

*Description of the Need for the Information and Proposed Use of the Information*—NHTSA was established to reduce the number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

Nearly one-third of traffic fatalities each year occur in crashes that involve an alcohol-impaired driver (in which a driver or motorcycle rider had a blood alcohol concentration, or BAC, of .08 or greater). NHTSA has developed and demonstrated a range of countermeasures to address the problem. Yet while effective countermeasures have been identified, there remains a need for NHTSA to periodically update its information concerning the public's attitudes and behaviors regarding drinking and driving to determine if changes have occurred towards which current programs and program planning must adapt. NHTSA began measuring the driving age public's attitudes and behaviors regarding drinking and driving in 1991. The proposed survey, last administered in 2008, will collect data on topics included in the earlier surveys in the series, including: frequency of drinking and driving and of riding with a driver who has been drinking, ways to prevent alcohol-impaired driving, enforcement of drinking and driving laws, and understanding of BAC levels and legal limits.

NHTSA will use the findings from this proposed information collection to help focus current programs and activities to achieve the greatest benefit, to develop new programs to decrease the likelihood of alcohol-impaired driving, and to provide informational support to States, localities, and law enforcement agencies that will aid them in their efforts to reduce drinking and driving crashes and injuries.

*Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)*—Under this proposed effort, the Contractor would conduct 15 pretest telephone interviews and 6,000 national survey telephone interviews for a total of 6,015 interviews. The pretest interviews would be administered to test the computer programming of the questionnaire, and to determine if any last adjustments to the questionnaire are needed. The telephone interviews will be conducted with respondents age 16 and older, with over-sampling of respondents 16 through 24. Interview length will average 20 minutes. Interviews would be conducted with respondents at residential phone numbers selected through random digit dialing. Interviews would be conducted both with respondents using landline phones and respondents using cell phones. Businesses are ineligible for the sample and would not be interviewed. No more than one respondent would be selected per household. All respondents will be administered the survey one time only.

*Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information*—NHTSA estimates that respondents would require an average of 20 minutes to complete the telephone interviews or a total of 2,005 hours for the 6,015 respondents. All interviewing would occur during a two-to-three month period during a single calendar year. Thus the annual reporting burden

would be the entire 2,005 hours. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any recordkeeping burden or recordkeeping cost from the information collection.

**Authority:** 44 U.S.C. 3506(c)(2)(A).

**Jeff Michael,**

*Associate Administrator, Research and Program Development.*

[FR Doc. 2011–14466 Filed 6–9–11; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. AB 33 (Sub–No. 257X); Docket No. AB 986 (Sub–No. 1X)]**

### Union Pacific Railroad Company—Abandonment and Discontinuance of Trackage Rights Exemptions—in Benton County, OR; Willamette & Pacific Railroad, Inc.—Discontinuance of Service and Discontinuance of Trackage Rights Exemptions—in Benton County, OR

On May 23, 2011, Willamette & Pacific Railroad, Inc. (WPRR), and Union Pacific Railroad Company (UP) jointly filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 for WPRR to discontinue service over, and for UP to abandon, 17.86 miles of rail line in Benton County, OR.[1] The rail line is described as follows: (1) From milepost 682.25 near Greenberry to milepost 671.58 near Monroe on the Bailey Branch; and (2) from milepost 673.21 near Alpine Junction to milepost 680.06 near Dawson on the Hull Oakes Lead (together, the Line). The Line traverses United States Postal Service Zip Codes 97333 and 97456, and includes the tariff stations of Greenberry (milepost 681.3), Alpine Junction (milepost 673.0), Monroe (milepost 671.7), and Dawson (milepost 679.9). In addition, WPRR and UP seek to discontinue their respective reserved limited overhead trackage rights over Albany & Eastern Railroad Company's line between milepost 687.6 south of Corvallis and milepost 682.25 near Greenberry, a distance of 5.35 miles.[2]

Petitioners state that, based on information in UP's possession as the owner of the Line, the Line does not contain Federally granted rights-of-way. Any documentation in UP's possession will be made available to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *ORegon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, In Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by September 9, 2011.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,500 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the Line, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for interim trail use/rail banking under 49 CFR 1152.29 will be due no later than June 30, 2011. Each trail use request must be accompanied by a $250 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket Nos. AB 986 (Sub–No. 1X) and AB 33 (Sub–No. 257X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001; (2) for WPRR — Eric M. Hocky, Thorp Reed & Armstrong, LLP, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103; and (3) for UP — Mack H. Shumate, Jr., 101 North Wacker Drive, #1920, Chicago, IL 60606. Replies to the petition are due on or before June 30, 2011.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 7, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Andrea Pope-Matheson,**

*Clearance Clerk.*

[FR Doc. 2011–14404 Filed 6–9–11; 8:45 am]

**BILLING CODE 4915–01–P**

[1] Petitioners state that the mileage of the proposed abandonment and discontinuance has been updated since the combined environmental and historic report was filed on March 29, 2011. Petitioners state that further review of UP's engineering documents indicate that, although the milepost where the Hull Oakes Lead connects to the Bailey Branch at Alpine Junction is correct, there is an adjustment that needs to be made making the line 0.34 miles longer than indicated by the mileposts. The legend on the map indicates an increase in the mileage of the Hull Oakes Lead from 6.85 to 7.19 miles.

[2] Petitioners state that the trackage rights were reserved so that UP and WPRR could reach the Line pending receipt of abandonment and discontinuance authority. *See Albany & E. R.R. Co.—Acquis. & Operation Exemption—Union Pac. R.R. Co. & Willamette & Pac. R.R., Inc.,* FD 35355 (STB served Mar. 10, 2010).

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

June 7, 2011.

The Department of the Treasury will submit the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

**DATES:** Written comments should be received on or before July 11, 2011 to be assured of consideration.

**Bureau of the Public Debt (BPD)**

*OMB Number:* 1535–0142.

*Title:* Conducting Focus Groups For Retail Securities Products.

*Type of Review:* Revision of a currently approved collection.

*Abstract:* Focus groups will be conducted to better understand the

financial investment behaviors and practices of current and future customers; gather customers' opinions, beliefs, and attitudes about a small number of pre-defined potential products and delivery mechanisms, and fulfill Public Debt's commitment under Executive Order 12862 to provide customer service equal to the best in the business.

*Affected Public:* Individuals and households.

*Estimated Total Burden Hours:* 432.

*Bureau Clearance Officer:* Bruce Sharp, Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26106; (304) 480–8112.

*OMB Reviewer:* Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

**Dawn D. Wolfgang,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2011–14393 Filed 6–9–11; 8:45 am]

**BILLING CODE 4810–39–P**

# Reader Aids

**Federal Register**

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Friday, June 10, 2011

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The Federal Register staff cannot interpret specific documents or regulations.

**Reminders.** Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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**S. 990/P.L. 112–14**

PATRIOT Sunsets Extension Act of 2011 (May 26, 2011; 125 Stat. 216)

**H.R. 793/P.L. 112–15**

To designate the facility of the United States Postal Service located at 12781 Sir Francis Drake Boulevard in Inverness, California, as the ''Specialist Jake Robert Velloza Post Office''. (May 31, 2011; 125 Stat. 217)

**H.R. 1893/P.L. 112–16**

Airport and Airway Extension Act of 2011, Part II (May 31, 2011; 125 Stat. 218)

**S. 1082/P.L. 112–17**

Small Business Additional Temporary Extension Act of 2011 (June 1, 2011; 125 Stat. 221)

**Last List June 2, 2011**

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