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FEDERAL REGISTER

Vol. 76 Friday

No. 19 January 28, 2011

Pages 5053–5266

OFFICE OF THE FEDERAL REGISTER

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

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 76, No. 19

Friday, January 28, 2011

Administration on Aging
See Aging Administration

Aging Administration
NOTICES
Statement of Organization, Functions, and Delegations of Authority, 5178

Agriculture Department
See Farm Service Agency
See Food Safety and Inspection Service
See National Institute of Food and Agriculture

Army Department
NOTICES
Meetings:
Board of Visitors, United States Military Academy, 5143–5144

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Bureau of Ocean Energy Management, Regulation and Enforcement

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Coastal Impact Assistance Program, 5192–5193
Operations in Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur, 5189–5192

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5179

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement List; Additions and Deletions, 5142
Procurement List; Proposed Additions to the Procurement List, 5142–5143

Comptroller of the Currency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5251–5265

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 5143

Copyright Office, Library of Congress
PROPOSED RULES
Deposit Requirements for Registration of Automated Databases that Predominantly Consist of Photographs, 5106–5107
NOTICES
Cable Compulsory License; Specialty Station List, 5213–5214

Defense Department
See Army Department
See Navy Department

Department of Transportation
See Pipeline and Hazardous Materials Safety Administration

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5145

Employment and Training Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Internal Fraud and Overpayment Detection and Recovery Activities, 5212–5213

Energy Department
See Federal Energy Regulatory Commission
See Western Area Power Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
Final Long-Term Management and Storage of Elemental Mercury, 5145–5147
Meetings:
Environmental Management Site-Specific Advisory Board, Paducah, KY, 5147

Environmental Protection Agency
RULES
Approvals and Promulgations of Air Quality Implementation Plans:
Tennessee; Approval of Section 110(a)(1) Maintenance Plan for 1997 8-Hour Ozone Standards for Nashville Area, 5078–5080
Wisconsin; Milwaukee–Racine and Sheboygan Areas; Determination of Attainment of 1997 8-hour Ozone Standard; Withdrawal, 5078
PROPOSED RULES
Hazardous Waste Management Systems:
Identification and Listing of Hazardous Waste; Gulf West Landfill, TX, 5110–5119
Regulation of Oil-Bearing Hazardous Secondary Materials from the Petroleum Refining Industry Processed in a Gasification System, etc., 5107–5110
NOTICES
Draft Reports; Availability:
Biofuels and the Environment; First Triennial Report to Congress, 5154–5156
Environmental Impact Statements; Availability, etc.:
Weekly Receipt, 5156–5157

Public Water Supply Supervision Program:
Program Revision for the State of Alaska, 5157

Executive Office of the President
See Presidential Documents

Farm Service Agency
RULES
Loan Servicing:
Farm Loan Programs, 5055–5058

Federal Aviation Administration
RULES
Airworthiness Directives:
Pratt and Whitney JT8D–7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR Series Turbofan Engines, 5066–5068
Establishments of Low Altitude Area Navigation Routes:
T–281, T–283, T–285, T–286, and T–288, Nebraska and South Dakota, 5068–5070
Special Conditions:
TTF Aerospace, LLC, Modification to Boeing Model 767–300 Series Airplanes; Pilot Lower Lobe Crew Rest Module, 5061–5066

Federal Communications Commission
PROPOSED RULES
Television Broadcasting Services:
El Paso, TX, 5120
Jackson, MS, 5119
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5157–5160
Meetings:
Emergency Access Advisory Committee, 5160
Renewal of Charter:
Advisory Committee on Diversity for Communications in the Digital Age, 5160–5161

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5251–5265

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 5161

Federal Emergency Management Agency
RULES
Suspension of Community Eligibility, 5081–5083

Federal Energy Regulatory Commission
NOTICES
Applications:
Blue Heron Hydro LLC, 5147–5148

Federal Financial Institutions Examination Council
NOTICES
Determinations Regarding National Appraisal Complaint Hotline, 5161

Federal Highway Administration
NOTICES
Surface Transportation Project Delivery Pilot Program; Caltrans Audit Report, 5237–5243

Federal Housing Finance Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5161–5178

Federal Maritime Commission
NOTICES
Agreements Filed, 5178

Federal Motor Carrier Safety Administration
PROPOSED RULES
Highway-Rail Grade Crossing; Safe Clearance, 5120–5129
NOTICES
Qualification of Drivers; Exemption Applications; Diabetes Mellitus, 5243–5244

Federal Reserve System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5251–5265
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 5178

Federal Transit Administration
NOTICES
Alternative Transportation in Parks and Public Lands Program, 5244–5248

Fiscal Service
RULES
Offset of Tax Refund Payments to Collect Delinquent State Unemployment Compensation Debts, 5070–5072

Fish and Wildlife Service
NOTICES
Environmental Assessments; Availability, etc.:
Aransas National Wildlife Refuge Complex; Aransas, Calhoun, and Refugio Counties; TX, 5196–5198
Felsenthal/Overflow National Wildlife Refuges, Ashley, Desha, Union, and Bradley Counties, AR, 5193–5194
Tennessee National Wildlife Refuge, Henry, Benton, Decatur, and Humphreys Counties, TN, 5194–5196

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Guide to Minimize Microbial Food Safety Hazards of Fresh-Cut Fruits and Vegetables, 5180
Testing Communications on Biological Products, 5179–5180

Food Safety and Inspection Service
NOTICES
Meetings:
Codex Alimentarius Commission, Codex Committee on Fats and Oils, 5130–5131

Foreign Assets Control Office
RULES
Cuban Assets Control Regulations, 5072–5078

Health and Human Services Department
See Aging Administration
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
National Vaccine Injury Compensation Program:
Revised Amount of the Average Cost of a Health Insurance Policy, 5180–5181

Homeland Security Department
See Federal Emergency Management Agency
See U.S. Customs and Border Protection
RULES
Airports of Entry or Departure for Flights To and From Cuba, 5058–5061
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Infrastructure Protection Stakeholder Input Project, 5186–5187

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Multifamily Project Mortgage Insurance, 5188
Emergency Homeowners Loan Program Data Elements, 5187
Federal Property Suitable as Facilities to Assist Homeless, 5188
Funding Availabilities:
Fiscal Year 2010 Assisted Living Conversion Program for Eligible Multifamily Housing Projects, 5188–5189

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

International Trade Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5137–5140
Final Results of Sunset Review and Revocation of Order:
Sparklers from the People's Republic of China, 5140–5141

International Trade Commission
NOTICES
Complaints:
Certain Set-Top Boxes, and Hardware and Software Components Thereof, 5204–5205
Expedited Five-Year Reviews of Antidumping Orders:
Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand, 5205–5206
Investigations:
Certain Game Devices, Components Thereof and Products Containing Same, 5206–5207

Justice Department
See Justice Programs Office
See Prisons Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Community Policing Self-Assessment, 5207

Justice Programs Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Survey of Youth in Custody, 2011–2012, 5208–5209
Police Public Contact Survey, 5207–5208

Labor Department
See Employment and Training Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Grantee Quarterly Progress Report, 5211–5212
National Compensation Survey, 5210–5211
Report of Construction Contractor's Wage Rates, 5212
Special Employment Under the Fair Labor Standards Act, 5209–5210

Land Management Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
Las Vegas Field Office, NV, 5199–5200
Salt Wells Energy Projects, Churchill County, NV, 5198–5199
Realty Actions:
Competitive Sale of Public Lands in Monterey County, CA, 5201–5202
Recreation and Public Purposes Act Classification; California, 5200–5201
Temporary Restriction of Discharge of Firearms on Public Lands:
Kanaka Valley, El Dorado County, CA, 5202–5203

Library of Congress
See Copyright Office, Library of Congress

National Highway Traffic Safety Administration
NOTICES
Annual Insurer Report On Motor Vehicle Theft For The 2005 Reporting Year:
Insurer Reporting Requirements, 5248–5249

National Institute of Food and Agriculture
NOTICES
Veterinary Medicine Loan Repayment Program:
Solicitation of Nominations for Veterinary Shortage Situations, 5131–5137

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Office of Intramural Training and Education Application, 5181–5182
Meetings:
National Institute of Biomedical Imaging and Bioengineering, 5184
Center for Scientific Review, 5182–5183
National Institute of Dental and Craniofacial Research, 5183–5184
National Institute of Environmental Health Sciences, 5184–5185
Requests for Information:
Interagency Breast Cancer and Environmental Research Coordinating Committee, 5185–5186

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
Pacific Fishery Management Council, 5141–5142

National Park Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Stehekin River Corridor Implementation Plan, North Cascades National Park Service Complex, 5203–5204
National Register of Historic Places:
Pending Nominations and Related Actions, 5204

National Science Foundation
NOTICES
Meetings:
Astronomy and Astrophysics Advisory Committee, 5214–5215

Navy Department
NOTICES
Environmental Impact Statements; Availability, etc.:
U. S. Navy F–35C West Coast Homebasing, 5144–5145

Nuclear Regulatory Commission
PROPOSED RULES
Physical Protection of Shipments of Irradiated Reactor Fuel, 5102–5103
NOTICES
Draft Regulatory Guide; Issuance, Availability, 5215–5216
Environmental Impact Statements; Availability, etc.:
Nichols Ranch In-Situ Recovery Project, Campbell and Johnson Counties, WY, etc., 5216
Exemptions:
Florida Power Corp., Crystal River Unit 3 Nuclear Generating Plant, 5216–5218
Meetings:
ACRS Subcommittee on Advanced Boiling Water Reactor, 5218
Advisory Committee on Reactor Safeguards, 5218–5219
Advisory Committee on Reactor Safeguards on Future Plant Designs, 5220

Pension Benefit Guaranty Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Multiemployer Plan Regulations, 5220–5222

Personnel Management Office
NOTICES
Federal Long Term Care Insurance Program Open Season, 5222–5223

Pipeline and Hazardous Materials Safety Administration
PROPOSED RULES
Highway-Rail Grade Crossing; Safe Clearance, 5120–5129

Presidential Documents
ADMINISTRATIVE ORDERS
Cote d'Ivoire; Continuation of National Emergency (Notice of January 26, 2011), 5053

Prisons Bureau
NOTICES
Environmental Assessment; Availability:
New Low Security Beds, 5209

Public Debt Bureau
See Fiscal Service

Saint Lawrence Seaway Development Corporation
PROPOSED RULES
Seaway Regulations and Rules:
Periodic Update, Various Categories, 5104–5106

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5223–5224
Self-Regulatory Organizations; Proposed Rule Changes:
BATS Exchange, Inc., BATS Y–Exchange, Inc., Chicago Board Options Exchange, Inc., et al., 5224–5225
BATS Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., et al., 5227–5228, 5231–5232
International Securities Exchange, LLC, 5225–5227
NYSE Amex LLC, 5229–5230

Small Business Administration
NOTICES
Meetings:
Small Business Information Security Task Force; Teleconference, 5232–5233

Social Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5233–5235
Privacy Act; Computer Matching Program, 5235–5236

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Export Declaration of Defense Technical Data or Services, 5236
Culturally Significant Objects Imported for Exhibition Determinations:
Pastel Portraits; Images of 18th-Century Europe, 5236–5237
Upside Down Arctic Realities, 5236

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Maryland Regulatory Program, 5103–5104

Thrift Supervision Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5251–5253

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Motor Carrier Safety Administration
See Federal Transit Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration
See Saint Lawrence Seaway Development Corporation
RULES
Disadvantaged Business Enterprise; Program Improvements, 5083–5101

Treasury Department
See Comptroller of the Currency

See Fiscal Service
See Foreign Assets Control Office
See Thrift Supervision Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5249–5250
List of Countries Requiring Cooperation with an International Boycott, 5250–5251

U.S. Customs and Border Protection
RULES
Airports of Entry or Departure for Flights To and From Cuba, 5058–5061

Western Area Power Administration
NOTICES
Proposed Transmission and Ancillary Services Formula Rates:
Loveland Area Projects, Western Area Colorado Missouri Balancing Authority, 5148–5154

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Administrative Orders:

Notices:

Notice of January 26, 2011 5053

7 CFR

761.....5055

766.....5055

8 CFR

234.....5058

10 CFR

Proposed Rules:

73.....5102

14 CFR

25.....5061

39.....5066

71.....5068

19 CFR

122.....5058

30 CFR

Proposed Rules:

920.....5103

31 CFR

285.....5070

515.....5072

33 CFR

Proposed Rules:

401.....5104

37 CFR

Proposed Rules:

202.....5106

40 CFR

52 (2 documents) 5078

Proposed Rules:

260.....5107

261 (2 documents) 5107, 5110

44 CFR

64.....5081

47 CFR

Proposed Rules:

73 (2 documents) 5119, 5120

49 CFR

26.....5083

Proposed Rules:

177.....5120

392.....5120

Federal Register
Vol. 76, No. 18
Friday, January 28, 2011

Presidential Documents

Title 3—

The President

Notice of January 26, 2011

Continuation of the National Emergency With Respect to the Situation in or in Relation to Côte d'Ivoire

On February 7, 2006, by Executive Order 13396, the President declared a national emergency, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the situation in or in relation to Côte d'Ivoire and ordered related measures blocking the property of certain persons contributing to the conflict in Côte d'Ivoire. The situation in or in relation to Côte d'Ivoire, which has been addressed by the United Nations Security Council in Resolution 1572 of November 15, 2004, and subsequent resolutions, has resulted in the massacre of large numbers of civilians, widespread human rights abuses, significant political violence and unrest, and fatal attacks against international peacekeeping forces. Because the situation in or in relation to Côte d'Ivoire continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on February 7, 2006, and the measures adopted on that date to deal with that emergency, must continue in effect beyond February 7, 2011. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13396.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
January 26, 2011.

[FR Doc. 2011–2063
Filed 1–27–11; 8:45 am]
Billing code 3195–W1–P

Rules and Regulations

Federal Register
Vol. 76, No. 19
Friday, January 28, 2011

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 761 and 766

RIN 0560–AI05

Loan Servicing; Farm Loan Programs

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Farm Service Agency (FSA) is amending the Farm Loan Programs (FLP) direct loan servicing regulations to implement provisions of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). This rule implements four amendments to the direct loan servicing regulations. The first amendment further emphasizes transitioning borrowers to private sources of credit in the shortest time practicable. The second amendment amends the Homestead Protection lease regulations by extending the right to purchase the leased property to the lessee's immediate family when the lessee is a member of a socially disadvantaged group. The third amendment amends the account liquidation regulations to suspend certain loan acceleration and foreclosure actions, including suspending interest accrual and offsets, if a borrower has filed a claim of program discrimination that has been accepted as valid by USDA and the borrower's account is at the point of acceleration or foreclosure. The fourth amendment amends the supervised bank account regulations to make the FSA regulations on insurable account limits consistent with the regulations of the Federal Deposit Insurance Corporation.

DATES: This rule is effective on February 28, 2011.

FOR FURTHER INFORMATION CONTACT: Michael C. Cumpton, Assistant to the Director, Loan Servicing and Property Management Division, FSA, USDA; telephone: (202) 690–4014. Persons with disabilities who require alternative means for communications (Braille, large print, audio tape, *etc.*) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

This final rule implements multiple provisions of the 2008 Farm Bill (Pub. L. 110–246) concerning loan servicing for FSA's direct loan program. In general, FSA direct loans provide credit to farmers who are unable to get credit elsewhere.

On August 7, 2009, FSA published the loan servicing proposed rule (74 FR 39565–39569). As discussed below, FSA proposed three substantive amendments and one conforming technical amendment in the proposed rule. This final rule addresses the comments received on the proposed rule and makes some minor revisions to the proposed language to address the comments received. FSA received comments on the proposed rule from two commenters; the comments addressed multiple provisions of the rule. The commenters were a nonprofit organization and an FSA employee.

Summary of Amendments to the Loan Servicing Regulations

The amendments in this rule are made to 7 CFR part 761, "General Program Administration," which specifies provisions that apply to multiple Farm Loan Programs, and to 7 CFR part 766, "Direct Loan Servicing—Special," which specifies the requirements and procedures for direct loan servicing in special circumstances, primarily those involving financially distressed borrowers.

One amendment promotes the goal of transitioning borrowers to private credit. This rule clarifies and expands the requirements that borrowers must meet, including training and planning activities, to demonstrate that they are gaining the skills to transition to private credit. These amendments are made to 7 CFR 761.1, "Introduction," a general introductory section to the farm loan regulations, and to 7 CFR 761.103, "Farm Assessment," which describes how FSA assesses a borrower's farming operation to determine credit counseling needs and training needs. As discussed below, in response to a comment on the proposed rule, FSA added additional clarity and detail to the requirements.

A second amendment allows family members of lessees who are members of a socially disadvantaged group to purchase properties under Homestead Protection. This amendment, which is made to 7 CFR 766.154, "Homestead Protection Leases," is specifically required by the 2008 Farm Bill. The purpose of the Homestead Protection program is to allow borrowers who secured their loan with their principal residence to continue to occupy that property through a lease or lease-purchase, after it has come into the inventory of the Government after foreclosure or voluntary conveyance. Before this amendment was made, only the original lessee on a Homestead Protection lease-purchase agreement had the option to purchase the property; this amendment allows the lessee to designate a family member the right to exercise that option.

The third amendment sets a moratorium on foreclosure and loan acceleration actions for borrowers with an accepted program discrimination claim with the USDA Office of the Assistant Secretary for Civil Rights, Office of Adjudication. This amendment will stop foreclosure and loan acceleration actions for borrowers with an accepted discrimination claim, including interest accruals and offsets, while the discrimination claim is being resolved. This amendment adds a new section, 7 CFR 766.358, "Acceleration and Foreclosure Moratorium" to 7 CFR part 766 subpart H, "Loan Liquidation."

In addition to the amendments required by the 2008 Farm Bill, this rule implements a conforming amendment to comply with section 335(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, July 21, 2010), which increased the maximum deposit insurance amount for accounts insured by the Federal Deposit Insurance Corporation (FDIC). This rule changes a reference to the limit on insured accounts from $100,000 to "the maximum amount insurable by the Federal government," which means that the FLP regulations will remain consistent with federal deposit insurance regulations, even if the FDIC limit is revised again or authority for deposit insurance is transferred to another Federal government entity. The

current FDIC limit is $250,000. This amendment is made to 7 CFR 761.51, "Establishing a Supervised Bank Account."

Discussion of Comments

The following provides a summary of the comments related to each amendment, and FSA's response, including changes we are making to the regulations in response to the comments.

Transitioning Borrowers to Private Credit

Comment: "Borrower graduation requirements" should be added to the tools noted in 7 CFR 761.1 to assist borrowers in the transition to private credit. Also, the new sentence clarifying the purpose of FSA farm loan programs should be moved up a sentence.

Response: FSA agrees and has made the suggested changes.

Comment: "Graduation plan" should be added to the list of items required as part of the farm assessment in 7 CFR 761.103(b).

Response: FSA agrees with the comment and has made the suggested change. This change supports the concept of transitioning borrowers to private commercial credit in the shortest period possible and reinforces the importance of the graduation plan. We also added a reference to Conservation Loans (CL), to clarify which requirements do not apply to those loans. Conservation Loans are a new type of farm loan, authorized by the 2008 Farm Bill, which may be used to implement certain conservation practices. An inability to obtain commercial credit is not a requirement for CL eligibility, so some of the requirements that are intended to help borrowers transition to commercial credit do not apply to CL.

Comment: "Sufficient experience and training for a successful transition to private commercial credit" should be made part of the training waiver requirements in 7 CFR 764.453.

Response: The proposed rule did not propose changes to 7 CFR 764.453. The suggested change is not consistent with the overall objectives of the direct loan program, which include assisting borrowers in obtaining training and experience needed to qualify for commercial credit. The direct loan program requires that borrowers who need additional training must complete that training during the term of their direct loan, not as a condition to initially qualify for a loan. A loan applicant who already had the experience and training sufficient to make a successful transition to private credit would likely not need and would therefore not be eligible for a direct loan. Therefore, FSA is not amending the regulations in response to this comment.

Comment: FSA should reference the statutory requirement for performance criteria and publish those criteria.

Response: The existing statutory requirements for performance criteria are referenced in the preamble to the proposed rule. Specifically, Section 5304 of the 2008 Farm Bill amends the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r, the Con Act) to add a section that requires the Secretary to establish a plan and performance criteria that promote the goal of transitioning borrowers to private commercial credit and other sources of credit in the shortest time possible. As discussed in the preamble to the proposed rule, FSA does not intend to publish additional detail about the performance criteria in the regulations. Regulations set requirements and benefits for the public; these performance criteria are the internal procedures that FSA will use to evaluate its own performance in transitioning borrowers to private credit.

Extension of Right To Reacquire Homestead Property to Family Members

Comment: Why is this opportunity only provided for lessees who are a member of a socially disadvantaged group, rather than all lessees? If it's a good idea for one, it's a good idea for all.

Response: FSA cannot extend this opportunity to all lessees because Section 5305 of the 2008 Farm Bill does not provide authority for us to do so. FSA is merely implementing the statutory language approved by Congress.

Out of Scope Comment

Comment: Oppose FSA's "term limits" on loans and the applicable provisions should have been removed in the 2008 Farm Bill. Term limits are arbitrary.

Response: This comment is outside the scope of this rule. FSA did not propose changing the term limits in the proposed rule.

Miscellaneous Changes

This rule makes minor clarifying changes, which are not in response to a comment on the provisions in the proposed rule, to make terms consistent throughout the rule. For example, this rule consistently uses the term "lessee or designee" to refer to a lessee utilizing a lease-purchase option, rather than sometimes using that term and sometimes using the term "purchaser." This rule also adds references to Conservation Loans where appropriate, to clarify which provisions do not apply to those loans.

Executive Order 12866

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866 and, therefore, OMB has not reviewed this final rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. FSA has determined that this rule will not have a significant impact on a substantial number of small entities for the reasons explained below. Thus, FSA has not prepared a regulatory flexibility analysis.

All FSA direct loan borrowers and all farm entities affected by this rule are small businesses according to U.S. Small Business Administration small business size standards. There is no diversity in size of the entities affected by this rule, and the costs to comply with it are the same for all sizes of entities. The costs of compliance with this rule are expected to be minimal. The foreclosure and loan acceleration moratorium will reduce interest costs for some borrowers, and should in no case increase costs for borrowers. No comments were received on the proposed rule regarding disparate impact on small entities. Therefore, FSA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799). The changes to the FLP direct loan servicing program, required by the 2008 Farm Bill, that are identified in this final rule are administrative in nature and can be considered non-discretionary. Therefore, FSA has

determined that NEPA does not apply to this rule, and no environmental assessment or environmental impact statement will be prepared.

Executive Order 12372

Executive Order 12372, "Intergovernmental Review of Federal Programs," requires consultation with State and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. For reasons set forth in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, "Civil Justice Reform." The provisions of this rule will not have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with such provision or which otherwise impede their full implementation. The rule will not have retroactive effect. Before any judicial action may be brought regarding this rule, all administrative remedies in accordance with 7 CFR part 11 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, "Federalism." The policies contained in this rule do not have any substantial direct effect on States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does this final rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed for compliance with Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." This Executive Order imposes requirements on the development of regulatory policies that have tribal implications or preempt tribal laws. The policies contained in this rule do not preempt Tribal law. This rule was included in the October through December 2010, Joint Regional Consultation Strategy facilitated by USDA that consolidated consultation efforts of 70 rules from the 2008 Farm Bill. USDA sent senior level agency staff to seven regional locations and consulted with Tribal leadership in each region on the rules. When the consultation process is complete, USDA will analyze the feedback and then incorporate any appropriate changes into the regulations through rulemaking procedures.

USDA will respond in a timely and meaningful manner to all Tribal government requests for consultation concerning this rule and will provide additional venues, such as webinars and teleconferences, to periodically host collaborative conversations with Tribal leaders and their representatives concerning ways to improve this rule in Indian country.

Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, or tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates as defined by Title II of UMRA for State, local, or tribal governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are:

10.099 Conservation Loans
10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans

Paperwork Reduction Act

The amendments to 7 CFR parts 761 and 766 in this final rule require no new collection or changes to the current information collections approved by OMB under the control numbers 0560–0233 and 0560–0238.

E-Government Act Compliance

FSA 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.

List of Subjects

7 CFR Part 761

Accounting, Loan programs—Agriculture, Rural areas.

7 CFR Part 766

Agriculture, Agricultural commodities, Credit, Livestock, Loan programs—Agriculture.

For the reasons discussed above, this rule amends 7 CFR chapter VII as follows:

PART 761—GENERAL PROGRAM ADMINISTRATION

■ 1. The authority citation for part 761 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart A—General Provisions

■ 2. In § 761.1, amend paragraph (c) by adding a new third sentence to read as follows:

§ 761.1 Introduction.

* * * * *

(c) * * * The programs are designed to allow those who participate to transition to private commercial credit or other sources of credit in the shortest period of time practicable through the use of supervised credit, including farm assessments, borrower training, market placement, and borrower graduation requirements.

* * * * *

Subpart B—Supervised Bank Accounts

■ 3. In § 761.51, revise paragraph (e), introductory text, to read as follows:

§ 761.51 Establishing a supervised bank account.

* * * * *

(e) If the funds to be deposited into the account cause the balance to exceed the maximum amount insurable by the Federal Government, the financial institution must agree to pledge acceptable collateral with the Federal Reserve Bank for the excess over the insured amount, before the deposit is made.

* * * * *

Subpart C—Supervised Credit

■ 4. In § 761.103, revise paragraphs (a), (b)(9), and (b)(10), and add paragraph (b)(11) to read as follows:

§ 761.103 Farm assessment.

(a) The Agency, in collaboration with the applicant, will assess the farming operation to:

(1) Determine the applicant's financial condition, organizational structure, and management strengths and weaknesses;

(2) Identify and prioritize training and supervisory needs; and

(3) Develop a plan of supervision to assist the borrower in achieving financial viability and transitioning to private commercial credit or other sources of credit in the shortest time practicable, except for CL.

(b) * * *

(9) Supervisory plan, except for streamlined CL;

(10) Training plan; and

(11) Graduation plan, except for CL.

* * * * *

PART 766—DIRECT LOAN SERVICING—SPECIAL

■ 5. The authority citation for part 766 is revised to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart D—Homestead Protection Program

■ 6. In § 766.154, revise paragraph (c) to read as follows:

§ 766.154 Homestead Protection Leases.

* * * * *

(c) *Lease-purchase options.* (1) The lessee may exercise in writing the purchase option and complete the homestead protection purchase at any time prior to the expiration of the lease provided all lease payments are current.

(2) If the lessee is a member of a socially disadvantaged group, the lessee may designate a member of the lessee's immediate family (that is, parent, sibling, or child) (designee) as having the right to exercise the option to purchase.

(3) The purchase price is the market value of the property when the option is exercised as determined by a current appraisal obtained by the Agency.

(4) The lessee or designee may purchase homestead protection property with cash or other credit source.

(5) The lessee or designee may receive Agency program or non-program financing provided:

(i) The lessee or designee has not received previous debt forgiveness;

(ii) The Agency has funds available to finance the purchase of homestead protection property;

(iii) The lessee or designee demonstrates an ability to repay such an FLP loan; and

(iv) The lessee or designee is otherwise eligible for the FLP loan.

* * * * *

Subpart H—Loan Liquidation

■ 7. Add § 766.358 to read as follows:

§ 766.358 Acceleration and foreclosure moratorium.

(a) Notwithstanding any other provisions of this subpart, borrowers who file or have filed a program discrimination complaint that is accepted by USDA Office of Adjudication or successor office (USDA), and have been serviced to the point of acceleration or foreclosure on or after May 22, 2008, will not have their account accelerated or liquidated until such complaint has been resolved by USDA or closed by a court of competent jurisdiction. This moratorium applies only to program loans made under subtitle A, B, or C of the Act (for example, CL, FO, OL, EM, SW, or RL). Interest will not accrue and no offsets will be taken on these loans during the moratorium. Interest accrual and offsets will continue on all other loans, including, but not limited to, non-program loans.

(1) If the Agency prevails on the program discrimination complaint, the interest that would have accrued during the moratorium will be reinstated on the account when the moratorium terminates, and all offsets and servicing actions will resume.

(2) If the borrower prevails on the program discrimination complaint, the interest that would have accrued during the moratorium will not be reinstated on the account unless specifically required by the settlement agreement or court order.

(b) The moratorium will begin on:

(1) May 22, 2008, if the borrower had a pending program discrimination claim that was accepted by USDA as valid and the account was at the point of acceleration or foreclosure on or before that date; or

(2) The date after May 22, 2008, when the borrower has a program discrimination claim accepted by USDA as valid and the borrower's account is at the point of acceleration or foreclosure.

(c) The point of acceleration under this section is the earliest of the following:

(1) The day after all rights offered on the Agency notice of intent to accelerate expire if the borrower does not appeal;

(2) The day after all appeals resulting from an Agency notice of intent to accelerate are concluded if the borrower appeals and the Agency prevails on the appeal;

(3) The day after all appeal rights have been concluded relating to a failure to graduate and the Agency prevails on any appeal;

(4) Any other time when, because of litigation, third party action, or other unforeseen circumstance, acceleration is the next step for the Agency in servicing and liquidating the account.

(d) A borrower is considered to be in foreclosure status under this section anytime after acceleration of the account.

(e) The moratorium will end on the earlier of:

(1) The date the program discrimination claim is resolved by USDA or

(2) The date that a court of competent jurisdiction renders a final decision on the program discrimination claim if the borrower appeals the decision of USDA.

Signed in Washington, DC, on January 21, 2011.

Jonathan W. Coppess,

Administrator, Farm Service Agency.

[FR Doc. 2011–1917 Filed 1–27–11; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 234

U.S. Customs and Border Protection

19 CFR Part 122

[CBP Dec 11–05]

RIN 1651–AA86

Airports of Entry or Departure for Flights to and From Cuba

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: Under Department of Homeland Security (DHS) regulations, direct flights between the United States and Cuba must arrive at or depart from one of three named U.S. airports: John F. Kennedy International Airport, Los Angeles International Airport, or Miami International Airport. This document amends current DHS regulations to allow additional U.S. airports that are able to process international flights to request approval of U.S. Customs and Border Protection (CBP) to process authorized flights between the United States and Cuba. These amendments are in accordance with the President's recent statement easing the restrictions placed on flights to and from Cuba by, among other things, providing that eligible airports may seek approval from

CBP to accommodate flights arriving from, or departing for, Cuba. This statement builds upon the President's 2009 initiative to promote democracy and human rights in Cuba by easing travel restrictions to facilitate greater contact between separated family members in the United States and Cuba.

DATES: *Effective Date:* January 28, 2011.

FOR FURTHER INFORMATION CONTACT: Arthur A.E. Pitts, Sr., U.S. Customs and Border Protection, Office of Field Operations, 202–344–2752.

SUPPLEMENTARY INFORMATION:

Background

Part 122 of the CBP regulations, subpart O, consisting of sections 122.151–122.158 (19 CFR 122.151–122.158), sets forth special procedures that apply to all aircraft (except public aircraft) entering or departing the United States to or from Cuba. In particular, section 122.153 (19 CFR 122.153) provides that the owner or person in command of any aircraft clearing the U.S. for, or entering the U.S. from, Cuba must clear or obtain permission to depart from, or enter at, the Miami International Airport, Miami, Florida; the John F. Kennedy International Airport, Jamaica, New York; or the Los Angeles International Airport, Los Angeles, California. Additionally, section 122.154 of the CBP regulations (19 CFR 122.154) requires the person in command of the aircraft to provide advance notice of arrival at least one hour before crossing the U.S. coast or border. This notice must be given either through the Federal Aviation Administration flight notification procedure or directly to the CBP officer in charge at one of the designated airports, as applicable.

Title 8 of the Code of Federal Regulations pertaining to landing requirements for aliens arriving by civil aircraft also restricts flights arriving from Cuba that are carrying passengers or crew that are required to be inspected under section 235 of the Immigration and Nationality Act (INA). Paragraph (a) of section 234.2 of title 8 (8 CFR 234.2(a)) requires that these flights land only at the same three airports: John F. Kennedy, Los Angeles, or Miami, unless advance permission to land elsewhere has been obtained from CBP's Office of Field Operations.

In a statement issued on January 14, 2011, the President announced a series of changes to ease the restrictions on travel to and from Cuba as part of an initiative to support the Cuban people's desire to freely determine their country's future by, among other things, supporting licensed travel and intensifying people-to-people exchanges. This announcement builds on the President's April 13, 2009 initiative to promote greater contact between separated family members in the United States and Cuba.

Flights Between Cuba and Additional Airports in the United States

In the January 14, 2011 statement, the President announced that additional U.S. airports able to process international flights may request CBP approval to accept direct flights to and from Cuba in accordance with procedures to be established by CBP. Provided CBP is satisfied that the airport is suitable to process these flights, CBP will add the airport to the list of airports authorized for direct flights to or from Cuba.

In accordance with this statement, DHS is amending section 122.153 of title 19 of the Code of Federal Regulations (19 CFR 122.153) to provide that airports that meet existing CBP standards for accommodating international flights may request CBP approval to accept direct flights to and from Cuba. Properly authorized flights to and from Cuba will be able to arrive at or depart from any U.S. airport that CBP has approved. For reference purposes, CBP will provide a list of authorized airports in section 122.153 as well as on the CBP Web site, *http://www.cbp.gov.*

DHS is also amending section 122.154 of title 19 (19 CFR 122.154) and section 234.2 of title 8 (8 CFR 234.2) to bring these sections into conformity with revised section 122.153 of title 19. Revised paragraph (b) of section 122.154 of title 19 indicates that when notice of arrival is provided to CBP, it must be provided to the CBP officer in charge at the applicable authorized airport. Revised paragraph (a) of section 234.2 of title 8 indicates that aircraft arriving from Cuba with passengers or crew required to be inspected under the INA must land at one of the airports that CBP has authorized pursuant to 19 CFR 122.153. DHS is also revising paragraph (a) of section 234.2 to reflect current CBP terminology.

The requirements to obtain clearance and permission from CBP to depart from or enter at the airport and to provide advance notice of arrival will still apply. Clearance and permission to depart from or enter at the airport must be obtained by contacting the CBP officer in charge at the authorized airport at which the aircraft departs or arrives. Advance notice of arrival must be provided either through the Federal Aviation Administration flight notification procedure or directly to the CBP officer in charge at the authorized airport of arrival.

Eligibility Requirements and Application and Approval Procedure

The regulations are amended to set forth eligibility requirements and application and approval procedures for airports seeking approval to accept aircraft traveling between the United States and Cuba. (The three airports currently referenced in section 122.153 of the regulations are already approved to accept aircraft traveling between the United States and Cuba and will not need to seek CBP approval under this procedure.)

To be eligible to request approval to accept flights to and from Cuba, an airport must be an international airport, landing rights airport, or user fee airport, as defined and described in part 122 of the CBP regulations (19 CFR part 122) and have adequate and up-to-date staffing, equipment, and facilities to process international traffic. In addition, the airport must have an Office of Foreign Assets Control (OFAC) licensed carrier service provider that is prepared to provide flights between the airport and Cuba. The director of the port authority governing the airport seeking approval must send a written request to the Assistant Commissioner, Office of Field Operations, CBP Headquarters (1300 Pennsylvania Avenue, NW., Washington, DC 20229).

After CBP determines that the airport is suitable to accommodate flights traveling between the United States and Cuba, CBP will notify the requestor that the airport has been approved to accept aircraft traveling to or from Cuba, and that it may immediately begin to accept such aircraft. For reference purposes, approved airports will be listed on the CBP Web site *http://www.cbp.gov* and in new paragraph (c) of section 122.153. That paragraph as set forth in this document lists only the three airports that are already authorized to accept such aircraft—John F. Kennedy International Airport, Los Angeles International Airport, and Miami International Airport—but will be revised periodically to reflect additional airports that CBP has approved.

Additional Requirements for Aircraft Traveling to or From Cuba

All aircraft to which these amended regulations apply must be properly licensed or otherwise authorized to travel between the United States and Cuba. Several Federal agencies administer the necessary authorizations, and it is the responsibility of the owner or person in command of the aircraft to

ensure that the aircraft has the necessary authorization to travel.

OFAC, an office within the U.S. Department of Treasury, administers the Cuban Assets Control Regulations, 31 CFR part 515, which prohibit, in relevant part, all persons subject to the jurisdiction of the United States from engaging in travel-related transactions involving Cuba unless authorized by OFAC. Persons transporting authorized travelers between the United States and Cuba by international charter flights as carrier service providers must also be authorized by OFAC to provide this service.

Additionally, an aircraft traveling between the United States and Cuba may require a license from the Department of Commerce, the Department of State, or the Department of Transportation, as applicable. Note that, as a condition precedent for clearance, section 122.157 of the CBP regulations (19 CFR 122.157) requires the aircraft commander to present to CBP a validated license issued by the Department of Commerce or a license issued by the Department of State, as well as documents required pursuant to 19 CFR part 122, subpart H. Also, air carriers and other commercial operators are required to adopt and implement the security requirements established by the Transportation Security Administration for individuals, property, and cargo aboard aircraft (*see* 49 CFR chapter XII, subchapter C (Civil Aviation Security)), and ensure that any airport(s) to be served in Cuba carry out effective security measures, in accordance with 49 U.S.C. 44907.

Inapplicability of Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

The Administrative Procedure Act (APA) generally requires (with exceptions) that the public be allowed to participate in agency rulemaking. Normally, an agency publishes a notice of proposed rulemaking in the **Federal Register** (5 U.S.C. 553(b)) providing interested persons the opportunity to submit comments (5 U.S.C. 553(c)). The APA also provides (with exceptions) that a final rule published after consideration of those comments not take effect for at least 30 days from the date of publication (5 U.S.C. 553(d)). In addition, the APA establishes requirements for adjudications required by statute to be determined on the record after opportunity for an agency hearing. (5 U.S.C. 554).

The Department of Homeland Security is of the opinion that easing travel restrictions between the United States and Cuba is a foreign affairs function of the United States Government and that rules implementing this function are exempt from § 553 (Rulemaking) and § 554 (Adjudications) of the APA. In addition, the Department of Homeland Security does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. The Department is of the opinion that easing travel restrictions between the United States and Cuba is a foreign affairs function of the United States Government and that rules governing the conduct of this function are exempt from the requirements of Executive Order 12866. Finally, because the Department is of the opinion that this rule is not subject to the requirements of 5 U.S.C. 553, the Department does not consider this document to be subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The collection of information encompassed within this final rule is contained in 19 CFR 122.153 and requires a written request to CBP requesting approval for the airport to be able to accept aircraft traveling to or from Cuba. The information will be used by CBP to assist in determining if an airport is suitable to accommodate aircraft traveling between the United States and Cuba. A request to approve this information collection has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

The burden estimates for eligibility requirements and application and approval procedure under § 122.153 are as follows:

Estimated annual reporting burden: 16 hours.

Estimated number of respondents: 16.

Estimated average annual burden per respondent: 1 hour.

Signing Authority

This final rule is being issued in accordance with 8 CFR 2.1 and 19 CFR 0.2(a). Accordingly, this final rule is signed by the Secretary of Homeland Security.

List of Subjects

8 CFR Part 234

Air carriers, Aircraft, Airports, Aliens, Cuba.

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Alcohol and alcoholic beverages, Cigars and cigarettes, Cuba, Customs duties and inspection, Drug traffic control, Freight, Penalties, Reporting and recordkeeping requirements, Security measures.

Amendments to the Regulations

Accordingly, part 234 of title 8 of the Code of Federal Regulations and part 122 of title 19 CFR are amended as set forth below:

8 CFR Chapter 1

PART 234—DESIGNATION OF PORTS OF ENTRY FOR ALIENS ARRIVING BY CIVIL AIRCRAFT

■ 1. The general authority for part 234 continues to read as follows:

Authority: 8 U.S.C. 1103, 1221, 1229; 8 CFR part 2.

■ 2. In § 234.2, revise paragraph (a) to read as follows:

§ 234.2 Landing requirements.

(a) *Place of landing.* Aircraft carrying passengers or crew required to be inspected under the Act must land at the international air ports of entry enumerated in part 100 of this chapter unless permission to land elsewhere is first obtained from the Commissioner of U.S. Customs and Border Protection (CBP) in the case of aircraft operated by scheduled airlines, and in all other cases from the port director of CBP or other CBP officer having jurisdiction over the CBP port of entry nearest the intended place of landing. Notwithstanding the foregoing, aircraft carrying passengers and crew required to be inspected under the Act on flights originating in Cuba must land only at airports that have been authorized by CBP pursuant to 19 CFR 122.153 as an airport of entry for flights arriving from Cuba, unless advance permission to land elsewhere has been obtained from the Office of Field Operations at CBP Headquarters.

* * * * *

19 CFR Chapter 1

PART 122—AIR COMMERCE REGULATIONS

■ 3. The general authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

■ 4. Revise § 122.153 to read as follows:

§ 122.153 Limitations on airport of entry or departure.

(a) *Aircraft arrival and departure.* The owner or person in command of any aircraft clearing the United States for or entering the United States from Cuba, whether the aircraft is departing on a temporary sojourn or for export, must clear or obtain permission to depart from, or enter at, the Miami International Airport, Miami, Florida; the John F. Kennedy International Airport, Jamaica, New York; the Los Angeles International Airport, Los Angeles, California; or any other airport that has been approved by CBP pursuant to paragraph (b) of this section, and must comply with the requirements in this part unless otherwise authorized by the Assistant Commissioner, Office of Field Operations, CBP Headquarters.

(b) *CBP approval of airports of entry and departure.*

(1) *Airports eligible to apply.* An international airport, landing rights airport, or user fee airport (as defined in § 122.1 and described in subpart B of this part) that is equipped to facilitate passport control and baggage inspection, and otherwise process international flights and has an Office of Foreign Assets Control (OFAC) licensed carrier service provider that is prepared to provide flights between the airport and Cuba, may request CBP approval to become an airport of entry and departure for aircraft traveling to or from Cuba.

(2) *Application and approval procedure.* The director of the port authority governing the airport must send a written request to the Assistant Commissioner, Office of Field Operations, CBP Headquarters, requesting approval for the airport to be able to accept aircraft traveling to or from Cuba. Upon determination that the airport is suitable to provide such services, CBP will notify the requestor that the airport has been approved to accept aircraft traveling to or from Cuba, and that it may immediately begin to accept such aircraft. For reference purposes, approved airports will be listed on the CBP Web site and in updates to paragraph (c) of this section.

(c) *List of airports authorized to accept aircraft traveling to or from Cuba.* For reference purposes, the following is a list of airports that have been authorized by CBP to accept aircraft traveling between Cuba and the United States.

Location	Name
Jamaica, New York.	John F. Kennedy International Airport
Los Angeles, California.	Los Angeles International Airport
Miami, Florida	Miami International Airport

■ 5. In § 122.154, revise paragraph (b)(2) to read as follows:

§ 122.154 Notice of arrival.

* * * * *

(b) * * *

(2) Directly to the CBP officer in charge at the applicable airport authorized pursuant to § 122.153.

* * * * *

Janet Napolitano,

Secretary.

[FR Doc. 2011–2011 Filed 1–27–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM440; Special Conditions No. 25–415–SC]

Special Conditions: TTF Aerospace, LLC, Modification to Boeing Model 767–300 Series Airplanes; Pilot Lower Lobe Crew Rest Module

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Boeing Model 767–300 series airplane. This airplane, as modified by TTF Aerospace, LLC, will have a novel or unusual design features associated with the pilot lower lobe crew rest module (CRM). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is January 21, 2011. We must receive your comments by March 14, 2011.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM440, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM440. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: John Shelden, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2785; facsimile (425) 227–1320.

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

Comments Invited

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

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

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

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

Background

On May 27, 2010, TTF Aerospace, LLC (TTF) applied for a supplemental

type certificate (STC) for installation of a lower lobe pilot crew rest module (CRM) in Boeing Model 767–300 series airplanes. The CRM will be a one-piece, self-contained unit for installation in the forward portion of the aft cargo compartment. It will be attached to the existing cargo restraint system and will be limited to a maximum of two occupants. An approved seat or berth, able to withstand the maximum flight loads when occupied, will be provided for each occupant permitted in the CRM. The CRM is intended to be occupied only in flight, *i.e.,* not during taxi, takeoff, or landing. A smoke detection system, manual fire fighting system, oxygen system, and occupant amenities will be provided.

Two entry/exits between the main deck area will be required. The floor structure will be modified to provide access for the main entry hatch and emergency-access hatch.

Type Certification Basis

Under the provisions of 14 CFR 21.101, TTF must show that Boeing Model 767–300 series airplanes, with the CRM, continue to meet either:

(1) The applicable provisions of the regulations incorporated by reference in Type Certificate No. A1NM, or

(2) The applicable regulations in effect on the date of TTF's application for the change.

The regulations incorporated by reference in the type certificate are commonly referred to as the "original type-certification basis." The certification basis for Boeing Model 767–300 series airplanes is 14 CFR part 25, as amended by Amendments 25–1 through 25–37. Refer to Type Certificate No. A1NM for a complete description of the certification basis for this model.

According to 14 CFR 21.16, if the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for Boeing Model 767–300 series airplanes because of a novel or unusual design feature, the Administrator prescribes special conditions for the airplane.

As defined in 14 CFR 11.19, special conditions are issued in accordance with 14 CFR 11.38 and become part of the type certification basis in accordance with 14 CFR 21.101.

Special conditions are initially applicable to the model for which they are issued. If the type certificate for that model is amended to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to that model. Similarly, if any other model already included on the same type certificate is modified to incorporate the same or similar novel or unusual design feature, the special conditions would apply to that other model under the provisions of 14 CFR 21.101.

In addition to the applicable airworthiness regulations and special conditions, Boeing Model 767–300 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34, and the noise certification requirements of 14 CFR part 36.

Novel or Unusual Design Features

While installation of a CRM is not a new concept for large, transport category airplanes, each module has unique features based on its design, location, and use. The CRM to be installed on Boeing Model 767–300 series airplanes is novel in that it will be located below the passenger cabin floor in the aft portion of the forward cargo compartment.

Because of the novel or unusual features associated with the installation of a CRM, special conditions are considered necessary to provide a level of safety equal to that established by the airworthiness regulations incorporated by reference in the type certificate of this airplane model. These special conditions do not negate the need to address other applicable part 25 regulations.

Operational Evaluations and Approval

These special conditions specify requirements for design approvals (*i.e.,* type design changes and STCs) of CRMs administered by the FAA's Aircraft Certification Service. The FAA's Flight Standards Service, Aircraft Evaluation Group (AEG), must evaluate and approve the "basic suitability" of the CRM for occupation by crewmembers before the module may be used. If an operator wishes to use a CRM as "sleeping quarters," the module must undergo an additional operational evaluation and approval. AEG would evaluate the CRM for compliance with §§ 121.485(a) and 121.523(b), with Advisory Circular 121–31, "Flight Crew Sleeping Quarters and Rest Facilities," providing one method of compliance to these operational regulations.

To obtain an operational evaluation, the supplemental type design holder must contact AEG within the Flight Standards Service that has operational-approval authority for the project. In this instance, it is the Seattle AEG. The supplemental type design holder must request a "basic suitability" evaluation or a "sleeping quarters" evaluation of the crew rest module. The supplemental type design holder may make this request concurrently with the demonstration of compliance with these special conditions.

The Boeing Model 767–300 Flight Standardization Board Report Appendix will document the results of these evaluations. In discussions with the FAA Principal Operating Inspector, individual operators may refer to these standardized evaluations as the basis for an operational approval, instead of an on-site operational evaluation.

Any change to the approved CRM configuration requires an operational re-evaluation and approval, if the change affects any of the following:

- Procedures for emergency egress of crewmembers,
- Other safety procedures for crewmembers occupying the CRM, or
- Training related to these procedures.

The applicant for any such change is responsible for notifying the Seattle AEG that a new evaluation of the CRM is required. All instructions for continued airworthiness, including service bulletins, must be submitted to the Seattle AEG for approval before the FAA approves the modification.

Discussion of Special Conditions No. 9 and No. 12

The following clarifies the intent of Special Condition No. 9 relative to the fire fighting equipment necessary in the CRM:

Amendment 25–38 modified the requirements of § 25.1439(a) by adding, "In addition, protective breathing equipment must be installed in each isolated separate compartment in the airplane, including upper and lower lobe galleys, in which crewmember occupancy is permitted during flight for the maximum number of crewmembers expected to be in the area during any operation."

Section 25.851(a)(4) requires at least one hand fire extinguisher be located in, or readily accessible for use in, each galley located above or below the passenger compartment. The crew rest is not considered a galley, and it does not meet one of the cargo compartment classifications in § 25.851(a)(3). Therefore, special conditions are required to define the quantity and type of fire extinguishers required in order to maintain the same level of safety.

The CRM is an isolated, separate compartment, so § 25.1439(a) is applicable. However, the requirements of Special Condition No. 9 clarify the expected number of portable PBE in relation to the number of required fire extinguishers.

These special conditions address a CRM that can accommodate up to two crewmembers. In the event of a fire, the first action should be for each occupant to leave the confined space, unless that occupant is fighting the fire. Taking the time to don protective breathing equipment would prolong the time for the emergency evacuation of the occupants and possibly interfere with efforts to extinguish the fire. However, the FAA considers it appropriate that a minimum of two crewmembers would be used fight a fire. As such, Special Condition No. 9 describes the minimum equipment necessary to fight a fire in the crew rest area.

Regarding Special Condition No. 12, the FAA considers that during the 1-minute smoke detection time, penetration of a small quantity of smoke from the aft lower lobe CRM into an occupied area of the airplane would be acceptable, given the limitations in these special conditions. The FAA considers that the special conditions place sufficient restrictions on the quantity and type of material allowed in crew carry-on bags that the threat from a fire in the remote CRM would be equivalent to the threat from a fire in the main cabin.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 767–300 series airplanes. Should TTF apply at a later date for a STC to modify any other model included on Type Certificate No. A1NM to incorporate the same or similar novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on Boeing Model 767–300 series airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 767–300 series airplanes modified by TTF Aerospace, LLC.

1. Occupancy of the lower lobe crew rest compartment is limited to the total number of installed bunks and seats in each compartment. There must be an approved seat or berth able to withstand the maximum flight loads when occupied for each occupant permitted in the crew rest compartment. The maximum occupancy is two in the crew rest module (CRM).

(a) There must be an appropriate placard displayed in a conspicuous place at each entrance to the CRM compartment to indicate:

(1) The maximum number of occupants allowed;

(2) That occupancy is restricted to crewmembers whom are trained in the evacuation procedures for the crew rest compartment;

(3) That occupancy is prohibited during taxi, take-off, and landing;

(4) That smoking is prohibited in the crew rest compartment;

(5) That hazardous quantities of flammable fluids, explosives, or other dangerous cargo are prohibited from the crew rest compartment; and

(6) That stowage in the crew rest area must be limited to emergency equipment, airplane-supplied equipment (*e.g.,* bedding), and crew personal luggage; cargo or passenger baggage is not allowed.

(b) There must be at least one ashtray located conspicuously on or near the entry side of any entrance to the crew rest compartment.

(c) There must be a means to prevent passengers from entering the compartment in the event of an emergency or when no flight attendant is present.

(d) There must be a means for any door installed between the crew rest compartment and passenger cabin to be capable of being quickly opened from inside the compartment, even when crowding occurs at each side of the door.

(e) For all doors installed in the evacuation routes, there must be a means to preclude anyone from being trapped inside the compartment. If a locking mechanism is installed, it must be capable of being unlocked from the outside without the aid of special tools. The lock must not prevent opening from the inside of the compartment at any time.

2. There must be at least two emergency evacuation routes, which could be used by each occupant of the crew rest compartment to rapidly evacuate to the main cabin and be able to be closed from the main passenger cabin after evacuation. In addition—

(a) The routes must be located with one at each end of the compartment, or with two having sufficient separation within the compartment and between the routes to minimize the possibility of an event (either inside or outside of the crew rest compartment) rendering both routes inoperative.

(b) The routes must be designed to minimize the possibility of blockage, which might result from fire, mechanical or structural failure, or persons standing on top of or against the escape route. If an evacuation route uses an area where normal movement of passengers occurs, it must be demonstrated that passengers would not impede egress to the main deck. If a hatch is installed in an evacuation route, the point at which the evacuation route terminates in the passenger cabin should not be located where normal movement by passengers or crew occurs (main aisle, cross aisle, passageway, or galley complex). If such a location cannot be avoided, special consideration must be taken to ensure that the hatch or door can be opened when a person, the weight of a 95th percentile male, is standing on the hatch or door. The use of evacuation routes must not be dependent on any powered device. If there is low headroom at or near an evacuation route, provisions must be made to prevent or to protect occupants (of the crew rest area) from head injury.

(c) Emergency evacuation procedures, including the emergency evacuation of an incapacitated occupant from the crew rest compartment, must be established. All of these procedures must be transmitted to the operators for incorporation into their training programs and appropriate operational manuals.

(d) There must be a limitation in the Airplane Flight Manual or other suitable

means requiring that crewmembers be trained in the use of evacuation routes.

3. There must be a means for the evacuation of an incapacitated person (representative of a 95th percentile male) from the crew rest compartment to the passenger cabin floor. The evacuation must be demonstrated for all evacuation routes. A flight attendant or other crewmember (a total of one assistant within the crew rest area) may provide assistance in the evacuation. Additional assistance may be provided by up to three persons in the main passenger compartment. For evacuation routes having stairways, the additional assistants may descend down to one-half the elevation change from the main deck to the lower deck compartment, or to the first landing, whichever is higher.

4. The following signs and placards must be provided in the crew rest compartment:

(a) At least one exit sign, located near each exit, meeting the requirements of § 25.812(b)(1)(i) at Amendment 25–58, except that a sign with reduced background area of no less than 5.3 square inches (excluding the letters) may be used, provided that it is installed so that the material surrounding the exit sign is light in color (*e.g.,* white, cream, or light beige). If the material surrounding the exit sign is not light in color, a sign with a minimum of a one-inch wide background border around the letters would also be acceptable;

(b) An appropriate placard located near each exit defining the location and the operating instructions for each evacuation route;

(c) Placards must be readable from a distance of 30 inches under emergency lighting conditions; and

(d) The exit handles and evacuation path operating instruction placards must be illuminated to at least 160 micro lamberts under emergency lighting conditions.

5. There must be a means in the event of failure of the aircraft's main power system, or of the normal crew rest compartment lighting system, for emergency illumination to be automatically provided for the crew rest compartment.

(a) This emergency illumination must be independent of the main lighting system.

(b) The sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(c) The illumination level must be sufficient for the occupants of the crew rest compartment to locate and transfer to the main passenger cabin floor by means of each evacuation route.

(d) The illumination level must be sufficient with the privacy curtains in the closed position for each occupant of the crew rest to locate a deployed oxygen mask.

6. There must be means for two-way voice communications between crewmembers on the flightdeck and occupants of the crew rest compartment. There must also be two-way communications between the occupants of the CRM compartment and each flight attendant station required to have a public address (PA) system microphone in accordance with § 25.1423(g) in the passenger cabin. In addition, the PA system must include provisions to provide only the relevant information to the crewmembers in the CRM compartment (*e.g.,* fire in flight, aircraft depressurization, preparation of the compartment for landing, *etc.*). That is, provisions must be made so that occupants of the CRM compartment will not be disturbed with normal, non-emergency announcements made to the passenger cabin.

7. There must be a means for manual activation of an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flightdeck and at each pair of required floor level emergency exits to alert occupants of the crew rest compartment of an emergency situation. Use of a PA or crew interphone system will be acceptable, provided an adequate means of differentiating between normal and emergency communications is incorporated. The system must be powered in flight for at least ten minutes after the shutdown or failure of all engines and auxiliary power units (APU), or the disconnection or failure of all power sources dependent on their continued operation of the engines and APUs.

8. There must be a means, readily detectable by seated or standing occupants of the crew rest compartment, which indicates when seat belts should be fastened. In the event there are no seats, at least one means must be provided to cover anticipated turbulence (*e.g.,* sufficient handholds). Seat belt type restraints must be provided for berths and must be compatible for the sleeping attitude during cruise conditions. There must be a placard on each berth requiring that seat belts must be fastened when occupied. If compliance with any of the other requirements of these special conditions is predicated on specific head location, there must be a placard identifying the head position.

9. The following fire fighting equipment must be provided in the crew rest compartment:

(a) At least one approved hand-held fire extinguisher appropriate for the kinds of fires likely to occur;

(b) Two PBE devices approved to Technical Standard Order (TSO)-C116 or equivalent, suitable for fire fighting, or one PBE for each hand-held fire extinguisher, whichever is greater; and

(c) One flashlight.

Note: Additional PBEs and fire extinguishers in specific locations (beyond the minimum numbers prescribed in Special Condition No. 9) may be required as a result of any egress analysis accomplished to satisfy Special Condition No. 2(a).

10. A smoke or fire detection system (or systems) must be provided that monitors each occupiable area within the crew rest compartment, including those areas partitioned by curtains. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication to the flightdeck within one minute after the start of a fire;

(b) An aural warning in the crew rest compartment; and

(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

11. The crew rest compartment must be designed so that fires within the compartment can be controlled without a crewmember having to enter the compartment, or the design of the access provisions must allow crewmembers equipped for fire fighting to have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, to don the fire fighting equipment, and to gain access must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the fire source.

12. There must be a means provided to exclude hazardous quantities of smoke or extinguishing agent originating in the crew rest compartment from entering any other compartment occupied by crewmembers or passengers. This means must include the time periods during the evacuation of the crew rest compartment and, if applicable, when accessing the crew rest compartment to manually fight a fire. Smoke entering any other compartment occupied by crewmembers or

passengers when the access to the crew rest compartment is opened, during an emergency evacuation, must dissipate within five minutes after the access to the crew rest compartment is closed. Hazardous quantities of smoke may not enter any other compartment occupied by crewmembers or passengers during subsequent access to manually fight a fire in the crew rest compartment (the amount of smoke entrained by a firefighter exiting the crew rest compartment through the access is not considered hazardous). During the 1-minute smoke detection time, penetration of a small quantity of smoke from the crew rest compartment into an occupied area is acceptable. Flight tests must be conducted to show compliance with this requirement.

If a built-in fire extinguishing system is used instead of manual fire fighting, then the fire extinguishing system must be designed so that no hazardous quantities of extinguishing agent will enter other compartments occupied by passengers or crew. The system must have adequate capacity to suppress any fire occurring in the crew rest compartment, considering the fire threat, volume of the compartment, and the ventilation rate.

13. There must be a supplemental oxygen system equivalent to that provided for main deck passengers for each seat and berth in the crew rest compartment. The system must provide an aural and visual warning to warn the occupants of the crew rest compartment to don oxygen masks in the event of decompression. The warning must activate before the cabin pressure altitude exceeds 15,000 feet. The aural warning must sound continuously for a minimum of five minutes or until a reset push button in the crew rest compartment is depressed. Procedures for crew rest occupants in the event of decompression must be established. These procedures must be transmitted to the operator for incorporation into their training programs and appropriate operational manuals.

14. If a destination area (such as a changing area) is provided, there must be an oxygen mask readily available for each occupant who can reasonably be expected to be in the destination area (with the maximum number of required masks within the destination area being limited to the placarded maximum occupancy of the destination area). There must be a supplemental oxygen system equivalent to that provided for main deck passengers for each seat and berth in the crew rest compartment. The system must provide an aural and visual warning to warn the occupants of the crew rest compartment to don oxygen masks in the event of decompression. The warning must activate before the cabin pressure altitude exceeds 15,000 feet. The aural warning must sound continuously for a minimum of five minutes or until a reset push button in the crew rest compartment is depressed. Procedures for crew rest occupants in the event of decompression must be established. These procedures must be transmitted to the operator for incorporation into their training programs and appropriate operational manuals.

15. The following requirements apply to crew rest compartments that are divided into several sections by the installation of curtains or partitions:

(a) To compensate for sleeping occupants, there must be an aural alert that can be heard in each section of the crew rest compartment that accompanies automatic presentation of supplemental oxygen masks. A visual indicator that occupants must don an oxygen mask is required in each section where seats or berths are not installed. A minimum of two supplemental oxygen masks is required for each seat or berth. There must also be a means by which the oxygen masks can be manually deployed from the flightdeck.

(b) A placard is required adjacent to each curtain that visually divides or separates, for privacy purposes, the crew rest compartment into small sections. The placard must require that the curtain remains open when the private section it creates is unoccupied.

(c) For each crew rest section created by the installation of a curtain, the following requirements of these special conditions must be met with the curtain open or closed:

(1) Emergency illumination (Special Condition No. 5);

(2) Emergency alarm system (Special Condition No. 7);

(3) Seat belt fasten signal or return to seat signal as applicable (Special Condition No. 8); and

(4) The smoke or fire detection system (Special Condition No. 10).

(d) Crew rest compartments visually divided to the extent that evacuation could be affected must have exit signs that direct occupants to the primary stairway exit. The exit signs must be provided in each separate section of the crew rest compartment, and must meet the requirements of § 25.812(b)(1)(i) at Amendment 25–58. An exit sign with reduced background area as described in Special Condition No. 4(a) may be used to meet this requirement.

(e) For sections within a crew rest compartment that are created by the installation of a partition with a door separating the sections, the following requirements of these special conditions must be met with the door open or closed:

(1) There must be a secondary evacuation route from each section to the main deck, or alternatively, it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment. Removal of an incapacitated occupant within this area must be considered. A secondary evacuation route from a small room designed for only one occupant for short time duration, such as a changing area or lavatory, is not required. However, removal of an incapacitated occupant within this area must be considered.

(2) Any door between the sections must be shown to be openable when crowded against, even when crowding occurs at each side of the door.

(3) There may be no more than one door between any seat or berth and the primary stairway exit.

(4) There must be exit signs in each section meeting the requirements of § 25.812(b)(1)(i) at Amendment 25–58 that direct occupants to the primary stairway exit. An exit sign with reduced background area as described in Special Condition No. 4(a) may be used to meet this requirement.

(5) Special Conditions No. 5 (emergency illumination), No. 7 (emergency alarm system), No. 8 (fasten seat belt signal or return to seat signal as applicable) and No. 10 (smoke or fire detection system) must be met with the door open or closed.

(6) Special Conditions No. 6 (two-way voice communication) and No. 9 (emergency fire fighting and protective equipment) must be met independently for each separate section except for lavatories or other small areas that are not intended to be occupied for extended periods of time.

16. Where a waste disposal receptacle is fitted, it must be equipped with a built-in fire extinguisher designed to discharge automatically upon occurrence of a fire in the receptacle.

17. Materials (including finishes or decorative surfaces applied to the materials) must comply with the flammability requirements of § 25.853 at Amendment 25–66. Mattresses must comply with the flammability requirements of § 25.853(b) and (c) at Amendment 25–66.

18. All lavatories within the crew rest compartment are required to meet the same requirements as those for a lavatory installed on the main deck, except with regard to Special Condition No. 10 for smoke detection.

19. When a crew rest compartment is installed or enclosed as a removable

module in part of a cargo compartment or is located directly adjacent to a cargo compartment without an intervening cargo compartment wall, the following applies:

(a) Any wall of the module (container) forming part of the boundary of the reduced cargo compartment, subject to direct flame impingement from a fire in the cargo compartment and including any interface item between the module (container) and the airplane structure or systems, must meet the applicable requirements of § 25.855 at Amendment 25–60.

(b) Means must be provided so that the fire protection level of the cargo compartment meets the applicable requirements of § 25.855 at Amendment 25–60, § 25.857 at Amendment 25–60, and § 25.858 at Amendment 25–54 when the module (container) is not installed.

(c) Use of each emergency evacuation route must not require occupants of the crew rest compartment to enter the cargo compartment in order to return to the passenger compartment.

(d) The aural warning in Special Condition No. 7 must sound in the crew rest compartment in the event of a fire in the cargo compartment.

20. All enclosed stowage compartments within the crew rest that are not limited to stowage of emergency equipment or airplane-supplied equipment (*e.g.,* bedding) must meet the design criteria given in the table below. As indicated by the table below, enclosed stowage compartments greater than 200 ft^3 in interior volume are not addressed by this special condition. The in-flight accessibility of very large enclosed stowage compartments and the subsequent impact on the crewmember's ability to effectively reach any part of the compartment with the contents of a hand fire extinguisher will require additional fire protection considerations similar to those required for inaccessible compartments such as Class C cargo compartments.

Fire protection features	Stowage compartment interior volumes		
	Less than 25 ft^3	25 ft^3 to 57 ft^3	57 ft^3 to 200 ft^3
Materials of construction [1]	Yes	Yes	Yes.
Detectors [2]	No	Yes	Yes.
Liner [3]	No	No	Yes.
Locating device [4]	No	Yes	Yes.

[1] *Material:* The material used to construct each enclosed stowage compartment must at least be fire resistant and must meet the flammability standards established for interior components according to the requirements of § 25.853. For compartments less than 25 ft^3 in interior volume, the design must ensure the ability to contain a fire likely to occur within the compartment under normal use.

[2] *Detectors:* Enclosed stowage compartments equal to or exceeding 25 ft^3 in interior volume must be provided with a smoke or fire detection system to ensure that a fire can be detected within a 1-minute detection time. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication in the flight deck within one minute after the start of a fire;

(b) An aural warning in the crew rest compartment; and

(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

[3] *Liner:* If it can be shown that the material used to construct the stowage compartment meets the flammability requirements of a liner for a Class B cargo compartment, then no liner would be required for enclosed stowage compartments equal to or greater than 25 ft^3 in interior volume but less than 57 ft^3 in interior volume. For all enclosed stowage compartments equal to or greater than 57 ft^3 in interior volume but less than or equal to 200 ft^3, a liner must be provided that meets the requirements of § 25.855 at Amendment 25–60 for a Class B cargo compartment.

[4] *Locating Device:* Crew rest areas that contain enclosed stowage compartments exceeding 25 ft^3 interior volume, and that are located away from one central location, such as the entry to the crew rest area or a common area within the crew rest area, would require additional fire protection features and/or devices to assist the firefighter in determining the location of a fire.

Issued in Renton, Washington on January 21, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–1730 Filed 1–27–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0593; Directorate Identifier 98–ANE–48–AD; Amendment 39–16584; AD 2011–03–01]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D–7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for Pratt & Whitney (PW) JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR series turbofan engines. That AD currently requires revisions to the engine manufacturer's time limits section (TLS) to include enhanced inspection of selected critical life-limited parts at each piece-part opportunity. This AD modifies the TLS of the manufacturer's engine manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements and reduce the model applicability. This AD was prompted by PW developing, and the FAA approving, improved inspection procedures for the critical life-limited parts. The mandatory inspections are needed to identify those critical rotating parts with conditions which, if allowed to continue in service, could result in uncontained failures. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: This AD is effective March 4, 2011.

ADDRESSES:

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: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone (781) 238–7178, fax (781) 238–7199; e-mail: *ian.dargin@faa.gov.*

SUPPLEMENTARY INFORMATION: We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2005–25–05, Amendment 39–14398 (70 FR 73361, December 12, 2005). That AD applies to the specified products. The NPRM published in the **Federal Register** on August 18, 2010 (75 FR 50942). That NPRM proposed to modify the TLS of the manufacturer's engine manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements and reduce the model applicability. PW has developed and the FAA has approved improved inspection procedures for the critical life-limited parts. The mandatory inspections are needed to identify those critical rotating parts with conditions which, if allowed to continue in service, could result in uncontained failures.

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 relevant data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD will affect 1,527 JT8D –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR series turbofan engines installed on airplanes of U.S. registry. We also estimate that it will take about 10 work-hours per engine to perform the actions, and that the average labor rate is $85 per work-hour. Since this is an added inspection requirement, included as part of the normal maintenance cycle, no additional part costs are involved. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $1,297,950.

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 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, 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 removing Amendment 39–14398 (70 FR 73361, December 12, 2005), and by adding a new airworthiness directive, Amendment 39–16584, to read as follows:

2011–03–01 Pratt & Whitney: Amendment 39–16584. Docket No. FAA–2010–0593; Directorate Identifier 98–ANE–48–AD.

Effective Date

(a) This airworthiness directive (AD) is effective March 4, 2011.

Affected ADs

(b) This AD supersedes AD 2005–25–05, Amendment 39–14398.

Applicability

(c) This AD applies to Pratt & Whitney (PW) JT8D–7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR series turbofan engines. These engines are installed on, but not limited to, Boeing 727 and 737 series, and McDonnell Douglas DC–9 series airplanes.

Unsafe Condition

(d) This AD results from the need to require enhanced inspection of selected critical life-limited parts of PW JT8D series turbofan engines. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

Compliance

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

(f) Within the next 30 days after the effective date of this AD, (1) revise the Time Limits Section (TLS) of the manufacturer's engine manual, part number 481672, as appropriate for PW JT8D–7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR series turbofan engines, and (2) for air carriers, revise the approved mandatory inspections section of the continuous airworthiness maintenance program, by adding the following:

"Critical Life Limited Part Inspection

A. Inspection Requirements:

(1) This section has the definitions for individual engine piece-parts and the inspection procedures which are necessary when these parts are removed from the engine.

(2) It is necessary to do the inspection procedures of the piece-parts in paragraph B when:

(a) The part is removed from the engine and disassembled to the level specified in paragraph B and

(b) The part has accumulated more than 100 cycles since the last piece-part inspection, provided that the part was not damaged or related to the cause for its removal from the engine.

(3) The inspections specified in this paragraph do not replace or make not necessary other recommended inspections for these parts or other parts.

B. Parts Requiring Inspection:

Note: Piece-part is defined as any of the listed parts with all the blades removed.

Description	Section	Inspection No.
Hub (Disk), 1st Stage Compressor:		
* Hub Detail—All P/Ns	72–33–31	–03, –04, –05, –06
* Hub Assembly—All P/Ns	72–33–31	–03, –04, –05, –06
2nd Stage Compressor:		
Disk—All P/Ns	72–33–33	–02, –03
Disk Assembly—All P/Ns	72–33–33	–02, –03
Disk, 13th Stage Compressor—All P/Ns	72–36–47	–02
HP Turbine Disk, First Stage w/integral Shaft—All P/Ns	72–52–04	–03
HP Turbine, First Stage, w/separable Shaft:		
Rotor Assembly—All P/Ns	72–52–02	–04
Disk—All P/Ns	72–52–02	–03
Disk, 2nd Stage Turbine—All P/Ns	72–53–16	–02
* Disk, 3rd Stage Turbine—All P/Ns	72–53–17	–02, –03
* Disk (Separable), 4th Stage Turbine—All P/Ns	72–53–15	–02, –03
Disk (Integral Disk/Hub), 4th Stage Turbine—All P/Ns	72–53–18	–02”

(g) The parts that have an Engine Manual Inspection Task and or Sub Task Number reference updated in the table of this AD are identified by an asterisk (*) that precedes the part nomenclature.

(h) Except as provided in paragraph (i) of this AD and, notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the TLS of the manufacturer's engine manual.

Alternative Methods of Compliance (AMOC)

(i) You must perform these mandatory inspections using the TLS of the manufacturer's engine manual unless you receive approval to use an AMOC under paragraph (j) of this AD. Section 43.16 of the Federal Aviation Regulations (14 CFR 43.16) may not be used to approve alternative methods of compliance or adjustments to the times in which these inspections must be performed.

(j) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Maintaining Records of the Mandatory Inspections

(k) You have met the requirements of this AD when you revise the TLS of the manufacturer's engine manual as specified in paragraph (f) of this AD. For air carriers operating under part 121 of the Federal Aviation Regulations (14 CFR part 121), you have met the requirements of this AD when you modify your continuous airworthiness maintenance plan to reflect those changes. You do not need to record each piece-part inspection as compliance to this AD, but you must maintain records of those inspections according to the regulations governing your operation. For air carriers operating under part 121, you may use either the system established to comply with section 121.369 or an alternative accepted by your principal maintenance inspector if that alternative:

(1) Includes a method for preserving and retrieving the records of the inspections resulting from this AD; and

(2) Meets the requirements of section 121.369(c); and

(3) Maintains the records either indefinitely or until the work is repeated.

(l) These record keeping requirements apply only to the records used to document the mandatory inspections required as a result of revising the TLS of the manufacturer's engine manual as specified in paragraph (f) of this AD. These record keeping requirements do not alter or amend the record keeping requirements for any other AD or regulatory requirement.

Related Information

(m) For more information about this AD, contact Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone (781) 238–7178, fax (781) 238–7199; e-mail: *ian.dargin@faa.gov.*

Issued in Burlington, Massachusetts, on January 24, 2011.

Thomas A. Boudreau,

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

[FR Doc. 2011–1869 Filed 1–27–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0688; Airspace Docket No. 09–AGL–23]

RIN 2120–AA66

Establishment of Low Altitude Area Navigation Routes (T–281, T–283, T–285, T–286, and T–288); Nebraska and South Dakota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes five low altitude Area Navigation (RNAV) routes, designated T–281, T–283, T–285, T–286, and T–288, over Nebraska and South Dakota; controlled by Denver Air Route Traffic Control Center (ARTCC) and Minneapolis ARTCC. T-routes are low altitude Air Traffic Service routes, based on RNAV, for use by aircraft that have instrument flight rules (IFR) approved Global Positioning System (GPS)/Global Navigation Satellite System (GNSS) equipment. This action enhances safety and improves the efficient use of the navigable airspace within Denver and Minneapolis ARTCC airspace.

DATES: Effective date 0901 UTC, May 5, 2011. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace, Regulations and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On August 5, 2010, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish five low altitude RNAV routes within Denver and Minneapolis ARTCC airspace (75 FR 47252). Previously, the pilot's only options are to either fly Visual Flight Rules (VFR), VFR-On-Top, file a flight plan with an altitude high enough for air traffic control to maintain radar surveillance and communication frequency coverage, or fly many miles out of their way to use established airways. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. One comment was received, from the Aircraft Owners and Pilots Association, supporting the proposal.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 to establish five low altitude RNAV routes within Denver and Minneapolis ARTCC airspace. This action establishes five T-routes where none exist today and enables aircraft to navigate between the sites identified in the regulatory route descriptions. The routes, designated as T–281, T–283, T–285, T–286, and T–288, will be depicted on the appropriate IFR En Route Low Altitude charts and will only be available for use by GPS/GNSS equipped aircraft. This action enhances safety and facilitates the efficient use of navigable airspace for en route IFR operations within Denver and Minneapolis ARTCC airspace.

Low altitude RNAV routes are published in paragraph 6011 of FAA Order 7400.9U dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The low altitude RNAV routes listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes low altitude RNAV routes (T-routes) over Nebraska and South Dakota.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6011 Area Navigation Routes

* * * * *

T–281 YOZLE, NE to Pierre, SD [New]

YOZLE, NE	Fix	(Lat. 41°01′33″ N., long. 99°39′06″ W.)
BOKKI, NE	Fix	(Lat. 41°39′55″ N., long. 99°52′17″ W.)
Ainsworth, NE (ANW)	VOR/DME	(Lat. 42°34′09″ N., long. 99°59′23″ W.)
LKOTA, SD	WP	(Lat. 43°15′28″ N., long. 100°03′14″ W.)
Pierre, SD (PIR)	VORTAC	(Lat. 44°23′40″ N., long. 100°09′46″ W.)

* * * * * * *

T–283 Scottsbluff, NE to Pierre, SD [New]

Scottsbluff, NE (BFF)	VORTAC	(Lat. 41°53′39″ N., long. 103°28′55″ W.)
Gordon, NE (GRN)	NDB	(Lat. 42°48′04″ N., long. 102°10′46″ W.)
WNDED, SD	WP	(Lat. 43°19′14″ N., long. 101°32′19″ W.)
Pierre, SD (PIR)	VORTAC	(Lat. 44°23′40″ N., long. 100°09′46″ W.)

* * * * * * *

T–285 North Platte, NE to Huron, SD [New]

North Platte, NE (LBF)	VORTAC	(Lat. 41°02′55″ N., long. 100°44′50″ W.)
Thedford, NE (TDD)	VOR/DME	(Lat. 41°58′54″ N., long. 100°43′09″ W.)
MARSS, NE	Fix	(Lat. 42°27′49″ N., long. 100°36′15″ W.)
Valentine, NE (VTN)	NDB	(Lat. 42°51′42″ N., long. 100°32′59″ W.)
LKOTA, SD	WP	(Lat. 43°15′28″ N., long. 100°03′14″ W.)
Winner, SD (ISD)	VOR	(Lat. 43°29′16″ N., long. 99°45′41″ W.)
Huron, SD (HON)	VORTAC	(Lat. 44°26′24″ N., long. 98°18′40″ W.)

T–286 Rapid City, SD to Grand Island, NE [New]

Rapid City, SD (RAP)	VORTAC	(Lat. 43°58′34″ N., long. 103°00′44″ W.)
Gordon, NE (GRN)	NDB	(Lat. 42°48′04″ N., long. 102°10′46″ W.)
EFFEX, NE	WP	(Lat. 42°19′59″ N., long. 101°20′11″ W.)
Thedford, NE (TDD)	VOR/DME	(Lat. 41°58′54″ N., long. 100°43′09″ W.)
BOKKI, NE	Fix	(Lat. 41°39′55″ N., long. 99°52′17″ W.)
Grand Island, NE (GRI)	VORTAC	(Lat. 40°59′03″ N., long. 98°18′53″ W.)

* * * * * * *

T–288 Rapid City, SD to Wolback, NE [New]

Rapid City, SD (RAP)	VORTAC	(Lat. 43°58′34″ N., long. 103°00′44″ W.)
WNDED, SD	WP	(Lat. 43°19′14″ N., long. 101°32′19″ W.)
Valentine, NE (VTN)	NDB	(Lat. 42°51′42″ N., long. 100°32′59″ W.)
Ainsworth, NE (ANW)	VOR/DME	(Lat. 42°34′09″ N., long. 99°59′23″ W.)
FESNT, NE	WP	(Lat. 42°03′57″ N., long. 99°17′18″ W.)
Wolbach, NE (OBH)	VORTAC	(Lat. 41°22′33″ N., long. 98°21′13″ W.)

Issued in Washington, DC, on January 20, 2011.

Edith V. Parish,

Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2011–1800 Filed 1–27–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 285

RIN 1510–AB29

Offset of Tax Refund Payments To Collect Delinquent State Unemployment Compensation Debts

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements the authority added by the SSI Extension for Elderly and Disabled Refugees Act of 2008 ("2008 Act"), as amended by the Claims Resolution Act of 2010 (2010 Act") to offset overpayments of Federal taxes (referred to as "tax refund offset") to collect delinquent State unemployment compensation debts. The Department of the Treasury (Treasury) will incorporate the procedures necessary to collect State unemployment compensation debts as part of the Treasury Offset Program (TOP), a centralized offset program operated by the Financial Management Service (FMS), a Treasury bureau. FMS has promulgated a rule governing the offset of federal tax refunds to collect delinquent State income tax obligations. This rule amends FMS regulations to include unemployment compensation debts among the types of State debts that may be collected by tax refund offset. This rule does not affect any of the requirements or procedures for collecting delinquent State income tax obligations.

DATES: This rule is effective January 28, 2011. Comments must be received by March 29, 2011.

ADDRESSES: Treasury participates in the U.S. government's eRulemaking Initiative by publishing rulemaking information on *http://www.regulations.gov.* Regulations.gov offers the public the ability to comment on, search, and view publicly available rulemaking materials, including comments received on rules. Comments on this rule should be submitted using only the following methods:

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

Mail: Thomas Dungan, Senior Policy Analyst, U.S. Department of the Treasury, Financial Management Service, 401 14th St., SW., Washington, DC 20227.

All submissions received must include the agency name ("Fiscal Service") and the title of this rulemaking. In general, comments received will be published on Regulations.gov without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Thomas Dungan, Senior Policy Analyst, at (202)874–6660, or Tricia Long, Senior Counsel, at (202) 874–6680.

SUPPLEMENTARY INFORMATION:

I. Background

General. The Internal Revenue Code authorizes the Secretary of the Treasury to offset Federal tax refund payments to satisfy debts owed to the United States, past-due support collected by States, and income tax debts owed to States. The 2008 Act amended section 6402 of the Internal Revenue Code to authorize tax refund offset to collect an additional type of debt unemployment compensation debts owed to the States which were incurred as a result of fraud, and which were not outstanding for more than ten years. The 2010 Act expanded that authority to include all unemployment compensation debts incurred as a result of the debtor's failure to report earnings, whether or not the failure constituted fraud. The 2010 Act also eliminated the ten-year time limitation on collection, the requirement that the debtor reside in the State seeking to collect the debt, and the requirement to use certified mail with return receipt for pre-offset notices.

This rule governs the offset of one type of payment (i.e., Federal tax refunds) to pay one type of delinquent debt (*i.e.,* past-due, legally enforceable State unemployment debts). FMS has promulgated separate rules and procedures governing other types of offset, such as tax refund offset to collect nontax debt owed to the United States (*see* section 285.2 of this title).

The Treasury Offset Program. FMS operates TOP to carry out offsets under the Internal Revenue Code and other laws. TOP is a centralized offset program by which FMS offsets payments to collect delinquent debts owed to Federal agencies and States. TOP currently works as follows. FMS maintains a database containing information about delinquent debts submitted and updated by Federal and State agencies. Before Federal payments, including Federal tax refund payments, are disbursed to a payee, FMS compares the payee information with debt information in the TOP delinquent debt database. If the name and taxpayer identifying number (TIN) associated with a payment match the name (or derivative of the name) and TIN associated with a debt, the payment is offset in whole or part to satisfy the debt. FMS transmits amounts collected to the appropriate agencies or States owed the delinquent debts after deducting a fee charged to cover the cost of the offset program. Information about a delinquent debt or past-due, legally enforceable debt will remain in the debtor database for offset as long as the debt remains past due and legally collectible by offset.

Offset of Tax Refund Payments To Collect Debts Owed to States Through the Treasury Offset Program. TOP will be expanded to include the collection of past-due, legally enforceable State unemployment compensation debts. As is done by States for State income tax debts, before submitting a debt to the database, States will certify to FMS that the debt is past due, legally enforceable

and that all due process prerequisites have been met.

This rule establishes procedures for such collection, and amends section 285.8, which governs tax refund offset to collect State income tax obligations, because the two types of offset are similar.

II. Procedural Analyses

Administrative Procedure Act

FMS is promulgating this interim rule without opportunity for prior public comment pursuant to the Administrative Procedure Act, 5 U.S.C. 553 (the "APA"), because FMS has determined, for the following reasons, that a comment period would be unnecessary and contrary to the public interest. The authority to offset tax refund payments to collect delinquent State unemployment debt incurred as a result of fraud was effective on September 30, 2008, and the authority to collect unemployment compensation debts not resulting from fraud was effective December 8, 2010. A comment period is unnecessary because this interim rule is not required in order to exercise this authority and does not change the ongoing TOP offset process. It only provides guidance for State agencies and Federal disbursing officials to facilitate the addition of State unemployment debts into TOP. Under this interim rule, State agencies are required to provide to the debtor the same pre offset notice, opportunities, and rights to dispute the debt and seek waiver as currently required by 26 U.S.C. 6402. Since this interim rule provides important guidance ensuring that debtors receive appropriate notices and opportunities from States that elect to participate, FMS believes that it is in the public interest to issue this interim rule without delaying the effective date to wait for prior public comment.

For the same reasons, FMS has determined that good cause exists to make this interim rule effective upon publication without providing the 30-day period between publication and the effective date contemplated by 5 U.S.C. 553(d)(3). The public is invited to submit comments on the interim rule, which will be taken into account before a final rule is issued.

Request for Comment on Plain Language

Executive Order 12866 requires each agency in the executive branch to write regulations that are simple and easy to understand. We invite comment on how to make the proposed rule clearer. For example, you may wish to discuss: (1) Whether we have organized the material to suit your needs; (2) whether the requirements of the rule are clear; or (3) whether there is something else we could do to make this rule easier to understand.

Regulatory Analysis Planning and Review

This interim rule is not a significant regulatory action as defined in Executive Order 12866. Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Federalism

This rule has been reviewed under Executive Order 13132, Federalism. This rule will not have substantial direct effects on States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Participation in the program governed by this rule is voluntary for the States; this rule only sets forth the general procedures for State participation. States already participate in offset of tax refunds to collect delinquent State income tax obligations pursuant to 31 CFR 285.8. This rule merely updates the regulations to reflect the statutory change authorizing States to submit additional debts to TOP for collection by tax refund offset. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

List of Subjects in 31 CFR Part 285

Administrative practice and procedure, Black lung benefits, Child support, Claims, Credit, Debts, Disability benefits, Federal employees, Garnishment of wages, Hearing and appeal procedures, Loan programs, Privacy, Railroad retirement, Railroad unemployment insurance, Salaries, Social Security benefits, Supplemental Security Income (SSI), Taxes, Unemployment compensation, Veterans' benefits, Wages.

For the reasons set forth in the preamble, 31 CFR Part 285 is amended as follows:

PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

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

Authority: 5 U.S.C. 5514; 26 U.S.C. 6402; 31 U.S.C. 321, 3701, 3711, 3716, 3719, 3720A, 37203, 3720D; 42 U.S.C. 664; E.O. 13019, 61 FR 51763, 3 CFR, 1996 Comp., P. 216.

■ 2. Amend § 285.8 as follows:

■ a. Revise the section heading.

■ b. In paragraph (a), revise the definition of "Debt", revise the definition of "Debtor", and add a definition of "Unemployment compensation debt" in alphabetical order.

■ c. Revise paragraph (b).

■ d. In paragraph (c), revise the heading, paragraphs (c)(1), (c)(3)(i), and (c)(3)(ii).

■ e. In paragraph (d)(2), remove the words "6402(a), (c), (d) and (e)" wherever they appear, and add, in their place, "6402(a), (c), (d), (e) and (f)".

■ f. In paragraph (i), revise the first sentence.

■ g. In paragraph (j), remove the word "6402(e)" and add, in its place, "6402(e) or (f)" wherever it occurs.

■ h. Remove paragraph (k).

■ i. In paragraphs (c)(4), (e)(1)(i), and (f), remove the words "State income tax obligation" and add, in their place, "State income tax obligation or unemployment compensation debt" wherever they occur.

■ j. In paragraphs (e)(3), (e)(4), and (h), remove the words "State income tax obligations" and add, in their place, "State income tax obligations or unemployment compensation debts" wherever they occur.

The revision and additions read as follows:

§ 285.8 Offset of tax refund payments to collect certain debts owed to States.

(a) * * *

Debt means past-due, legally enforceable State income tax obligation or unemployment compensation debt unless otherwise indicated.

Debtor means a person who owes a debt.

* * * * *

Unemployment compensation debt has the same meaning as the term "covered unemployment debt" as defined in 26 U.S.C. 6402(f)(4), and means

(1) A past-due debt for erroneous payment of unemployment compensation due to fraud or the person's failure to report earnings which has become final under the law of a State certified by the Secretary of Labor pursuant to 26 U.S.C. 3304 and which remains uncollected;

(2) Contributions due to the unemployment fund of a State for which the State has determined the person to be liable and which remain uncollected; and

(3) Any penalties and interest assessed on such debt.

(b) *General rule.* (1) FMS will offset tax refunds to collect debt under this section in accordance with 26 U.S.C. 6402(e) and (f) and this section.

(2) FMS will compare tax refund payment records, as certified by the IRS, with records of debts submitted to FMS. A match will occur when the taxpayer identifying number (as that term is used in 26 U.S.C. 6109) and name on a payment certification record are the same as the taxpayer identifying number and name (or derivative of the name) on a delinquent debt record. When a match occurs and all other requirements for tax refund offset have been met, FMS will reduce the amount of any tax refund payment payable to a debtor by the amount of any past-due, legally enforceable State income tax obligation or unemployment compensation debt owed by the debtor. Any amounts not offset will be paid to the payee(s) listed in the payment certification record.

(3) FMS will only offset a tax refund payment for a State income tax obligation if the address shown on the Federal tax return for the taxable year of the overpayment is an address within the State seeking the offset.

(c) *Notification of past-due, legally enforceable State income tax obligations or unemployment compensation debts.* (1) Notification. States shall notify FMS of debts in the manner and format prescribed by FMS. The notification of liability must be accompanied by a certification that the debt is past due and legally enforceable and that the State has complied with the requirements contained in paragraph (c)(3) of this section and with all Federal or State requirements applicable to the collection of debts under this section. With respect to State income tax obligations only, the certification must specifically state that none of the debts submitted for collection by offset are debts owed by an individual who has claimed immunity from State taxation by reason of being an enrolled member of an Indian tribe who lives on a reservation and derives all of his or her income from that reservation unless such claim has been adjudicated de novo on its merits in accordance with paragraph (c)(3). FMS may reject a notification that does not comply with the requirements of this section. Upon notification of the rejection and the reason for rejection, the State may resubmit a corrected notification.

* * * * *

(3)(i) *Advance notification to the debtor of the State's intent to collect by Federal tax refund offset.* The State is required to provide a written notification to the debtor informing the debtor that the State intends to refer the debt for collection by tax refund offset. The notice must give the debtor at least 60 days to present evidence, in accordance with procedures established by the State, that all or part of the debt is not past due or not legally enforceable, or, in the case of a covered unemployment compensation debt, the debt is not due to fraud or the debtor's failure to report earnings. In the case of a State income tax obligation, the notice must be sent certified mail, return receipt requested.

(ii) *Determination.* The State must, in accordance with procedures established by the State, consider any evidence presented by a debtor in response to the notice described in paragraph (c)(3)(i) of this section and determine whether an amount of such debt is past due and legally enforceable and, in the case of a covered unemployment compensation debt, the debt is due to fraud or the debtor's failure to report earnings. With respect to State income tax obligations only, where the debtor claims that he or she is immune from State taxation by reason of being an enrolled member of an Indian tribe who lives on a reservation and derives all of his or her income from that reservation, State procedures shall include de novo review on the merits, unless such claims have been previously adjudicated by a court of competent jurisdiction. States shall, upon request from the Secretary of the Treasury, make such procedures available to the Secretary of the Treasury for review.

* * * * *

(i) * * * In accordance with 26 U.S.C. 6402(g), any reduction of a taxpayer's refund made pursuant to 26 U.S.C. 6402(e) or (f) shall not be subject to review by any court of the United States or by the Secretary of the Treasury, FMS or IRS in an administrative proceeding.

* * *

Dated: January 20, 2011.

Richard L. Gregg,

Fiscal Assistant Secretary.

[FR Doc. 2011–1697 Filed 1–27–11; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is amending the Cuban Assets Control Regulations to continue efforts to reach out to the Cuban people in support of their desire to freely determine their country's future. These amendments implement policy changes announced by the President on January 14, 2011, designed to increase people-to-people contact, support civil society in Cuba, enhance the free flow of information to, from, and among the Cuban people, and help promote their independence from Cuban authorities. To implement these policy changes, OFAC is taking steps that build upon the President's April 2009 initiative to, among other things, allow for greater licensing of travel to Cuba for educational, cultural, religious, and journalistic activities and expand licensing of remittances to Cuba. These amendments also modify regulations regarding authorization of transactions with Cuban national individuals who have taken up permanent residence outside of Cuba, as well as implement certain technical and conforming changes.

DATES: *Effective Date:* January 28, 2011.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Compliance, Outreach & Implementation, tel.: 202–622–2490, Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Policy, tel.: 202–622–4855, or Chief Counsel (Foreign Assets Control), tel.: 202–622–2410 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

The U.S. Government issued the Cuban Assets Control Regulations, 31 CFR part 515 (the "Regulations"), on July 8, 1963, under the Trading With the Enemy Act (50 U.S.C. App. 5 *et seq.*). On September 3, 2009, OFAC amended the Regulations to implement measures announced by the President in April 2009 to promote democracy and human rights in Cuba by easing travel restrictions to facilitate greater contact between separated family members in the United States and Cuba and by

increasing the flow of remittances and information to the Cuban people.

OFAC is now amending the Regulations to implement certain policy changes announced by the President on January 14, 2011, to continue efforts to reach out to the Cuban people in support of their desire to freely determine their country's future. These amendments allow for greater licensing of travel to Cuba for educational, cultural, religious, and journalistic activities and expand licensing of remittances to Cuba. These amendments also modify regulations regarding authorization of transactions with Cuban national individuals who have taken up permanent residence outside of Cuba, as well as implement certain technical and conforming changes.

Travel to Cuba for educational activities. Section 515.565 is amended to implement policy changes for travel-related transactions incident to educational activities. A new general license authorizing accredited U.S. graduate and undergraduate degree-granting academic institutions to engage in Cuba travel-related transactions incident to certain educational activities replaces the former statement of specific licensing policy in paragraph (a) of section 515.565. Specific licenses issued pursuant to former paragraph (a) were limited to one year in duration and covered only "full-time permanent" employees of, and students enrolled "at," a particular licensed institution. The new general license authorizes transactions incident to the educational activities described in paragraph (a) of section 515.565 by all members of the faculty and staff (including but not limited to adjunct faculty and part-time staff) of a sponsoring U.S. academic institution. The new general license also authorizes students to participate in academic activities in Cuba through any sponsoring U.S. academic institution, not only through the accredited U.S. academic institution at which the student is pursuing a degree. The requirement that participation in a structured educational program in Cuba or participation in a formal course of study at a Cuban academic institution be no shorter than 10 weeks in duration is removed, and the new general license instead requires that the study in Cuba be accepted for credit toward the student's degree.

Revised paragraph (b) of section 515.565 sets forth specific licensing policies. Paragraph (b)(1) provides that specific licenses may be issued to authorize travel-related transactions incident to an individual's educational activities of certain types described in but that are not authorized by the new general license contained in revised paragraph (a). New paragraph (b)(3) allows accredited U.S. graduate or undergraduate degree-granting academic institutions, by specific license, to sponsor or co-sponsor academic seminars, conferences, and workshops related to Cuba or global issues involving Cuba, and it allows faculty, staff, and students of such institutions to attend those events. A new note to section 515.565 explains that U.S. academic institutions may open accounts at Cuban financial institutions for the purpose of accessing funds in Cuba for transactions authorized pursuant to that section. Nothing in these amendments authorizes U.S. financial institutions to open or use direct correspondent accounts of their own at Cuban financial institutions.

People-to-people exchanges. OFAC also is adding new paragraph (b)(2) to section 515.565 to restore a statement of specific licensing policy for "people-to-people" exchanges. This travel category provides for specific licenses authorizing educational exchanges not involving academic study pursuant to a degree program when those exchanges take place under the auspices of an organization that sponsors and organizes such programs to promote people-to-people contact.

Travel to Cuba for religious activities. Section 515.566 is amended to implement policy changes for travel-related transactions incident to religious activities. A new general license authorizing religious organizations located in the United States to engage in Cuba travel-related transactions incident to religious activities replaces the former statement of specific licensing policy in paragraph (a) of section 515.566. Revised paragraph (b) provides that specific licenses may be issued to authorize travel-related transactions incident to religious activities that are not authorized by the new general license contained in revised paragraph (a). A new note to section 515.566 explains that religious organizations may open accounts at Cuban financial institutions for the purpose of accessing funds in Cuba for transactions authorized pursuant to that section. Nothing in these amendments authorizes U.S. financial institutions to open or use direct correspondent accounts of their own at Cuban financial institutions.

Other travel to Cuba. Section 515.567, including its heading, is revised to restore a statement of specific licensing policy for travel-related transactions incident to participation in clinics or workshops. New paragraph (b)(3) of section 515.567 includes a condition that any clinics or workshops in Cuba must be organized and run, at least in part, by the licensee. Paragraph (b) of section 515.563 is amended to increase the scope of the statement of specific licensing policy for journalistic activities in Cuba to include free-lance journalistic projects other than "articles."

Remittances. OFAC also is amending section 515.570 to implement several policy changes regarding remittances to Cuba. New paragraph (b) contains a general license authorizing persons subject to U.S. jurisdiction to remit up to $500 per quarter to any Cuban national, except prohibited officials of the Government of Cuba or prohibited members of the Cuban Communist Party, to support the development of private businesses, among other purposes. A second general license has been added in new paragraph (c), authorizing unlimited remittances to religious organizations in Cuba in support of religious activities. Prior to this amendment, remittances to religious organizations in Cuba were authorized by specific license. New paragraph (d) contains a third new general license, authorizing remittances to close relatives who are students in Cuba pursuant to an educational license for the purpose of funding transactions authorized by the license under which the student is traveling. Former paragraphs (b), (c), and (d) have been redesignated as paragraphs (e), (f), and (g), respectively. Newly redesignated paragraph (g)(1) of section 515.570 has been revised to clarify that specific licenses may be issued to authorize remittances to individuals or independent non-governmental entities to support the development of private businesses, including small farms.

Certain transactions with Cuban nationals who have taken up permanent residence outside of Cuba. Section 515.505, including its heading, is revised to add a general license in new paragraph (d) authorizing certain transactions with individual nationals of Cuba who have taken up permanent residence outside of Cuba (former paragraphs (d) and (e) have been redesignated as paragraphs (e) and (f), respectively). Persons subject to U.S. jurisdiction may engage in transactions with such individuals, prospectively, as if they were unblocked Cuban nationals as defined in section 515.307 of this part. All property in which such Cuban nationals have an interest that was blocked pursuant to this part prior to the later of the date on which the individual took up permanent residence outside of Cuba or January 28, 2011, however, remains blocked. To

determine whether an individual Cuban national has taken up permanent residence outside of Cuba, persons subject to U.S. jurisdiction are required to collect copies of at least two documents issued to the individual by the government authorities of the new country of permanent residence. An example illustrating the application of this general license is found in new paragraph (f)(4).

Public Participation

Because the amendments of the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the "Reporting, Procedures and Penalties Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 515

Administrative practice and procedure, Banking, Blocking of assets, Cuba, Remittances, Reporting and recordkeeping requirements, Travel restrictions.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR part 515 as set forth below:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

■ 1. The authority citation for part 515 is revised to read as follows:

Authority: 18 U.S.C. 2332d; 22 U.S.C. 2370(a), 6001–6010, 7201–7211; 31 U.S.C. 321(b); 50 U.S.C. App 1–44; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–114, 110 Stat. 785 (22 U.S.C. 6021–6091); Pub. L. 105–277, 112 Stat. 2681; Pub. L. 111–8, 123 Stat. 524; Pub. L. 111–117, 123 Stat. 3034; E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748; Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp., p. 157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 2. Amend § 515.505 by revising the section heading and paragraph (b), by redesignating paragraphs (d) and (e) as paragraphs (e) and (f), respectively, by adding new paragraph (d), and by adding new paragraph (f)(4) to read as follows:

§ 515.505 Certain Cuban nationals unblocked; transactions of certain other Cuban nationals lawfully present in the United States; transactions with Cuban nationals who have taken up permanent residence outside of Cuba.

* * * * *

(b) *Specific licenses unblocking certain individuals who have taken up permanent residence outside of Cuba.* Individual nationals of Cuba who have taken up permanent residence outside of Cuba may apply to the Office of Foreign Assets Control to be specifically licensed as unblocked nationals. Applications for specific licenses under this paragraph should include copies of at least two documents indicating permanent residence issued by the government authorities of the new country of permanent residence, such as a passport, voter registration card, permanent resident alien card, or national identity card. In cases where two of such documents are not available, other information will be considered, such as evidence that the individual has been resident for the past two years without interruption in a single country outside of Cuba or evidence that the individual does not intend to, or would not be welcome to, return to Cuba.

* * * * *

(d) *General license authorizing certain transactions with individuals who have taken up permanent residence outside of Cuba.* Persons subject to U.S. jurisdiction are authorized to engage in any transaction with an individual national of Cuba who has taken up permanent residence outside of Cuba as if the individual national of Cuba were an unblocked national, as defined in § 515.307 of this part, except that all property in which the individual national of Cuba has an interest that was blocked pursuant to this part prior to the later of the date on which the individual took up permanent residence outside of Cuba or January 28, 2011 shall remain blocked. In determining whether an individual national of Cuba has taken up permanent residence outside of Cuba, persons subject to U.S. jurisdiction must obtain from the individual copies of at least two documents indicating permanent residence issued by the government authorities of the new country of permanent residence, such as a passport, voter registration card, permanent resident alien card, or national identity card.

* * * * *

(f) * * *

(4) *Example 4:* An individual national of Cuba who has taken up permanent residence outside of Cuba wishes to open a bank account at a branch of a U.S. bank in Spain and then withdraw a portion of her previously blocked funds held by the same U.S. bank's New York branch. The individual provides the Spanish branch with a copy of her third-country passport and voter registration card demonstrating her permanent residence status in the third country. The Spanish branch may open an account for the individual and provide her with banking services. The New York branch may also handle any transactions related to this new account processed through the United States but may not unblock her funds that had been blocked prior to the later of the date on which the individual took up permanent residence outside of Cuba or January 28, 2011. Those funds remain blocked unless and until the individual is licensed as an unblocked national pursuant to paragraph (a) or (b) of this section or the funds are otherwise unblocked by a separate Office of Foreign Assets Control authorization.

* * * * *

■ 3. Amend § 515.560 by revising paragraphs (a)(5) through (7), (c)(4)(i) and (ii), and (f) and by adding new paragraph (d)(3) to read as follows:

§ 515.560 Travel-related transactions to, from, and within Cuba by persons subject to U.S. jurisdiction.

(a) * * *

(5) Educational activities (general and specific licenses) (*see* § 515.565);

(6) Religious activities (general and specific licenses) (*see* § 515.566);

(7) Public performances, clinics, workshops, athletic and other competitions, and exhibitions (specific licenses) (*see* § 515.567);

* * * * *

(c) * * *

(4) * * *

(i) The total of all remittances authorized by § 515.570(a) through (d) does not exceed $3,000; and

(ii) No emigration remittances authorized by § 515.570(e) are carried to Cuba unless a U.S. immigration visa has been issued for each payee and the licensed traveler can produce the visa

recipients' full names, dates of birth, visa numbers, and visa dates of issuance.

* * * * *

(d) * * *

(3) Compensation earned by a Cuban national from a U.S. academic institution up to any amount that can be substantiated through payment receipts from such institution as authorized pursuant to § 515.565(a)(5).

* * * * *

(f) Nothing in this section authorizes transactions in connection with tourist travel to Cuba.

■ 4. Amend § 515.563 by revising paragraph (b) to read as follows:

§ 515.563 Journalistic activities in Cuba.

* * * * *

(b) *Specific licenses.* (1) Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to journalistic activities in Cuba for a free-lance journalistic project upon submission of an adequate written application including the following documentation:

(i) A detailed itinerary and a detailed description of the proposed journalistic activities; and

(ii) A resume or similar document showing a record of journalism.

(2) To qualify for a specific license pursuant to this section, the itinerary in Cuba for a free-lance journalistic project must demonstrate that the journalistic activities constitute a full work schedule that could not be accomplished in a shorter period of time.

(3) Specific licenses may be issued pursuant to this section authorizing transactions for multiple trips to Cuba over an extended period of time by applicants demonstrating a significant record of journalism.

■ 5. Revise § 515.565 to read as follows:

§ 515.565 Educational activities.

(a) *General license.* Accredited U.S. graduate and undergraduate degree-granting academic institutions, including faculty, staff, and students of such institutions, are authorized to engage in the travel-related transactions set forth in § 515.560(c) and such additional transactions that are directly incident to:

(1) Participation in a structured educational program in Cuba as part of a course offered for credit by the sponsoring U.S. academic institution. An individual traveling to engage in such transactions must carry a letter on official letterhead, signed by a designated representative of the sponsoring U.S. academic institution, stating that the Cuba-related travel is part of a structured educational program of the sponsoring U.S. academic institution, and stating that the individual is a member of the faculty or staff of that institution or is a student currently enrolled in a graduate or undergraduate degree program at an accredited U.S. academic institution and that the study in Cuba will be accepted for credit toward that degree;

(2) Noncommercial academic research in Cuba specifically related to Cuba and for the purpose of obtaining a graduate degree. A student traveling to engage in such transactions must carry a letter on official letterhead, signed by a designated representative of the sponsoring U.S. academic institution, stating that the individual is a student currently enrolled in a graduate degree program at an accredited U.S. academic institution, and stating that the research in Cuba will be accepted for credit toward that degree;

(3) Participation in a formal course of study at a Cuban academic institution, provided the formal course of study in Cuba will be accepted for credit toward the student's graduate or undergraduate degree. An individual traveling to engage in such transactions must carry a letter on official letterhead, signed by a designated representative of the sponsoring U.S. academic institution, stating that the individual is a student currently enrolled in a graduate or undergraduate degree program at an accredited U.S. academic institution and that the study in Cuba will be accepted for credit toward that degree;

(4) Teaching at a Cuban academic institution by an individual regularly employed in a teaching capacity at the sponsoring U.S. academic institution, provided the teaching activities are related to an academic program at the Cuban institution and provided that the duration of the teaching will be no shorter than 10 weeks. An individual traveling to engage in such transactions must carry a letter on official letterhead, signed by a designated representative of the sponsoring U.S. academic institution, stating that the individual is regularly employed in a teaching capacity at that institution;

(5) Sponsorship, including the payment of a stipend or salary, of a Cuban scholar to teach or engage in other scholarly activity at the sponsoring U.S. academic institution (in addition to those transactions authorized by the general license contained in § 515.571). Such earnings may be remitted to Cuba as provided in § 515.570 or carried on the person of the Cuban scholar returning to Cuba as provided in § 515.560(d)(3); or

(6) The organization of, and preparation for, activities described in paragraphs (a)(1) through (a)(5) of this section by members of the faculty and staff of the sponsoring U.S. academic institution. An individual engaging in such transactions must carry a letter on official letterhead, signed by a designated representative of the sponsoring U.S. academic institution, stating that the individual is a member of the faculty or staff of that institution, and is traveling to engage in the transactions authorized by this paragraph on behalf of that institution.

Note 1 to paragraph (a): U.S. academic institutions and individual travelers must retain records related to the travel transactions authorized pursuant to this paragraph. See §§ 501.601 and 501.602 of this chapter for applicable recordkeeping and reporting requirements. Exportation of equipment and other items, including the transfer of technology or software to foreign persons ("deemed exportation"), may require separate authorization from the Department of Commerce.

Note 2 to paragraph (a): This paragraph authorizes all members of the faculty and staff (including but not limited to adjunct faculty and part-time staff) of the sponsoring U.S. academic institution to participate in the activities described in this paragraph. A student currently enrolled in a graduate or undergraduate degree program at any accredited U.S. academic institution is authorized pursuant to this paragraph to participate in the academic activities in Cuba described above through any sponsoring U.S. academic institution, not only through the institution at which the student is pursuing a degree.

(b) *Specific licenses.* Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions directly incident to:

(1) An individual's educational activities of the types described in paragraphs (a)(2) through (a)(4) of this section but not authorized by the general license contained in paragraph (a) of this section;

(2) Educational exchanges not involving academic study pursuant to a degree program when those exchanges take place under the auspices of an organization that sponsors and organizes such programs to promote people-to-people contact; or

(3) Sponsorship or co-sponsorship by an accredited U.S. graduate or undergraduate degree-granting academic institution of academic seminars, conferences, and workshops related to Cuba or global issues involving Cuba and attendance at such events by

faculty, staff, and students of the licensed institution.

(c) Transactions related to activities that are primarily tourist-oriented, including self-directed educational activities that are intended only for personal enrichment, will not be authorized pursuant to this section.

(d) For the purposes of this section, the term *designated representative of the sponsoring U.S. academic institution* means a person designated by the relevant dean or the academic vice-president, provost, or president of the institution as the official responsible for overseeing the institution's Cuba travel program.

Note to § 515.565: Accredited U.S. academic institutions engaging in activities authorized pursuant to this section are permitted to open and maintain accounts at Cuban financial institutions for the purpose of accessing funds in Cuba for transactions authorized pursuant to this section.

■ 6. Revise § 515.566 to read as follows:

§ 515.566 Religious activities in Cuba.

(a) *General license.* Religious organizations located in the United States, including members and staff of such organizations, are authorized to engage in the travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to religious activities in Cuba under the auspices of the organization. Travel-related transactions pursuant to this authorization must be for the purpose of engaging, while in Cuba, in a full-time program of religious activities. Financial and material donations to Cuba or Cuban nationals are not authorized by this paragraph (a). All individuals who engage in transactions in which Cuba or Cuban nationals have an interest (including travel-related transactions) pursuant to this paragraph (a) must carry with them a letter on official letterhead, signed by a designated representative of the U.S. religious organization, confirming that they are members or staff of the organization and are traveling to Cuba to engage in religious activities under the auspices of the organization.

Note to paragraph (a): U.S. religious organizations and individual travelers must retain records related to the travel transactions authorized pursuant to this paragraph. See §§ 501.601 and 501.602 of this chapter for applicable recordkeeping and reporting requirements. Financial donations require separate authorization under § 515.570. See § 515.533 for an authorization of the exportation of items from the United States to Cuba. Exportation of items to be used in Cuba may require separate licensing by the Department of Commerce.

(b) *Specific licenses.* Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to religious activities not authorized by the general license contained in paragraph (a) of this section. The application for the specific license must set forth examples of religious activities to be undertaken in Cuba. Specific licenses may be issued pursuant to this section authorizing transactions for multiple trips over an extended period of time to engage in a full-time program of religious activities in Cuba.

(c) For the purposes of this section, the term *designated representative of the U.S. religious organization* means a person designated as the official responsible for overseeing the organization's Cuba travel program.

Note to § 515.566: Religious organizations engaging in activities authorized pursuant to this section are permitted to open and maintain accounts at Cuban financial institutions for the purpose of accessing funds in Cuba for transactions authorized pursuant to this section.

■ 7. Amend § 515.567 by revising the section heading and paragraph (b) to read as follows:

§ 515.567 Public performances, clinics, workshops, athletic and other competitions, and exhibitions.

* * * * *

(b) *Public performances, clinics, workshops, other athletic or non-athletic competitions, and exhibitions.* Specific licenses, including for multiple trips to Cuba over an extended period of time, may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to participation in a public performance, clinic, workshop, athletic competition not covered by paragraph (a) of this section, non-athletic competition, or exhibition in Cuba by participants in such activities, provided that:

(1) The event is open for attendance, and in relevant situations participation, by the Cuban public;

(2) All U.S. profits from the event after costs are donated to an independent nongovernmental organization in Cuba or a U.S.-based charity, with the objective, to the extent possible, of promoting people-to-people contacts or otherwise benefiting the Cuban people; and

(3) Any clinics or workshops in Cuba must be organized and run, at least in part, by the licensee.

* * * * *

■ 8. Revise § 515.570 to read as follows:

§ 515.570 Remittances.

(a) *Family remittances authorized.* Persons subject to the jurisdiction of the United States who are 18 years of age or older are authorized to make remittances to nationals of Cuba who are close relatives, as defined in § 515.339 of this part, of the remitter, provided that:

(1) The remittances are not made from a blocked source. Certain remittances from blocked accounts are authorized pursuant to paragraph (f) of this section;

(2) The recipient is not a prohibited official of the Government of Cuba, as defined in § 515.337 of this part, or a prohibited member of the Cuban Communist Party, as defined in § 515.338 of this part; and

(3) The remittances are not made for emigration-related purposes. Remittances for emigration-related purposes are addressed by paragraph (e) of this section.

(b) *Periodic $500 remittances authorized.* Persons subject to the jurisdiction of the United States are authorized to make remittances to Cuban nationals, including, but not limited to, remittances to support the development of private businesses, provided that:

(1) The remitter's total remittances pursuant to paragraph (b) of this section to any one Cuban national do not exceed $500 in any consecutive three-month period;

(2) The remittances are not made from a blocked source;

(3) The recipient is not a prohibited official of the Government of Cuba, as defined in § 515.337 of this part, or a prohibited member of the Cuban Communist Party, as defined in § 515.338 of this part;

(4) The remittances are not made for emigration-related purposes. Remittances for emigration-related purposes are addressed by paragraph (e) of this section; and

(5) The remitter, if an individual, is 18 years of age or older.

(c) *Remittances to religious organizations in Cuba authorized.* Persons subject to the jurisdiction of the United States are authorized to make remittances to religious organizations in Cuba in support of religious activities, provided that the remittances are not made from a blocked source and that the remitter, if an individual, is 18 years of age or older.

(d) *Remittances to students in Cuba pursuant to an educational license authorized.* Persons subject to the jurisdiction of the United States who are 18 years of age or older are authorized

to make remittances to close relatives, as defined in § 515.339 of this part, who are students in Cuba pursuant to the general license authorizing certain educational activities in § 515.565(a) of this part or a specific license issued pursuant to § 515.565(b) of this part, provided that the remittances are not made from a blocked source and are for the purpose of funding transactions authorized by the general license in § 515.565(a) of this part or the specific license issued pursuant to § 515.565(b) of this part under which the student is traveling.

(e) *Two one-time $1,000 emigration-related remittances authorized.* Persons subject to the jurisdiction of the United States are authorized to remit the following amounts:

(1) Up to $1,000 per payee on a one-time basis to Cuban nationals for the purpose of covering the payees' preliminary expenses associated with emigrating from Cuba to the United States. These remittances may be sent before the payees have received valid visas issued by the State Department or other approved U.S. immigration documents, but may not be carried by a licensed traveler to Cuba until the payees have received valid visas issued by the State Department or other approved U.S. immigration documents. See § 515.560(c)(4) of this part for the rules regarding the carrying of authorized remittances to Cuba. These remittances may not be made from a blocked source unless authorized pursuant to paragraph (f) of this section.

(2) Up to an additional $1,000 per payee on a one-time basis to Cuban nationals for the purpose of enabling the payees to emigrate from Cuba to the United States, including for the purchase of airline tickets and payment of exit or third-country visa fees or other travel-related fees. These remittances may be sent only once the payees have received valid visas issued by the State Department or other approved U.S. immigration documents. A remitter must be able to provide the visa recipients' full names, dates of birth, visa numbers, and visa dates of issuance. See § 515.560(c)(4) of this part for the rules regarding the carrying of authorized remittances to Cuba. These remittances may not be made from a blocked source unless authorized pursuant to paragraph (f) of this section.

(f) *Certain remittances from blocked sources authorized.* Provided the recipient is not a prohibited official of the Government of Cuba, as defined in § 515.337 of this part, or a prohibited member of the Cuban Communist Party, as defined in § 515.338 of this part, certain remittances from blocked sources are authorized as follows:

(1) Funds deposited in a blocked account in a banking institution in the United States held in the name of, or in which the beneficial interest is held by, a national of Cuba as a result of a valid testamentary disposition, intestate succession, or payment from a life insurance policy or annuity contract triggered by the death of the policy or contract holder may be remitted:

(i) To that national of Cuba, provided that s/he is a close relative, as defined in § 515.339 of this part, of the decedent;

(ii) To that national of Cuba as emigration-related remittances in the amounts and consistent with the criteria set forth in paragraph (e) of this section.

(2) Up to $300 in any consecutive three-month period may be remitted from any blocked account in a banking institution in the United States to a Cuban national in a third country who is an individual in whose name, or for whose beneficial interest, the account is held.

(g) *Specific licenses.* Specific licenses may be issued on a case-by-case basis authorizing the following:

(1) Remittances by persons subject to U.S. jurisdiction to independent non-governmental entities in Cuba, including but not limited to pro-democracy groups and civil society groups, and to members of such groups or organizations, or to individuals or independent non-governmental entities to support the development of private businesses, including small farms;

(2) Remittances from a blocked account to a Cuban national in excess of the amount specified in paragraph (f)(2) of this section; or

(3) Remittances by persons subject to U.S. jurisdiction to a person in Cuba, directly or indirectly, for transactions to facilitate non-immigrant travel by an individual in Cuba to the United States under circumstances where humanitarian need is demonstrated, including but not limited to illness or other medical emergency.

Note to § 515.570: For the rules relating to the carrying of remittances to Cuba, see § 515.560(c)(4) of this part. Persons subject to U.S. jurisdiction are prohibited from engaging in the collection or forwarding of remittances to Cuba unless authorized pursuant to § 515.572. For a list of authorized U.S. remittance service providers other than depository institutions, see the "List of Authorized Providers of Air, Travel and Remittance Forwarding Services to Cuba" available from OFAC's Web site (*http://www.treasury.gov/ofac*).

■ 9. Amend § 515.571 by revising paragraph (a)(5)(i) and the note to § 515.571 to read as follows:

§ 515.571 Certain transactions incident to travel to, from, and within the United States by Cuban nationals.

(a) * * *

(5) * * *

(i) This paragraph (a)(5) does not authorize receipt of compensation in excess of amounts covering living expenses and the acquisition of goods for personal consumption. See § 515.565(a)(5) of this part for an authorization of payments to certain Cuban scholars of stipends or salaries that exceed this limit.

* * * * *

Note to § 515.571: For the authorization of certain transactions by Cuban nationals who become U.S. citizens, apply for or receive U.S. permanent resident alien status, or are lawfully present in the United States in a non-visitor status, see § 515.505 of this part.

■ 10. Amend § 515.577 by revising the paragraph (a) introductory text to read as follows:

§ 515.577 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, persons subject to the jurisdiction of the United States are authorized to engage in all transactions necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers in paper or electronic format (collectively, "written publications"). This section does not apply if the parties to the transactions described in this paragraph include the Government of Cuba. For the purposes of this section, the term "Government of Cuba" includes the state and the Government of Cuba, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Cuba; prohibited officials of the Government of Cuba, as defined in § 515.337 of this part; prohibited members of the Cuban Communist Party, as defined in § 515.338 of this part; employees of the Ministry of Justice; and any person acting or purporting to act directly or indirectly on behalf of any of the foregoing with respect to the transactions described in this paragraph. For the purposes of this section, the term "Government of Cuba" does not include any academic and research institutions and their personnel. Pursuant to this section, the following

activities are authorized, provided that persons subject to the jurisdiction of the United States ensure that they are not engaging, without separate authorization, in the activities identified in paragraphs (b) through (d) of this section:

* * * * *

Dated: January 25, 2011.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2011–1969 Filed 1–27–11; 8:45 am]

BILLING CODE 4810–AL–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2010–0850; FRL–9258–7]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; The Milwaukee-Racine and Sheboygan Areas; Determination of Attainment of the 1997 8-Hour Ozone Standard; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, EPA is withdrawing the December 15, 2010 (75 FR 78164), direct final rule making determinations under the Clean Air Act that the Milwaukee-Racine and Sheboygan, Wisconsin areas have attained the 1997 8-hour ozone National Ambient Air Quality Standard. The Milwaukee-Racine area includes Milwaukee, Ozaukee, Racine, Washington, Waukesha, and Kenosha Counties. The Sheboygan area includes Sheboygan County. In the direct final rule, EPA stated that if adverse comments were submitted by January 14, 2011, the rule would be withdrawn and not take effect. On January 14, 2011, EPA received a comment. EPA believes this comment is adverse and, therefore, EPA is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on December 15, 2010 (75 FR 78197. EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 75 FR 78164 on December 15, 2010, is withdrawn as of January 28, 2011.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

List of Subjects in 40 CFR Part 52

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

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

Dated: January 19, 2011.

Susan Hedman,

Regional Administrator, Region 5.

PART 52—[AMENDED]

Accordingly, the amendment to 40 CFR 52.2585 published in the **Federal Register** on December 15, 2010 (75 FR 78164) on page 78167 is withdrawn as of January 28, 2011.

[FR Doc. 2011–1770 Filed 1–27–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–0663–201061; FRL–9259–2]

Approval and Promulgation of Air Quality Implementation Plans: Tennessee; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standards for the Nashville, TN, Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the Tennessee State Implementation Plan (SIP) concerning the maintenance plan addressing the 1997 8-hour ozone standards for the Nashville, Tennessee 1997 8-hour ozone maintenance area, which is comprised of Davidson, Rutherford, Sumner, Williamson, and Wilson Counties in their entireties (hereafter referred to as the "Nashville Area"). This maintenance plan was submitted by the State of Tennessee Department of Environment and Conservation (TDEC) on August 3, 2010, for parallel processing. TDEC submitted the final version of the SIP on October 13, 2010. The maintenance plan ensures the continued attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS) through the year 2018. This plan meets the statutory and regulatory requirements, and is consistent with EPA's guidance. EPA is taking final action to approve the revision to the Tennessee SIP, pursuant to the Clean Air Act (CAA). EPA is also in the process of establishing a new 8-hour ozone NAAQS, and expects to finalize the reconsidered NAAQS by July 2011. Today's action, however, relates only to the 1997 8-hour ozone NAAQS. Requirements for the Nashville Area under the 2011 NAAQS will be addressed in the future.

DATES: This rule will be effective February 28, 2011.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2010–0663. All documents in the electronic docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Royce Dansby-Sparks, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Royce Dansby-Sparks may be reached by phone at (404) 562–9187 or by electronic mail address *dansby-sparks.royce@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. EPA Guidance and CAA Requirements
III. Today's Action
IV. Final Action
V. Statutory and Executive Order Reviews

I. Background

In accordance with the CAA, the Nashville Area was designated nonattainment for the 1-hour ozone NAAQS on November 6, 1991, 56 FR 56694 (effective January 6, 1992, 60 FR 7124). On November 14, 1994, the State of Tennessee, through the TDEC, submitted a request to redesignate the Nashville Area to attainment for the 1-hour ozone NAAQS. Subsequently on August 9, 1995, and January 19, 1996, Tennessee submitted supplementary information which included revised contingency measures and emission projections. Included with the 1-hour ozone redesignation request, Tennessee submitted the required 1-hour ozone monitoring data and maintenance plan ensuring the Area would remain in attainment for the 1-hour ozone NAAQS for at least a period of 10 years (consistent with CAA 175A(a)). The maintenance plan submitted by Tennessee followed EPA guidance for maintenance areas, subject to section 175A of the CAA.

On October 30, 1996, EPA approved Tennessee's request to redesignate the Nashville Area to attainment for the 1-hour ozone NAAQS (61 FR 55903). The maintenance plan for the Area became effective on October 30, 1996. Tennessee later updated the maintenance plan in accordance with section 175(A)(b) on August 10, 2005, to extend the maintenance plan to cover additional years such that the entire maintenance period was for at least 20 years after the initial redesignation of the Area to attainment. EPA approved Tennessee's maintenance plan update for the Nashville Area on November 1, 2005 (70 FR 65838).

II. EPA Guidance and CAA Requirements

On April 30, 2004, EPA designated and classified areas for the 1997 8-hour ozone NAAQS (69 FR 23858), and published the final Phase 1 Rule for implementation of the 1997 8-hour ozone NAAQS (69 FR 23951) (Phase 1 Rule), ultimately revoking the 1-hour ozone NAAQS. The Nashville Area, however, was still required to fulfill requirements under the 1-hour ozone NAAQS due to its participation in an Early Action Compact (EAC). For areas participating in an EAC, the effective designation date for the 1997 8-hour ozone NAAQS was deferred until December 31, 2006, in a final action published by EPA on August 19, 2005 (70 FR 50988) and later extended to April 15, 2008 (71 FR 69022) for most of the EAC Areas, including Nashville, so long as the Area continued to meet milestone requirements. Therefore, the requirement for an attainment area to submit a 10-year maintenance plan under 110(a)(1) of the CAA and the Phase 1 Rule was also postponed until the Area was effectively designated for the 1997 8-hour ozone NAAQS. The Nashville Area was later designated as attainment for the 1997 8-hour ozone NAAQS, effective April 15, 2008, with the 1-hour ozone requirements no longer effective on April 15, 2009 (73 FR 17897). Tennessee was consequently required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase 1 Rule for the Nashville Area.

On May 20, 2005, EPA issued guidance providing information as to how a state might fulfill the maintenance plan obligation established by the CAA and the Phase I Rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act,* May 20, 2005—hereafter referred to as "Wegman Memorandum"). On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated portions of EPA's Phase I Rule. *See South Coast Air Quality Management District.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). The Court vacated those portions of the Phase I Rule that provided for regulation of the 1997 8-hour ozone nonattainment areas designated under Subpart 1 (of part D of the CAA), in lieu of Subpart 2 among other portions. The Court's decision did not alter any 8-hour ozone attainment area requirements under the Phase I Rule for CAA section 110(a)(1) maintenance plans.

On August 3, 2010, TDEC submitted a draft revision to EPA for approval into the Tennessee SIP to ensure the continued attainment of the 1997 8-hour ozone NAAQS through the year 2018. Subsequently, on October 8, 2010, EPA published a proposed rulemaking to approve Tennessee's August 3, 2010, SIP revision under parallel processing. 75 FR 62354. Detailed background information and EPA's rationale for the proposed approval are provided in EPA's October 8, 2010, **Federal Register** notice. EPA's October 8, 2010, proposed approval was contingent upon Tennessee providing a final SIP revision that was substantively the same as the revision proposed for approval by EPA in the October 8, 2010, proposed rulemaking. Tennessee provided its final SIP revision on October 13, 2010. There were no changes between Tennessee's August 3, 2010, draft SIP revision and the final SIP revision which was provided on October 13, 2010. EPA has determined that Tennessee's October 13, 2010, submittal satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS in the Nashville maintenance area.

III. Today's Action

EPA is taking final action to approve the SIP revision concerning the 110(a)(1) maintenance plan addressing the 1997 8-hour ozone NAAQS for the Nashville Area. This maintenance plan was submitted to EPA on October 13, 2010, by the State of Tennessee, to ensure the continued attainment of the 1997 8-hour ozone NAAQS through the year 2018. This approval action is based on EPA's analyses of whether this request complies with section 110 of the CAA and 40 CFR 51.905(a)(4). EPA's analyses of Tennessee's submittal are described in detail in the proposed rule published October 8, 2010 (75 FR 62354).

The comment period for this proposed action closed on November 8, 2010. EPA did not receive any adverse comments on this action during the public comment period. However, EPA is making note of two typographical errors in the October 8, 2010, proposed rulemaking notice (75 FR 62354). When referring to the date that the State of Tennessee requested the Nashville Area be redesignated to attainment for the 1-hour ozone NAAQS, the date was inadvertently listed as 2004 instead of 1994. Additionally, the discussion of Table 3 on page 62357 of the October 8, 2010, proposed rulemaking notice incorrectly stated that the maximum 2007–2009 8-hour ozone design value was 0.079 parts per million (ppm) when the correct value, as listed correctly in Table 3, is 0.078 ppm.

IV. Final Action

Pursuant to section 110 of the CAA, EPA is approving the maintenance plan addressing the 1997 8-hour ozone NAAQS for the Nashville Area, which was submitted by Tennessee on October 13, 2010, and ensures continued attainment of the 1997 8-hour ozone NAAQS through the year 2018. EPA has evaluated the State's submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy. On March 12, 2008, EPA issued a revised ozone NAAQS. EPA subsequently announced a reconsideration of the 2008 NAAQS, and proposed new 8-hour ozone NAAQS in January 2010. The current

action, however, is being taken to address requirements under the 1997 ozone NAAQS. Requirements for the Nashville Area under the 2011 NAAQS will be addressed in the future.

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 29, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: January 13, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

EPA amends 40 CFR part 52 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 RR—Tennessee

■ 2. Section 52.2220(e), is amended by adding a new entry for ''Nashville 8-Hour Ozone Maintenance Plan Section 110(a)(1)'' to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(e) * * *

EPA–Approved Tennessee Non-Regulatory Provisions

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
*	* *	*	* *	*
Nashville 8-Hour Ozone 110(a)(1) Maintenance Plan.	Nashville 8-Hour Ozone Attainment Area.	October 13, 2010	1/28/11 [insert citation of publication].	Maintenance plan for the 1997 8-hour ozone NAAQS.

[FR Doc. 2011–1782 Filed 1–27–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–8165]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

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

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

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

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

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

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map Date	Date certain federal assistance no longer available in SFHAs
Region III				
Virginia: Petersburg, City of, Independent City.	510112	November 7, 1973, Emerg; March 16, 1981, Reg; February 4, 2011, Susp.	Feb. 4, 2011	Feb. 4, 2011.
Region V				
Illinois:				
Banner, Village of, Fulton County	170743	December 30, 1975, Emerg; July 2, 1981, Reg; February 4, 2011, Susp.	.....do*	Do.
Fulton County, Unincorporated Areas ...	170241	November 13, 1979, Emerg; January 17, 1986, Reg; February 4, 2011, Susp.	.....do*	Do.
Lewistown, City of, Fulton County	170782	July 28, 1975, Emerg; October 5, 1984, Reg; February 4, 2011, Susp.	.....do*	Do.
Liverpool, Village of, Fulton County	170762	December 10, 1974, Emerg; June 15, 1981, Reg; February 4, 2011, Susp.	.....do*	Do.
Mark, Village of, Putnam County	170572	April 23, 1976, Emerg; January 3, 1985, Reg; February 4, 2011, Susp.	.....do*	Do.
Putnam County, Unincorporated Areas	170993	June 5, 1981, Emerg; November 15, 1984, Reg; February 4, 2011, Susp.	.....do*	Do.
Standard, Village of, Putnam County	171012	January 16, 1984, Emerg; March 1, 1987, Reg; February 4, 2011, Susp.	.....do*	Do.
Minnesota: Bertha, City of, Todd County	270474	April 7, 1975, Emerg; July 17, 1986, Reg; February 4, 2011, Susp.	.....do*	Do.
Browerville, City of, Todd County	270475	April 16, 1974, Emerg; September 30, 1988, Reg; February 4, 2011, Susp.	.....do*	Do.
Clarissa, City of, Todd County	270476	April 30, 1974, Emerg; June 3, 1986, Reg; February 4, 2011, Susp.	.....do*	Do.
Eagle Bend, City of, Todd County	270477	July 2, 1974, Emerg; June 3, 1986, Reg; February 4, 2011, Susp.	.....do*	Do.
Hewitt, City of, Todd County	270478	September 16, 1975, Emerg; June 8, 1984, Reg; February 4, 2011, Susp.	.....do*	Do.
Long Prairie, City of, Todd County	270479	April 16, 1974, Emerg; July 16, 1980, Reg; February 4, 2011, Susp.	.....do*	Do.
Todd County, Unincorporated Areas	270551	February 1, 1974, Emerg; September 1, 1988, Reg; February 4, 2011, Susp.	.....do*	Do.
Region VI				
Arkansas:				
Harrisburg, City of, Poinsett County	050173	February 27, 1975, Emerg; November 1, 1985, Reg; February 4, 2011, Susp.	.....do*	Do.
Lepanto, City of, Poinsett County	050174	July 17, 1974, Emerg; July 4, 1988, Reg; February 4, 2011, Susp.	.....do*	Do.
Marked Tree, City of, Poinsett County ..	050175	May 21, 1975, Emerg; July 16, 1980, Reg; February 4, 2011, Susp.	.....do*	Do.
Poinsett County, Unincorporated Areas	050172	May 6, 1983, Emerg; August 19, 1987, Reg; February 4, 2011, Susp.	.....do*	Do.
Trumann, City of, Poinsett County	050176	September 5, 1974, Emerg; April 15, 1979, Reg; February 4, 2011, Susp.	.....do*	Do.
Tyronza, City of, Poinsett County	050371	May 12, 1975, Emerg; September 28, 1982, Reg; February 4, 2011, Susp.	.....do*	Do.
Waldenburg, Town of, Poinsett County	050497	June 16, 2010, Emerg; February 4, 2011, Reg; February 4, 2011, Susp.	.....do*	Do.
Weiner, City of, Poinsett County	050373	October 31, 1975, Emerg; September 28, 1982, Reg; February 4, 2011, Susp.	.....do*	Do.
Oklahoma:				
Boynton, Town of, Muskogee County ...	400120	June 24, 1976, Emerg; September 28, 1979, Reg; February 4, 2011, Susp.	.....do*	Do.
Braggs, Town of, Muskogee County	400121	October 30, 1975, Emerg; May 25, 1978, Reg; February 4, 2011, Susp.	.....do*	Do.
Fort Gibson, Town of, Cherokee and Muskogee Counties.	400123	July 8, 1977, Emerg; July 16, 1980, Reg; February 4, 2011, Susp.	.....do*	Do.
Haskell, Town of, Muskogee County	400124	August 7, 1975, Emerg; December 4, 1979, Reg; February 4, 2011, Susp.	.....do*	Do.
Muskogee, City of, Muskogee County ..	400125	April 22, 1975, Emerg; July 2, 1980, Reg; February 4, 2011, Susp.	.....do*	Do.
Muskogee County, Unincorporated Areas.	400491	September 27, 1985, Emerg; March 4, 1991, Reg; February 4, 2011, Susp.	.....do*	Do.
Oktaha, Town of, Muskogee County	400126	October 14, 1975, Emerg; May 25, 1978, Reg; February 4, 2011, Susp.	.....do*	Do.
Porum, Town of, Muskogee County	400127	May 21, 1976, Emerg; April 15, 1980, Reg; February 4, 2011, Susp.	.....do*	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map Date	Date certain federal assistance no longer available in SFHAs
Taft, Town of, Muskogee County	400128	June 26, 1976, Emerg; August 25, 1987, Reg; February 4, 2011, Susp.	.....do*	Do.
Wainwright, Town of, Muskogee County	400129	March 9, 1976, Emerg; August 8, 1978, Reg; February 4, 2011, Susp.	.....do*	Do.
Warner, Town of, Muskogee County	400130	December 29, 1976, Emerg; May 25, 1978, Reg; February 4, 2011, Susp.	.....do*	Do.
Webbers Falls, Town of, Muskogee County.	400131	November 28, 1975, Emerg; May 1, 1980, Reg; February 4, 2011, Susp.	.....do*	Do.
Texas:				
Bandera County, Unincorporated Areas	480020	January 21, 1974, Emerg; November 1, 1978, Reg; February 4, 2011, Susp.	.....do*	Do.
Benavides, City of, Duval County	480792	July 24, 1975, Emerg; March 4, 1986, Reg; February 4, 2011, Susp.	.....do*	Do.
Colorado County, WCID Number 2	481489	October 28, 1977, Emerg; June 1, 1988, Reg; February 4, 2011, Susp.	.....do*	Do.
Colorado County, Unincorporated Areas	480144	February 29, 1980, Emerg; September 19, 1990, Reg; February 4, 2011, Susp.	.....do*	Do.
Columbus, City of, Colorado County	480145	February 19, 1975, Emerg; June 19, 1985, Reg; February 4, 2011, Susp.	.....do*	Do.
Duval County, Unincorporated Areas	480202	July 24, 1975, Emerg; May 1, 1987, Reg; February 4, 2011, Susp.	.....do*	Do.
Eagle Lake, City of, Colorado County	480146	July 30, 1975, Emerg; April 1, 1987, Reg; February 4, 2011, Susp.	.....do*	Do.
Lamesa, City of, Dawson County	480191	February 25, 1972, Emerg; April 30, 1976, Reg; February 4, 2011, Susp.	.....do*	Do.
San Diego, City of, Duval and Jim Wells Counties.	481199	December 26, 1975, Emerg; March 1, 1987, Reg; February 4, 2011, Susp.	.....do*	Do.

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

Dated: January 19, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation.

[FR Doc. 2011–1930 Filed 1–27–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 26

[Docket No. OST–2010–0118]

RIN 2105–AD75

Disadvantaged Business Enterprise: Program Improvements

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Final rule.

SUMMARY: This rule improves the administration of the Disadvantaged Business Enterprise (DBE) program by increasing accountability for recipients with respect to meeting overall goals, modifying and updating certification requirements, adjusting the personal net worth (PNW) threshold for inflation, providing for expedited interstate certification, adding provisions to foster small business participation, improving post-award oversight, and addressing other issues.

DATES: *Effective Dates:* This rule is effective February 28, 2011.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, Room W94–302, 202–366–9310, *bob.ashby@dot.gov.*

SUPPLEMENTARY INFORMATION: The Department of Transportation issued an advance notice of proposed rulemaking (ANPRM) concerning several DBE program issues on April 8, 2009 (74 FR 15904). The first issue raised in the ANPRM concerned counting of items obtained by a DBE subcontractor from its prime contractor. The second concerned ways of encouraging the "unbundling" of contracts to facilitate participation by small businesses, including DBEs. The third was a request for comments on potential improvements to the DBE application form and personal net worth (PNW) form. The fourth asked for suggestions related to program oversight. The fifth concerned potential regulatory action to facilitate certification for firms seeking to work as DBEs in more than one state. The sixth concerned additional limitations on the discretion of prime contractors to terminate DBEs for convenience, once the prime contractor had committed to using the DBE as part of its showing of good faith efforts. The Department received approximately 30 comment letters regarding these issues.

On May 10, 2010, the Department issued a notice of proposed rulemaking (NPRM) seeking further comment on proposals based on the ANPRM and proposing new provisions (75 FR 25815). The NPRM proposed an inflationary adjustment of the PNW cap to $1.31 million, the figure that would result from proposed Federal Aviation Administration (FAA) reauthorization legislation then pending in both Houses of Congress. The Department proposed additional measures to hold recipients accountable for their performance in achieving DBE overall goals.

The NPRM also proposed amendments to the certification-related provisions of the DBE regulation. Those proposals resulted from the Department's experience dealing with certification issues and certification appeal cases during the years since the last major revision of the DBE rule in 1999. The proposed amendments were intended to clarify issues that have arisen and avoid problems with which

recipients (*i.e.,* state highway agencies, transit authorities, and airport sponsors who receive DOT grant financial assistance) and the Department have had to grapple over the last 11 years.

The Department received approximately 160 comments on the NPRM from a variety of interested parties, including DBE and non-DBE firms, associations representing them, and recipients of DOT financial assistance. A summary of comments on the major issues in the rulemaking, and the Department's responses to those comments, follows.

Counting Purchases From Prime Contractors

Under current counting rules, a DBE subcontractor and its prime contractor may count for DBE credit the entire cost of a construction contract, including items that the DBE subcontractor purchases or leases from a third party (*e.g.,* in a so-called "furnish and install" contract). There is an exception to this general rule: A DBE and its prime contractor may not count toward goals items that the DBE purchases or leases from its own prime contractor. The reason for this provision is that doing so would allow the prime contractor to count for DBE credit items that it produced itself.

As noted in the ANPRM, one DBE subcontractor and a number of prime contractors objected to this approach, saying that it unfairly denies a DBE in this situation the opportunity to count credit for items it has obtained from its prime contractor rather than from other sources. Especially in situations in which a commodity might only be available from a single source—a prime contractor or its affiliate—the rule would create a hardship, according to proponents of this view. The ANPRM proposed four options (1) keeping the rule as is; (2) keeping the basic rule as is, but allowing recipients to make exceptions in some cases; (3) allowing DBEs to count items purchased from any third party source, including the DBE's prime contractor; and (4) not allowing any items obtained from any non-DBE third party to be counted for DBE credit. Comment was divided among the four alternatives, which each garnering some support. For purposes of the NPRM, the Department decided not to propose any change from the current rule.

Comment on the issue was again divided. Seven commenters favored allowing items obtained from any source to be counted for credit, including the firm that was the original proponent of the idea and another DBE, two prime contractors' associations, a prime contractor, and two State Departments of Transportation (DOTs). These commenters generally made the same arguments as had proponents of this view at the ANPRM stage. Thirteen commenters, among which were several recipients, a DBE contractors' association, and DBE contractors, favored the NPRM's proposed approach of not making any change to the existing rule, and they endorsed the NPRM's rationale. Sixteen commenters, including a recipient association and a number of DBE companies, supported disallowing credit for any items purchased or leased from a non-DBE source. They believed that this approach supported the general principle of awarding DBE credit only for contributions that DBEs themselves make on a contract.

DOT Response

The Department remains unconvinced that it is appropriate for a prime contractor to produce an item (*e.g.,* asphalt), provide it to its own DBE subcontractor, and then count the value of the item toward its good faith efforts to meet DBE goals. The item—asphalt, in this example—is a contribution to the project made by the prime contractor itself and simply passed through the DBE. That is, the prime contractor, on paper, sells the item to the DBE, who then charges the cost of the item it just bought from the prime contractor as part of its subcontract price, which the prime then reports as DBE participation. In the Department's view, this pass-through relationship is inconsistent with the most important principle of counting DBE participation, which is that credit should only be counted for value that is added to the transaction by the DBE itself.

As mentioned in the ANPRM and NPRM, the current rule treats counting of items purchased by DBEs from non-DBE sources differently, depending on whether the items are obtained from the DBE's prime contractor or from a third-party source. The Department's current approach is a reasonable compromise between the commonly accepted practice of obtaining items from non-DBE sources as part of the contracting process and maintaining the principle of counting only the DBE's own contributions for credit toward goals, which is most seriously violated when the prime contractor itself is the source of the items. This compromise respects the dual, somewhat divergent, goals of accommodating a common way of doing business and avoiding a too-close relationship between a prime contractor and a DBE subcontractor that distorts the counting of credit toward DBE goals. This compromise has been part of the regulation since 1999 and, with the exception of the proponent of changing the regulation and its prime contractor partners, has never been raised by program participants as a widespread problem requiring regulatory change. For these reasons, the Department will leave the existing regulatory language intact.

Terminations of DBE Firms

The NPRM proposed that a prime contractor who, in the course of meeting its good faith efforts requirements on a procurement involving a contract goal, had submitted the names of one or more DBEs to work on the project, could not terminate a DBE firm without the written consent of the recipient. The firm could be terminated only for good cause. The NPRM proposed a list of what constituted good cause for this purpose.

Over 40 comments addressed this subject, a significant majority of which supported the proposal. Two recipients said the proposal was unnecessary and a third expressed concern about workload implications. Several recipients said that they already followed this practice.

However, commenters made a variety of suggestions with respect to the details of the proposal. A DBE firm questioned a good cause element that would allow a firm to be terminated for not meeting reasonable bonding requirements, noting that lack of access to bonding is a serious problem for many DBEs. A DBE contractors' association said that a DBE's action to halt performance should not necessarily be a ground for termination, because in some cases such an action could be a justified response to an action beyond its control (*e.g.,* the prime failing to make timely payments). A DBE requested clarification of what being "not responsible" meant in this context. A number of commenters, including recipients and DBEs, suggested that a prime could terminate a DBE only if the DBE "unreasonably" failed to perform or follow instructions from the prime.

A prime contractors' association suggested additional grounds for good cause to terminate, including not performing to schedule or not performing a commercially useful function. Another such association said the rule should be consistent with normal business practices and not impede a prime contractor's ability to remove a poorly performing subcontractor for good cause. A recipient wanted a public safety exception to the time frame for a DBE's reply to a prime contractor's notice

proposing termination, and another recipient wanted to shorten that period from five to two days. A State unified certification program (UCP) suggested adopting its State's list of good cause reasons, and a consultant suggested that contracting officers, not just the DBE Liaison Officer (DBELO), should be involved in the decision about whether to concur in a prime contractor's desire to terminate a DBE. A recipient wanted to add language concerning the prime contractor's obligation to make good faith efforts to replace a terminated DBE with another DBE.

DOT Response

The Department, like the majority of commenters on this issue, believes that the proposed amendment will help to prevent situations in which a DBE subcontractor, to which a prime contractor has committed work, is arbitrarily dismissed from the project by the prime contractor. Comments to the docket and in the earlier stakeholder sessions have underlined that this has been a persistent problem. By specifying that a DBE can be terminated only for good cause—not simply for the convenience of the prime contractor—and with the written consent of the recipient, this amendment should help to end this abuse.

With respect to the kinds of situations in which "good cause" for termination can exist, the Department has modified the language of the rule to say that good cause includes a situation where the DBE subcontractor has failed or refused to perform the work of its subcontract in accordance with normal industry standards. We note that industry standards may vary among projects, and could be higher for some projects than others, a matter the recipient could take into account in determining whether to consent to a prime contractor's proposal to terminate a DBE firm. However, good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor (*e.g.,* the failure of the prime contractor to make timely payments or the unnecessary placing of obstacles in the path of the DBE's work).

Good cause also does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that it can self-perform the work in question or substitute another DBE or non-DBE firm. This approach responds to commenters who were concerned about prime contractors imposing unreasonable demands on DBE subcontractors while offering recipients a more definite standard than simple reasonableness in deciding whether to approve a prime contractor's proposal to terminate a DBE firm. We have also adopted a recipient's suggestion to permit the time frame for the process to be shortened in a case where public necessity (*e.g.,* safety) requires a shorter period of time before the recipient's decision.

In addition to the enumerated grounds, a recipient may permit a prime contractor to terminate a DBE for "other documented good cause that the recipient determines compels the termination of the DBE subcontractor." This means that the recipient must document the basis for any such determination, and the prime contractor's reasons for terminating the DBE subcontractor make the termination essential, not merely discretionary or advantageous. While the recipient need not obtain DOT operating administration concurrence for such a decision, FHWA, FTA, and FAA retain the right to oversee such determinations by recipients.

Personal Net Worth

The NPRM proposed to make an inflationary adjustment in the personal net worth (PMW) cap from its present $750,000 to $1.31 million, based on the consumer price index (CPI) and relating back to 1989, as proposed in FAA authorization bills pending in Congress. The NPRM noted that such an adjustment had long been sought by DBE groups and that it maintained the status quo in real dollar terms. The Department also asked for comment on the issue of whether assets counted toward the PNW calculation should continue to include retirement savings products. The rule currently does include them, but the pending FAA legislation would move in the direction of excluding them from the calculation.

Of the 95 commenters who addressed the basic issue of whether the Department should make the proposed inflationary adjustment, 71—representing all categories of commenters—favored doing so. Many said that such an adjustment was long overdue and that it would mitigate the problem of a "glass ceiling" limiting the growth and development of DBE firms. A few commenters said that such adjustments should be done regionally or locally rather than nationally, to reflect economic differences among areas of the country. A number of the commenters wanted to make sure the Department made similar adjustments annually in the future. A member of Congress suggested that the PNW should be increased to $2.5 million, while a few recipients favored a smaller increase (*e.g.,* to $1 million). A few commenters also suggested that the Department explore some method of adjusting PNW other than the CPI, but they generally did not spell out what the alternative approaches might be.

The opponents of making the adjustment, mostly recipients and DBEs, made several arguments. The first was that $1.31 million was too high and would include businesses owners who were not truly disadvantaged. The second was that raising the PNW number would favor larger, established, richer DBEs at the expense of smaller, start-up firms. These larger companies could then stay in the program longer, to the detriment of the program's aims. Some commenters said that the experience in their states was that very few firms were becoming ineligible for PNW reasons, suggesting that a change in the current standard was unnecessary.

With respect to the issue of retirement assets, about 28 comments, primarily from DBE groups and recipients, favored excluding some retirement assets from the PNW calculation, often asserting that this was appropriate because such funds are illiquid and not readily available to contribute toward the owners' businesses. Following this logic, some of the comments said that Federally-regulated illiquid retirement plans (*e.g.,* 401k, Roth IRA, Keough, and Deferred Compensation plans, as well as 529 college savings plans) be excluded while other assets that are more liquid (CDs, savings accounts) be counted, even if said to be for retirement purposes. A number of these commenters said that a monetary cap on the amount that could be excluded (*e.g.,* $500,000) would be acceptable.

The 17 comments opposing excluding retirement accounts from the PNW calculation generally supported the rationale of the existing regulation, which is that assets of this kind, even if illiquid, should be regarded as part of an individual's wealth for PNW purposes. A few commenters also said that, since it is most likely wealthier DBE owners who have such retirement accounts, excluding them would help these more established DBEs at the expense of smaller DBEs who are less likely to be able to afford significant retirement savings products. Again, commenters said that this provision, by effectively raising the PNW cap, would inappropriately allow larger firms to stay in the program longer. Some of the commenters would accept exclusion of retirement accounts if an appropriate cap were put in place, however.

Finally, several commenters asked for a revised and improved PNW form with

additional guidance and instructions on how to make PNW calculations (*e.g.,* with respect to determining the value of a house or business).

DOT Response

To understand the purpose and effect of the Department's proposal to change the PNW threshold from the long-standing $750,000 figure, it is important to keep in mind what an inflationary adjustment does. (Because of the passage of time from the issuance of the NPRM to the present time, the amount of the inflationary adjustment has changed slightly, from $1.31 million to $1.32 million.) The final rule's adjustment is based on the Department of Labor's consumer price index (CPI) calculator. This calculator was used because, of various readily available means of indexing for inflation, CPI appears to be the one that is most nearly relevant to an individual's personal wealth. Such an adjustment simply keeps things as they were originally in real dollar terms.

That is, in 1989, $750,000 bought a certain amount of goods and services. In 2010, given the effects of inflation over 21 years, it would take $1.32 million in today's dollars to buy the same amount of goods and services. The buying power of assets totaling $750,000 in 1989 is the same as the buying power of assets totaling $1.32 million in 2010. Notwithstanding the fact that $1.32 million, on its face, is a higher number than $750,000, the wealth of someone with $1.32 million in assets today is the same, in real dollar or buying power terms, as that of someone with $750,000 in 1989.

Put another way, if the Department did not adjust the $750,000 number for inflation, our inaction would have the effect of establishing a significantly lower PNW cap in real dollar terms. A PNW cap of $750,000 in 2010 dollars is equivalent to a PNW cap of approximately $425,700 in 1989 dollars. This means that a DBE applicant today would be allowed to have $325,000 less in real dollar assets than his or her counterpart in 1989.

The Department believes, in light of this understanding of an inflationary adjustment, that making the proposed adjustment at this time is appropriate. This is a judgment that is shared by the majority of commenters and both Houses of Congress. We do not believe that any important policy interest is served by continuing to lower the real dollar PNW threshold, which we believe would have the effect of further limiting the pool of eligible DBE owners beyond what is intended by the Department in adopting the PNW standard.

The Department is using 1989 as the base year for its inflationary adjustment for two reasons. First, doing so is consistent with what both the House and Senate determined was appropriate in the context of FAA authorization bills that both chambers passed. Second, while the Department adopted a PNW standard in 1999, the standard itself, which was adopted by the Small Business Administration (SBA) before 1989, has never been adjusted for inflation at any time. By 1999, the real dollar value of the original $750,000 standard had already been eroded by inflation, and the Department believes that it is reasonable to take into account the effect of inflation on the standard that occurred before as well as after the Department adopted it.

We appreciate the concerns of commenters who opposed the proposed inflationary adjustment. Some of these commenters, it appears, may not have fully understood that an inflationary adjustment simply maintains the status quo in real dollar terms. The concern that making the adjustment would favor larger, established DBEs over smaller, start-up companies has some basis, and reflects the longstanding tension in the program between its role as an incubator for new firms and its purpose of allowing DBE firms to grow and develop to the point where they may be in a better position to compete for work outside the DBE program. Allowing persons with larger facial amounts of assets may seem to permit participation of people who are less disadvantaged than formerly in the program, but disadvantage in the DBE program has always properly been understood as relative disadvantage (i.e., relative to owners and businesses in the economy generally), not absolute deprivation. People who own successful businesses are more affluent, by and large, than many people who participate in the economy only as employees, but this does not negate the fact that socially disadvantaged persons who own businesses may well, because of the effects of discrimination, accumulate less wealth than their non-socially disadvantaged counterparts. Consequently, the concerns of opponents of this change are not sufficient to persuade us to avoid making the proposed inflationary adjustment.

We do not believe that it is practical, in terms of program administration, to have standards that vary with recipient or region. We acknowledge that one size may not fit all to perfection, but the complexity of administering a national program with a key eligibility standard that varies, perhaps significantly, among jurisdictions would be, in our view, an even greater problem. Nor do we see a strong policy rationale for a change to some fixed figure (*e.g.,* $1 million, $2.5 million) that is not tied to inflation. We do agree, however, that an improved PNW form would be an asset to the program, and we will propose such a form for comment in the next stage NPRM on the DBE program, which we hope to issue in 2011. This NPRM may also continue to examine other PNW issues.

Whenever there is a change in a rule of this sort, the issue of how to handle the transition between the former rule and the new rule inevitably arises. We provide the following guidance for recipients and firms applying for DBE certification.

- For applications or decertification actions pending on the date this amendment is published, but before its effective date, recipients should make decisions based on the new standards, though these decisions should not take effect until the amendment's effective date.
- Beginning on the effective date of this amendment, all new certification decisions must be based on the revised PNW standard, even if the application was filed or a decertification action pertaining to PNW began before this date.
- If a denial of an application or decertification occurred before the publication date of this amendment, because the owner's PNW was above $750,000 but not above $1.32 million, and the matter is now being appealed within the recipient's or unified certification program's (UCP's) process, then the recipient or UCP should resolve the appeal using the new standard. Recipients and UCPs may request updated information where relevant. In the case of an appeal pending before the Departmental Office of Civil Rights (DOCR) under section 26.89, DOCR will take the same approach or remand the matter, as appropriate.
- If a firm was decertified or its application denied within a year before the effective date of this amendment, because the owner's PNW was above $750,000 but not above $1.32 million, the recipient or UCP should permit the firm to resubmit PNW information without any further waiting period, and the firm should be recertified if the owner's PNW is not over $1.32 million and the firm is otherwise eligible.
- We view any individual who has misrepresented his or her PNW information, whether before or after the inflationary adjustment takes effect, as having failed to cooperate with the DBE

program, in violation of 49 CFR 26.109(c). In addition to other remedies that may apply to such conduct, recipients should not certify a firm that has misrepresented this information.

The Department is not ready, at this time, to make a decision on the issue of retirement assets. The comments suggested a number of detailed issues the Department should consider before proposing any specific provisions on this subject. We will further consider commenters' thoughts on this issue at a future time.

Interstate Certification

In response to longstanding concerns of DBEs and their groups, the NPRM proposed a mechanism to make interstate certification easier. The proposed mechanism did not involve pure national reciprocity (*i.e.,* in which each state would give full faith and credit to other states' certification decisions, with the result that a certification by any state would be honored nationwide). Rather, it created a rebuttable presumption that a firm certified in its home state would be certified in other states. A firm certified in home state A could take its application materials to State B. Within 30 days, State B would decide either to accept State A's certification or object to it. If it did not object, the firm would be certified in State B. If State B did object, the firm would be entitled to a proceeding in which State B bore the burden of proof to demonstrate that the firm should not be certified in State B. The NPRM also proposed that the DOT Departmental Office of Civil Rights (DOCR) would create a database that would be populated with denials and decertifications, which the various State UCPs would check with respect to applicants and currently certified firms.

This issue was one of the most frequently commented-upon subjects in the rulemaking. Over 30 comments, from a variety of sources including DBEs, DBE organizations, and a prime contractors' association. Members of Congress and others supported the proposed approach. They emphasized that the necessity for repeated certification applications to various UCPs, and the very real possibility of inconsistent results on the same facts, were time-consuming, burdensome, and costly for DBEs. In a national program, they said, there should be national criteria, uniformity of forms and interpretations, and more consistent training of certification personnel. The proposed approach, they said, while not ideal, would be a useful step toward those goals.

An approximately equal number of commenters, predominantly recipients but also including some DBEs and associations, opposed the proposal, preferring to keep the existing rules (under which recipients can, but are not required to, accept certifications made by other recipients) in place. Many of these commenters said that their certification programs frequently had to reject out-of-state firms that had been certified by their home states because the home states had not done a good job of vetting the qualifications of the firms for certification. They asserted that there was too much variation among states concerning applicable laws and regulations (*e.g.,* with respect to business licensing or marital property laws), interpretations of the DBE rule, forms and procedures, and the training of certifying agency personnel for something like the NPRM proposal to work well. Before going to something like the NPRM proposal, some of these commenters said, DOT should do more to ensure uniform national training, interpretations, forms etc.

Commenters opposed to the NPRM proposal were concerned that the integrity of the program would be compromised, as questionable firms certified by one state would slip into the directories of other states without adequate vetting. Moreover, the number of certification actions each state had to consider, and the number of certified firms that each state would have to manage, could increase significantly, straining already scarce resources.

A smaller number of commenters addressed the idea of national reciprocity. Some of these commenters said that, at least for the future, national reciprocity was a valuable goal to work toward. Some of these commenters, including an association that performs certification reviews nationally for MBE and WBE suppliers (albeit without on-site reviews) and a Member of Congress, supported using such a model now. On the other hand, other commenters believed national reciprocity was an idea whose time had not come, for many of the same reasons stated by commenters opposed to the NPRM proposal. Some of the commenters on the NPRM proposal said that the proposal would result in *de facto* national reciprocity, which they believed was bad for the program.

Two features of the NPRM proposal attracted considerable adverse comment. Thirty-one of the 34 comments addressing the proposed 30-day window for "State B" to decide whether to object to a home state certification of a firm said that the proposed time was too short. These commenters, mostly recipients, suggested time frames ranging from 45–90 days. They said that the 30-day time frame would be very difficult to meet, given their resources, and would cause States to accept questionable certifications from other States simply because there was insufficient time to review the documentation they had been given. Moreover, the 30-day window would mean that out-of-state firms would jump to the front of the line for consideration over in-state firms, concerning which the rule allows 90 days for certification. This would be unfair to in-state firms, they said.

In addition, 22 of 28 commenters on the issue of the burden of proof for interstate certification—again, predominantly recipients—said that it was the out-of-state applicant firm, rather than State B, that should have the burden of proof once State B objected to a home state certification of the firm. These commenters also said that is was more sensible to put the out-of-state firm in the same position as any other applicant for certification by having to demonstrate to the certifying agency that it was eligible, rather than placing the certification agency in the position of the proponent in a decertification action for a firm that it had previously certified. Again, commenters said, the NPRM proposal would favor out-of-state over in-state applicants.

A few comments suggested trying reciprocal certification on a regional basis (e.g., in the 10 Federal regions) before moving to a more national approach. Others suggested that only recent information (*e.g.,* applications and on-site reports less than three years old) be acceptable for interstate certification purposes. Some states pointed to state laws requiring local licenses or registration before a firm could do business in the State: Some commenters favored limiting out-of-state applications to those firms that had obtained the necessary permits, while one commenter suggested prohibiting States from imposing such requirements prior to DBE certification. Some comments suggested limiting the grounds on which State B could object to the home state certification of a firm (*i.e.,* "good cause" rather than "interpretive differences," differences in state law, evidence of fraud in obtaining home state certification).

There was a variety of other comments relevant to the issue of interstate certification. Most commenters who addressed the idea of the DOCR database supported it, though some said that denial/decertification data should be available only to certification agencies, not the general

public. Some also said that having to input and repeatedly check the data base would be burdensome. One commenter suggested including a firm's Federal Taxpayer ID number in the database entry. One commenter suggested a larger role for the database: Applicants should electronically input their application materials to the database, which would then be available to all certifying agencies, making individual submissions of application information to the States unnecessary. Some commenters wanted DOT to create or lead a national training and/or accreditation effort for certifier personnel.

DOT Response

Commenters on interstate were almost evenly divided on the best course of action for the Department to take. Most DBEs favored making interstate certification less difficult for firms that wanted to work outside their home states; most recipients took the opposite point of view. This disagreement reflects, we believe, a tension between two fundamental objectives of the program. On one hand, it is important to facilitate the entry of DBE firms into this national program, so that they can compete for DOT-assisted contracting wherever those opportunities exist, while reducing administrative burdens and costs on the small businesses that seek to participate. On the other hand, it is important to maintain the integrity of the program, so that only eligible firms participate and ineligible firms do not take unfair advantage of the program.

The main concern of proponents of the NPRM proposal was that failing to make changes to facilitate interstate certification would leave in place unnecessary and unreasonable barriers to the participation of firms outside of their home states. The main concern of opponents of the NPRM proposal was that making the proposed changes would negatively affect program integrity. Their comments suggest that there is considerable mistrust among certification agencies and programs. Many commenters appear to believe that, while their own certification programs do a good job, other states' certification programs do not. Much of the opposition to facilitating interstate certification appears to have arisen from this mistrust, as certification agencies seek to prevent questionable firms certified by what they perceive as weak certification programs in other states from infiltrating their domains.

The Department does not believe that it is constructive to take the position that certification programs nationwide are so hopelessly inadequate that the best response is to leave interstate barriers in place to contain the perceived contagion of poorly qualified, albeit certified, firms within the boundaries of their own states. To the contrary, we believe that, under a system like that proposed in the NPRM, if firms certified by State A are regularly rebuffed by States B, C, D, etc., State A firms will have an incentive to bring pressure on their certification agency to improve its performance.

The Department also believes that suggestions made by commenters, such as improving training and standardizing forms and interpretations, can improve the performance of certification agencies generally. In the follow-on NPRM the Department hopes to issue in 2011, one of the subjects we will address is improvements in the certification application and PNW forms, which certification agencies then would be required to use without alteration. DOT already provides many training opportunities to certification personnel, such as the National Transportation Institute courses provided by the Federal Transit Administration, presentations by knowledgeable DOT DBE staff at meetings of transportation organizations, and webinars and other training opportunities provided by Departmental Office of Civil Rights personnel. The Department will consider further ways of fostering training and education for certifiers (*e.g.,* a DOT-provided web-based training course for certifiers). The Department also produces guidance on certification-related issues to assist certifiers in making decisions that are consistent with this regulation, and we will continue that practice.

While we will continue to work with our state and local partners to improve the certification process, we do not believe that steps to facilitate interstate certification should be taken only after all recipients achieve an optimal level of performance. The DBE program is a national program; administrative barriers to participation impair the important program objective of encouraging DBE firms to compete for business opportunities; provisions to facilitate interstate certification can be drafted in a way that permits "State B" to screen out firms that are not eligible in accordance with this regulation. Consequently, the Department has decided to proceed with a modified form of the NPRM proposal. However, the final rule will not make compliance with the new section 26.85 mandatory until January 1, 2012, in order to provide additional time for recipients and UCPs to take advantage of training opportunities and to establish any needed administrative mechanisms to carry out the new provision. This will also provide time for DOCR to make its database for denials and decertifications operational.

As under the NPRM, a firm certified in its home state would present its certification application package to State B. In response to commenters' concerns about the time available, State B would have 60 days, rather than 30 as in the NPRM, to determine whether it had specific objections to the firm's eligibility and to communicate those objections to the firm. If State B believed that the firm was ineligible, State B would state, with particularity, the specific reasons or objections to the firm's eligibility. The firm would then have the opportunity to respond and to present information and arguments to State B concerning the specific objections that State B had made. This could be done in writing, at an in-person meeting with State B's decision maker, or both. Again in response to commenters' concerns, the firm, rather than State B, would have the burden of proof with respect, and only with respect, to the specific issues raised by State B's objections. We believe that these changes will enhance the ability of certification agencies to protect the integrity of the program while also enhancing firms' ability to pursue business opportunities outside their home states.

We emphasize that State B's objections must be specific, so that the firm can respond with information and arguments focused clearly on the particular issues State B has identified, rather than having to make an unnecessarily broad presentation. It is not enough for State B to say "the firm is not controlled by its disadvantaged owner" or "the owner exceeds the PNW cap." These are conclusions, not specific, fact-based objections. Rather, State B might say "the disadvantaged owner has a full-time job with another organization and has not shown that he has sufficient time to exercise control over the day-to-day operations of the firm" or "the owner's property interests in assets X, Y, and Z were improperly valued and cause his PNW to exceed $1.32 million." This degree of specificity is mandatory regardless of the regulatory ground (*e.g.,* new information, factual errors in State A's certification: *See* section 26.85(d)(2)) on which State B makes an objection. For example, if State B objected to the firm's State A certification on the basis that State B's law required a different result, State B would say something like "State B Revised Statutes Section xx.yyyy

provides only that a registered engineer has the power to control an engineering firm in State B, and the disadvantaged owner of the firm is not a registered engineer, who is therefore by law precluded from controlling the firm in State B."

On receiving this specific objection, the owner of the firm would have the burden of proof that he or she does meet the applicable requirements of Part 26. In the first example above, the owner would have to show that either he or she does not now have a full-time job elsewhere or that, despite the demands of the other job, he or she can and does control the day-to-day operations of the firm seeking certification. This burden would be to make the required demonstration by a preponderance of the evidence, the same standard used for initial certification actions generally. This owner would not bear any burden of proof with respect to size, disadvantage, ownership, or other aspects of control, none of which would be at issue in the proceeding. The proceeding, and the firm's burden of proof, would concern only matters about which State B had made a particularized, specific objection. This narrowing of the issues should save time and resources for firms and certification agencies alike.

The firm's response to State B's particularized objections could be in writing and/or in the form of an in-person meeting with State B's decision maker to discuss State B's objections to the firm's eligibility. The decision maker would have to be someone who is knowledgeable about the eligibility provisions of the DBE rule.

We recognize that, in unusual circumstances, the information the firm provided to State B in response to State B's specific objections could contain new information, not part of the original record, that could form the basis for an additional objection to the firm's certification. In such a case, State B would immediately notify the firm of the new objection and offer the firm a prompt opportunity to respond.

Section 26.85(d)(2) of the final rule lists the grounds a State B can rely upon to object to a State A certification of a firm. These are largely the same as in the NPRM. In response to a comment, the Department cautions that by saying that a ground for objection is that State A's certification is inconsistent with this regulation, we do not intend for mere interpretive disagreements about the meaning of a regulatory provision to form a ground for objection. Rather, State B would have to cite something in State A's certification that contradicted a provision in the regulatory text of Part 26.

The final rule also gives, as a ground for objecting to a State A certification, that a State B law "requires" a result different from the law of State (*see* the engineering example above). To form the basis for an objection on this ground, a difference between state laws must be outcome-determinative with respect to a certification. For example, State A may treat marital property as jointly held property, while State B is a community property state. The laws are different, but both, in a given case, may well result in each spouse having a 50 percent share of marital assets. This would not form the basis for a State B objection.

With respect to state requirements for business licenses, the Department believes that states should not erect a "Catch 22" to prevent DBE firms from other states from becoming certified. That is, if a firm from State A wants to do business in State B as a DBE, it is unlikely to want to pay a fee to State B for a business license before it knows whether it will be certified. Making the firm get the business license and pay the fee before the certification process takes place would be an unnecessary barrier to the firm's participation that would be contrary to this regulation.

The Department believes that regional certification consortia, or reciprocity agreements among states in a region, are a very good idea, and we anticipate working with UCPs in the future to help create such arrangements. Among other things, the experience of actually working together could help to mitigate the current mistrust among certification agencies. However, we do not believe it would be appropriate to mandate such arrangements at this time.

The Department believes that the DOCR database of decertification and denial actions would be of great use in the certification process. However, the system is not yet up and running. Consequently, the final rule includes a one-year delay in the implementation date of requirements for use of the database.

Other Certification-Related Issues

The NPRM asked for comment on whether there should be a requirement for periodic certification reviews and/or updates of on-site reviews concerning certified firms. The interval most frequently mentioned by commenters on this subject was five years, though there was also some support for three-, six-, and seven-year intervals. A number of commenters suggested that such reviews should include an on-site update only when the firm's circumstances had changed materially, in order to avoid burdening the limited resources of certifying agencies. Having a standardized on-site review form would reduce burdens, some commenters suggested. Other commenters suggested that the timing of reviews should be left to certifying agencies' discretion, or that on-site updates should be done on a random basis of a smaller number of firms.

The NPRM also asked about the handling of situations where an applicant withdraws its application before the certifying agency makes a decision. Should certifying agencies be able to apply the waiting period (*e.g.,* six or 12 months) used for reapplications after denials in this situation? Comments on this issue, mostly from recipients but also from some DBEs and their associations, were divided. Some commenters said that there were often good reasons for a firm to withdraw and correct an application (*e.g.,* a new firm unaccustomed to the certification process) and that their experience did not suggest that a lot of firms tried to game the system through repeated withdrawals. On the other hand, some commenters said that having to repeatedly process withdrawn and resubmitted applications was a burden on their resources that they would want to mitigate through applying a reapplication waiting period. One recipient said that, even in the absence of a waiting period, the resubmitted application should go to the back of the line for processing. Still others wanted to be able to apply case-by-case discretion concerning whether to impose a waiting period on a particular firm. A few commenters suggested middle-ground positions, such as imposing a shorter waiting period (*e.g.,* 90 days) than that imposed on firms who are denied or applying a waiting period only for a second or subsequent withdrawal and reapplication by the same firm.

Generally, commenters were supportive of the various detail-level certification provision changes proposed in the NPRM (*e.g.,* basing certification decisions on current circumstances of a firm). Commenters did speak to a wide variety of certification issues, however. One commenter said that in its state, the UCP arbitrarily limited the number of NAICS codes in which a firm could be certified, a practice the commenter said the regulation should forbid. In addition, this commenter said, the UCP inappropriately limited certification of professional services firms owned by someone who was not a licensed professional in a field, even in the

absence of a state law requiring such licensure. A number of commenters said that recipients should not have to automatically certify SBA-certified 8(a) firms, while another commenter recommended reviving the now-lapsed DOT–SBA memorandum of understanding (MOU) on certification issues. A DBE association said that certifying agencies should not count against firms seeking certification (*e.g.,* with respect to independence determinations) investments from or relationships with larger firms that are permitted under other Federal programs (*e.g.,* HubZone or other SBA programs). One commenter favored, and another opposed, allowing States to use their own business specialty classifications in addition to or in lieu of NAICS codes.

One recipient recommended a provision to prevent owners from transferring personal assets to their companies to avoid counting them in the PNW calculation. Another said the certification for the PNW statement should specifically say that the information is "complete" as well as true. Yet another suggested that a prime contractor who owns a high percentage (*e.g.,* 49 percent) of a DBE should not be able to use that DBE for credit. There were a number of suggestions that more of the certification process be done electronically, rather than on paper. A few comments said that getting back to an applicant within 20 days, as proposed in the NPRM, concerning whether the application was complete was too difficult for some recipients who have small staffs.

DOT Response

The Department believes that regularly updated on-site reviews are an extremely important tool in helping avoid fraudulent firms or firms that no longer meet eligibility requirements from participating in the DBE program. Ensuring that only eligible firms participate is a key part of maintaining the integrity of the program. We also realize that on-site reviews can be time- and resource-intensive. Consequently, while we believe that it is advisable for recipients and UCPs to conduct updated on-site reviews of certified companies on regular and reasonably frequent basis, and we strongly encourage such undated reviews, we have decided not to mandate a particular schedule, though we urge recipients to regard on-site reviews as a critical part of their compliance activities. When recipients or UCPs become aware of a change in circumstances or concerns that a firm may be ineligible or engaging in misconduct (*e.g.,* from notifications of changes by the firm itself, complaints, information in the media, etc.), the recipient or UCP should review the firm's eligibility, including doing an on-site review.

When recipients in other states (*see* discussion of interstate certification above) obtain the home state's certification information, they must rely on the on-site report that the home state has in its files plus the affidavits of no change, etc. that the firm has filed with the home state. It is not appropriate for State B to object to an out-of-state firm's certification because the home state's on-site review is older than State B thinks desirable, since that would unfairly punish a firm for State A's failure to update the firm's on-site review. However, if an on-site report is more than three years old, State B could require that the firm provide an affidavit to the effect that all the facts in the report remain true and correct.

While we recognize that reports that have not been updated, or which do not appear to contain sufficient analysis of a firm's eligibility, make certification tasks more difficult, our expectation is that the Department's enhanced interstate certification process will result in improved quality in on-site reviews so that recipients in various states have a clear picture of the structure and operation of firms and the qualifications of their owners. To this end, we encourage recipients and UCPs to establish and maintain communication in ways that enable information collected in one state to be shared readily with certification agencies in other states. This information sharing can be done electronically to reduce costs.

Firms may withdraw pending applications for certification for a variety of reasons, many of them legitimate. A withdrawal of an application is not the equivalent of a denial of that application. Consequently, we believe that it is inappropriate for recipients and UCPs to penalize firms that withdraw pending applications by applying the up-to-12 month waiting period of section 26.86(c) to such withdrawals, thereby preventing the firm from resubmitting the application before that time elapses. We believe that permitting recipients to place resubmitted applications at the end of the line for consideration sufficiently protects the recipients' workloads from being overwhelmed by repeated resubmissions. For example, suppose that Firm X withdraws its application in August. It resubmits the application in October. Meanwhile, 20 other firms have submitted applications. The recipient must accept Firm X's resubmission in October, but is not required to consider it before the 20 applications that arrived in the meantime. Recipients should also closely examine changes made to the firm since the time of its first application.

We agree with commenters that it is not appropriate for recipients to limit NAICS codes in which a firm is certified to a certain number. Firms may be certified in NAICS codes for however many types of business they demonstrate that they perform and concerning which their disadvantaged owners can demonstrate that they control. We have added language to the regulation making this point. We also agree that it is not appropriate for a recipient or UCP to insist on professional certification as a *per se* condition for controlling a firm where state law does not impose such a requirement. We have no objection to a recipient or UCP voluntarily using its own business classification system in addition to using NAICS codes, but it is necessary to use NAICS codes.

SBA has now gone to a self-certification approach for small disadvantaged business, the SBA 8(a) program differs from the DBE program in important respects, and the SBA–DOT memorandum of understanding (MOU) on certification matters lapsed over five years ago. Under these circumstances, we have decided to delete former sections 26.84 and 26.85, relating to provisions of that MOU.

DBE firms in the DBE program must be fully independent, as provided in Part 26. If a firm has become dependent on a non-DBE firm through participation in another program, then it may be found ineligible for DBE program purposes. To say otherwise would create inconsistent standards that would enable firms already participating in other programs to meet a lower standard than other firms for DBE participation.

We believe that adding a regulatory provision prohibiting owners from transferring personal assets to their companies to avoid counting them in the PNW calculation would be difficult to implement, since owners of businesses often invest assets in the companies for legitimate reasons. However, as an interpretive matter, recipients are authorized to examine such transfers and, if they conclude that the transfer is a ruse to avoid counting personal assets toward the PNW calculation rather than a legitimate investment in the company and its growth, recipients or UCPs may continue to count the assets toward PNW.

We agree that the certification for the PNW statement should specifically say

that the information is "complete" as well as true and that a somewhat longer time period would be appropriate for recipients and UCPs to get back to applicants with information on whether their applications were complete. We have added a regulatory text statement on the former point and extended the time period on the latter point to 30 days.

If a prime contractor who owns a high percentage of a DBE that it wishes to use on a contract, issues concerning independence, affiliation, and commercially useful function can easily arise. For this reason, recipients should closely scrutinize such relationships. This scrutiny may well result, in some cases, in denying DBE credit or initiating decertification action.

We encourage the use of electronic methods in the application and certification process. As in other areas, electronic methods can reduce administrative burdens and speed up the process.

Accountability and Goal Submissions

The NPRM proposed that if a recipient failed to meet its overall goal, it would, within 60 days, have to analyze the shortfall, explain the reasons for it, and come up with corrective actions for the future. All State DOTs and the largest transit authorities and airports would have to send their analyses and corrective action plans to DOT operating administrations; smaller transit authorities and airports would retain them on file. While there would not be any requirement to meet a goal—to "hit the number"—failure to comply with these requirements could be regarded as a failure to implement a recipient's program in good faith, which could lead to a finding of noncompliance with the regulation.

In a related provision, the Department asked questions in the NPRM concerning the recent final provision concerning submitting overall goals on a three-year, rather than an annual, basis. In particular, the NPRM asked whether it should be acceptable for a recipient to submit year-to-year projections of goals within the structure of a three-year goal and how implementation of the accountability proposal would work in the context of a three-year goal, whether or not year-to-year projections were made.

About two-thirds of the 64 comments addressing the accountability provision supported it. These commenters included DBEs, recipients, and some associations and other commenters. Some of these commenters, in fact, thought the proposal should be made stronger. For example, a commenter suggested that a violation "will" rather than "could" be found for failure to provide the requested information. Another suggested that, beyond looking at goal attainment numbers, the accountability provisions should be broadened to include the recipient's success with respect to a number of program elements (*e.g.,* good faith efforts on contracts, outreach, DBE liaison officer's role, training and education of staff).

Commenters also presented various ideas for modifying the proposal. These included suggestions that the Department should add a public input component, provide more guidance on the shortfall analysis and how to do it, delay its effective date to allow recipients to find resources to comply, ensure ongoing measurement of achievements rather than just measuring at the end of a year or three-year period, ensure that there is enough flexibility in explaining the reasons for a shortfall, or lengthen the time recipients have to submit the materials (*e.g.,* 90 days, or 60 days after the recipient's report of commitments and achievements is due). One commenter suggested that an explanation should be required only when there is a pattern of goal shortfalls, not in individual instances. There could be a provision for excusing recipients who fell short of their goal by very small amount, or even if the recipient made 80 percent of its goal.

Opponents of the proposal—mostly recipients plus a few associations—said that the proposal would be too administratively burdensome. In addition, they feared that making recipients explain a shortfall and propose corrective measures would turn the program into a prohibited set-aside or quota program, a concern that was particularly troublesome in states affected by the *Western States* decision. Moreover, a number of commenters said, the inability of recipients to meet overall goals was often the result of factors beyond their control. In addition, recipients might unrealistically reduce goals in order to avoid having to explain missing a more ambitious target.

With respect to the reporting intervals for goals, 28 of the 39 commenters who addressed the issue favored some form of at least optional yearly reporting of goals, either in the form of annual goal submissions or, more frequently, of year-to-year projections of goals within the framework of a three-year overall goal. The main reason given for this preference was a concern that projects and the availability of Federal funding for them were sufficiently volatile that making a projection that was valid for a three-year period was problematic. This point of view was advanced especially by airports. Some other commenters favored giving recipients discretion whether to report annually or triennially. Commenters who took the point of view that the three-year interval was preferable agreed with original rationale of reducing repeated paperwork burdens on recipients. One commenter asked that the rule specify that, especially in a three-year interval schedule of goal submission, a recipient "must" submit revisions if circumstances change.

There was discussion in the NPRM of the relationship between the goal submission interval and the accountability provision. For example, if a recipient submitted overall goals on a three-year basis, would the accountability provision be triggered annually, based on the recipient's annual report (as the NPRM suggested) or only on the basis of the recipient's performance over the three-year period? If there were year-to-year projections within a three-year goal, would the accountability provision relate to accountability for the annual projection or the cumulative three-year goal? Commenters who favored year-to-year projections appeared to believe that accountability would best relate to each year's projection, though the discussion of this issue in the comments was often not explicit. Some comments, including one from a Member of Congress, did favor holding recipients accountable for each year's separate performance.

There was a variety of other comments on goal-related issues. Some commenters asked that the three DOT operating administrations coordinate submitting goals so that a State DOT submitting goals every three years would be able to submit its FHWA, FAA, and FTA goals in the same year. A DBE group wanted the Department to strengthen requirements pertaining to the race-neutral portion of a recipient's overall goal. A commenter who works with transit vehicle manufacturers requested better monitoring of transit vehicle manufacturers by FTA. A group representing DBEs wanted recipients to focus on potential, and not just certified, DBEs for purposes of goal setting. The same group also urged consideration of separate goals for minority- and women-owned firms.

DOT Response

Under Part 26, the Department has always made unmistakably clear that the DBE program does not impose quotas. No one ever has been, or ever will be, sanctioned for failing to "hit the number." However, goals must be

implemented in a meaningful way. A recipient's overall goal represents its estimate of the DBE participation it would achieve in the absence of discrimination and its effects. Failing to meet an overall goal means that the recipient has not completely remedied discrimination and its effects in its DOT-assisted contracting. In the Department's view, good faith implementation of a DBE program by a recipient necessarily includes understanding why the recipient has not completely remedied discrimination and its effects, as measured by falling short of its "level playing field" estimate of DBE participation embodied in its overall goal. Good faith implementation further means that, having considered the reasons for such a shortfall, the recipient will devise program actions to help minimize the potential for a shortfall in the future.

Under the Department's procedures for reviewing overall goals and the methodology supporting them, the Department has the responsibility of ensuring that a recipient's goals are well-grounded in relevant data and are derived using a sound methodology. The Department would not approve a recipient's goal submission if it appeared to understate the "level playing field" amount of DBE participation the recipient could rationally expect, whether to avoid being accountable under the new provisions of the rule or for other reasons.

For these reasons, the Department is adopting the NPRM's proposed accountability mechanism. We do not believe that the concerns of some commenters that this mechanism would create a quota system are justified: No one will be penalized for failing to meet an overall goal. Moreover, promoting transparency and accountability is not synonymous with imposing a penalty and should not be viewed as such. Understanding the reasons for not meeting a goal and coming up with ways of avoiding a shortfall in the future, while not creating a quota system, do help to ensure that recipients take seriously the responsibility to address discrimination and its effects.

Moreover, the administrative burden of compliance falls only on those recipients who fail to meet a goal, not on all recipients. Understanding what is happening in one's program, why it is happening, and how to fix problems is, or ought to be, a normal, everyday part of implementing a program, so the analytical tasks involved in meeting this requirement should not be new to recipients. We do not envision that recipients' responses to this requirement would be book-length; a reasonable succinct summary of the recipient's analysis and proposed actions should be sufficient though, like all documents submitted in connection with the DBE program, it should show the work and reasoning leading to the recipient's conclusions.

For example, a recipient might determine that its process for ascertaining whether prime bidders who failed to meet contract goals had made adequate good faith efforts was too weak, and that prime bidders consequently received contracts despite making insufficient efforts to find DBEs for contracts. In such a case, the recipient could take corrective action such as more stringent review of bidder submissions or meeting with prime bidders to provide guidance and assistance on how to do a better job of making good faith efforts.

We agree that there may be circumstances in which a recipient's inability to meet a goal is for reasons beyond its control. If that is the case, the recipient's response to this requirement can be to identify such factors, as well as suggesting how these problems may be taken into account and surmounted in the future. We also agree with those commenters who said that good-faith implementation of a DBE program involves more than meeting an overall goal. Factors like those cited by commenters are important as part of an overall evaluation of a recipient's success. This accountability provision, however, is intended to focus on the process recipients are using to achieve their overall goals, rather than to act as a total program evaluation tool. The operating administrations will continue to conduct program reviews that address the breadth of recipients' program implementation.

The Department believes that a clear, bright-line trigger for the application of the accountability provision makes the most sense administratively and in terms of achieving the purpose of the provision. Consequently, we are not adopting suggestions that the provision be triggered only by a pattern of missing goals, or an average of missing goals over the period of a three-year overall goal, or a shortfall of a particular percentage. Any shortfall means that a recipient has dealt only incompletely with the effects of discrimination, and we believe that it is appropriate in any such case that the recipient understand why that is the case and what steps to take to improve program implementation in the future.

The three-year goal review interval was intended to reduce administrative burdens on recipients. Nevertheless, we understand that some recipients, especially airports, may be more comfortable with annual projections and updates of overall goals. We have no objection to recipients making annual projections, for informational purposes, within the three-year overall goal. It is still the formally submitted and reviewed three-year goal, however, and not the informal annual projections, that count from the point of view of the accountability mechanism. For example, suppose an airport has a three-year annual overall goal of 12 percent. For informational purposes, the airport chooses to make informal annual projections of 6, 12, and 18 percent for years 1–3, respectively (which, by the way, are not required to be submitted to the Department). The accountability mechanism requirements would be triggered in each of the three years covered by the overall goal if DBE achievements in each year were less than 12 percent.

The Department agrees that recipients should be accountable for effectively carrying out the race-neutral portion of their programs. If a recipient fell short of its overall goal because it did not achieve the projected race-neutral portion of its goal, then this is something the recipient would have to explain and establish measures to correct (*e.g.,* by stepping up race-neutral efforts and/or concluding that it needed to increase race-conscious means of achieving its goal). We also agree that it is reasonable, in calculating goals and in doing disparity studies, to consider potential DBEs (*e.g.,* firms apparently owned and controlled by minorities or women that have not been certified under the DBE program) as well as certified DBEs. This is consistent with good practice in the field as well as with DOT guidance. Separate goals for various groups of disadvantaged individuals are possible with a program waiver of the DBE regulation, if a sufficient case is made for the need for group-specific goals.

In the section of the rule concerning goal-setting (49 CFR 26.45), the Department is also taking this opportunity to make a technical correction. In the final rule establishing the three year DBE goal review cycle, the Department inadvertently omitted from § 26.45(f)'s regulatory text paragraphs (3), (4), and (5), which govern the content of goal submissions, operating administration review of the submission, and review of interim goal setting mechanisms. It was never the intent of the Department to remove or otherwise change those provisions of section 26.45(f) of the rule. This final rule corrects that error by restructuring

paragraphs (1) and (2) of section 26.45(f) and restoring the language of paragraphs (3), (4), and (5) of that section of the rule. We apologize for any confusion that this error may have caused.

The Department supports strong outreach efforts by recipients to encourage minority- and women-owned firms to become certified as DBEs, so that recipients can set and meet realistic goals. However, we caution recipients against stating or implying that minority- and women-owned firms can participate in recipients' contracts only if they become certified as DBEs. It would be contrary to nondiscrimination requirements of this part and of Title VI for a recipient to limit the opportunity of minority- or women-owned firms to compete for any contract because the firm was not a certified DBE.

Program Oversight

The NPRM proposed to require recipients to certify that they have monitored the paperwork and on-site performance of DBE contracts to make sure that DBEs actually perform them. Comment was divided on this proposal, with 21 comments favoring either the proposal or stronger oversight mechanisms and 18 opposed.

Commenters who favored the proposal, including DBEs and some associations and recipients, generally believed that the provision would make it less likely that post-award abuse of DBEs by prime contractors would occur. One recipient noted that it already followed this approach with respect to ARRA grants. Some commenters wanted the Department to require additional steps, such as requiring recipients to make periodic visits to the job site and keeping records of each visit, to ensure that the DBELO did in fact have direct access to the organization's CEO concerning DBE matters, and to maintain sufficient trained staff to do needed monitoring. DBE associations wanted mandatory monitoring of good faith efforts (*e.g.,* by keeping records of all contacts made by prime contractors) and terminations of DBEs by prime contractors, as well as to have certifications signed by persons higher up in the organization than the DBELO (*e.g.,* the CEO). Another commenter sought further checking concerning counting issues. A consultant and a recipient suggested that recipient certifications should be more frequent than a one-time affair, (*e.g.,* monthly or quarterly).

Commenters who opposed the NPRM proposal, most of whom were recipients, said that the workload the certification requirement would create would be too administratively burdensome, particularly for recipients with small staffs. The certification requirement could duplicate existing commercially useful function reviews. They also doubted the payoff in terms of improved DBE program implementation would be worth the effort. Some recipients said that they did monitor post-award performance and that the proposed additional paperwork requirement step would add little to the substance of their processes. One recipient noted that it would be very difficult to perform an on-site review of contract performance in the case of professional services consultants whose work was performed out of state.

One recipient suggested that a middle ground might be to have the recipient certify monitoring of a sample of contracts, since it lacked the staff for field monitoring of all contracts. A consultant suggested selecting contracts for monitoring based on a "risk-based analysis" of contracts or by focusing on contracts where prime contractors' achievements did not measure up to their commitments. One recipient suggested limiting the certification requirement to one commercially useful function review per year on a contract. A few recipients asked for guidance on what constituted adequate staffing for the DBE program.

DOT Response

The Department's DBE rule already includes a provision (49 CFR 26.37(b)) requiring recipients to have a monitoring and enforcement mechanism to ensure that work committed to DBEs is actually performed by DBEs. The trouble is that, based on the Department's experience, this provision is not being implemented by recipients as well as it should be. The FHWA review team that has been examining state implementation of the DBE program found that many states did not have an effective compliance monitoring program in place. DBE fraud cases investigated by the Department's Office of Inspector General and criminal prosecutions in the Federal courts have highlighted numerous cases in which recipients were unaware, often for many years, of situations in which non-DBE companies were claiming DBE credit for work that DBEs did not perform.

The Department believes that, for the DBE program to be meaningful, it is not enough that prime contractors commit to the use of DBEs at the time of contract award. It is also necessary that the DBEs actually perform the work involved. Recipients need to know whether DBEs are actually performing the work involved, lest program effectiveness suffer and the door be left open to fraud. Recipients must actually monitor each contract, on paper and in the field, to ensure that that they have this knowledge. Monitoring DBE compliance on a contract is no less important, and should be no more brushed aside, than compliance of with project specifications. This is important for prime contracts performed by DBEs as well as for situations in which DBEs act as subcontractors, and the monitoring and certification requirements will apply to both situations.

Consequently, the Department believes that the proposed requirement that recipients memorialize the monitoring they are already required to perform has merit. Its intent is to make sure that the monitoring actually takes place and that the recipient stands by the statement that DBE participation claimed on a contract actually occurred. This monitoring, and the recipient's written certification that it took place, must occur with respect to every contract on which DBE participation is claimed, not just a sample or percentage of such contracts, to make sure that the program operates as it is intended. It applies to contracts entered into prior to the effective date of this rule, since the obligation to monitor work performed by DBEs has always been a key feature of the DBE program.

With respect to concerns about administrative burden, the Department believes that monitoring is something that recipients have been responsible for conducting since the inception of Part 26. Therefore, we are not asking recipients to do something with which they can claim they are unfamiliar. Moreover, as the final rule version of this provision makes clear, recipients can combine the on-site monitoring for DBE compliance with other monitoring they do. For example, the inspector who looks at a project to make sure that the contractor met contract specifications before final payment is authorized could also confirm that DBE requirements were honestly met.

While we believe that more intensive and more frequent monitoring of DBE performance on contracts is desirable, we encourage recipients to monitor contracts as closely as they can. However, we do not, for workload reasons, want to mandate more pervasive monitoring at this time. We agree with commenters that it would be difficult to do on-site monitoring of contracts performed outside the state (*e.g.,* an out-of-state consulting contract), and we have added language specifying that the requirement to monitor work sites pertains to work sites in the recipient's state. In reference to what constitutes adequate staffing of

a DBE program, we believe that it is best to look at this question in terms of a performance standard. The Department's rule requires certain tasks (*e.g.,* responding to applications for DBE eligibility, certification and monitoring of DBE performance on contracts) to be performed within certain time frames. If a recipient has sufficient staff to meet these requirements, then its staffing levels are adequate. If not (*e.g.,* applications for DBE certification are backlogged for several months), then staffing is inadequate.

Small Business Provisions

The NPRM proposed that recipients would add an element to their DBE programs to foster small business participation in contracts. The purpose of this proposal was to encourage programs that, by facilitating small business participation, augmented race-neutral efforts to meet DBE goals. The program element could include items such as race-neutral small business set-asides and unbundling provisions. The NPRM did not propose to mandate any specific elements, however.

The majority of commenters addressing this part of the NPRM—38 of 55—favored the NPRM's approach. Commenters approving the proposal were drawn from DBEs, associations, and recipients. Generally, they agreed that steps to create improved opportunities for small business would help achieve the objectives of the DBE program. Specific elements that various commenters supported included unbundling (which some commenters suggested should be made mandatory), prohibiting double-bonding, small business set-asides, expansions of existing small business development programs and mentor-protégé programs.

Commenters who did not support the NPRM proposal, most of whom were recipients, were concerned that having small business programs would draw focus from programs targeted more directly at DBEs. They were also concerned about having sufficient resources to carry out the programs they might include in a small business program element. One commenter thought that a small business program element would duplicate existing supportive services programs. Another thought unbundling would not work. A number of recipients thought it would be better for DOT to issue guidance on this subject rather than to create regulatory language. A recipient association characterized the proposal as burdensome and not productive.

Eight commenters addressed the issue of bonding and insurance requirements. A bonding company association explained that both performance and payment bonds had an appropriate place in contracting and believed that subcontractor bonds were not duplicative of prime contractor bonds. A DBE wanted to prohibit prime contractors from setting bonding requirements for subcontractors. A recipient said the Department should treat prime contractors and subcontractors the same for bonding purposes. One DBE association said the combination of payment bonds, performance bonds, and retention was burdensome for subcontractors and Another DBE association said that it was inappropriate to require bonding of the subcontractor when the prime contractor was already bonded for the overall work of the contract. This association suggested that a prime contractor could not demonstrate good faith efforts to meet a goal if it insisted on such a double bond.

DOT Response

DBEs are small businesses. Program provisions that help small businesses can help DBEs. By facilitating participation for small businesses, recipients can make possible more DBE participation, and participation by additional DBE firms. Consequently, we believe that a program element that pulls together the various ways that a recipient reaches out to small businesses and makes it easier for them to compete for DOT-assisted contracts will foster the objectives of the DBE program. Because small business programs of the kind suggested in the NPRM are race-neutral, use of these programs can assist recipients in meeting the race-neutral portions of their overall goals. This is consistent with the language that under Part 26, recipients are directed to meet as much as possible of their overall goals through race-neutral means.

It is important to keep in mind that race-neutral programs should not be passive. Simply waiting and hoping that occasional DBEs will participate without the use of contract goals does not an effective race-neutral program make. Rather, recipients are responsible for taking active, effective steps to increase race-neutral DBE participation, by implementing programs of the kind mentioned in this section of the NPRM and final rule. The Department will be monitoring recipients' race-neutral programs to make sure that they meet this standard.

In adopting the NPRM proposal requiring a small business program element, the Department believes that this element—which is properly viewed as an integral part of a recipient's DBE program—need not distract recipients from other key parts of recipients' DBE programs, such as certification and the use of race-conscious measures. There are different ways of encouraging DBE participation and meeting DBE overall goals, and recipients' programs need to address a variety of these means. Many of the provisions that recipients can use to implement the requirements of the new section (*e.g.,* unbundling, race-neutral small business set-asides) are already part of the regulation or DOT guidance, and carrying out these elements should not involve extensive additional burdens.

With respect to bonding, the Department believes that commenters made a good point with respect to the burden of duplicative bonding. By duplicative bonding, we mean insistence by a prime contractor that a DBE provide bonding for work that is already covered by bonding or insurance provided by the prime contractor or the recipient. Like duplicative bonding, excessive bonding—a requirement, which according to participants in the Department's stakeholder meetings, is sometimes imposed to provide a bond in excess of the value of the subcontractor's work—can act as an unnecessary barrier to DBE participation. While we believe that additional action to address these problems may have merit, there was not a great deal of comment on the implications of potential regulatory requirements in these areas. Consequently, we will defer action on these issues at this time and seek additional comment and information in the follow-on NPRM the Department is planning to issue.

Miscellaneous Comments

Several commenters expressed general support for the DBE program and/or the NPRM, while two commenters opposed the DBE program in general. A large number of comments from an advocacy organization's members supported additional bonding assistance and more frequent data reporting. A commenter wanted to add DBE coverage for Federal Railroad Administration (FRA) grants. Commenters also suggested such steps as increasing technical assistance, using project labor agreements to increase DBE participation, an SBA 8(a) program-like term limit on participation in the DBE program, a better uniform reporting form, greater ease in complaining to DOT and recipients about noncompliance issues, and putting current joint check guidance into the rule's text.

DOT Response

The Department already has programs in place concerning bonding and data reporting. There is not currently a direct, specific statutory mandate for a DBE program in FRA financial assistance programs, though the Department is considering ways of ensuring nondiscrimination in contracting in these programs. For example, like all recipients of Federal financial assistance, FRA recipients are subject to requirements under Title VI of the Civil Rights Act of 1964. Existing programs, such as the FHWA supportive services program and various initiatives by the Department's Office of Small and Disadvantaged Business Utilization, are in place to assist DBEs in being competitive. Given the language of the statutes authorizing the DOT DBE program, we do not believe that a term limit on the participation of DBE companies would be permissible. The Department is working on improvements on all its DBE forms, and we expect to seek comment on revised forms in the follow-on NPRM we anticipate publishing. At this point, we think that the joint check guidance is sufficient without codification, but we can look at this issue, among other certification issues, in the next round of rulemaking.

The Continuing Compelling Need for the DBE Program

As numerous court decisions have noted,[1] the Department's DBE regulations, and the statutes authorizing them, are supported by a compelling need to address discrimination and its effects. This basis for the program has been established by Congress and applies on a nationwide basis. Both the House and Senate FAA reauthorization bills contained findings reaffirming the compelling need for the program. We would also call to readers' attention the additional information presented to the House of Representatives in a March 26, 2009, hearing before the Transportation and Infrastructure Committee and made a part of the record of that hearing and a Department of Justice document entitled "The Compelling Interest for Race- and Gender-Conscious Federal Contracting Programs: A Decade Later An Update to the May 23, 1996 Review of Barriers for Minority- and Women-Owned Businesses" and the information and documents cited therein. This information confirms the continuing compelling need for race- and gender-conscious programs such as the DOT DBE program.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This is a nonsignificant regulation for purposes of Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures. Its provisions involve administrative modifications to several provisions of a long-existing and well-established program, designed to improve the program's implementation. The rule does not alter the direction of the program, make major policy changes, or impose significant new costs or burdens.

Regulatory Flexibility Act

A number of provisions of the rule reduce small business burdens or increase opportunities for small business, notably the interstate certification process and the small business DBE program element provisions. Small recipients would not be required to file reports concerning the reasons for overall goal shortfalls and corrective action steps to be taken. Only State DOTs, the 50 largest transit authorities, and the 30–50 airports receiving the greatest amount of FAA financial assistance would have to file these reports. The task of sending copies of on-site review reports to other certification entities fall on UCPs, which are not small entities, and in any case can be handled electronically (*e.g.,* by emailing PDF copies of the documents). While all recipients would have to input information about decertifications and denials into a DOT database, this would be a quick electronic process that would not be costly or burdensome. In any case, this requirement will be phased in as the Department prepares to put the database online. The rule does not make major policy changes that would cause recipients to expend significant resources on program modifications. For these reasons, the Department certifies that the rule does not have a significant economic effect on a substantial number of small entities.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under the Order and have determined that it does not have implications for federalism, since it merely makes administrative modifications to an existing program. It does not change the relationship between the Department and State or local governments, pre-empt State law, or impose substantial direct compliance costs on those governments.

Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995, DOT has submitted the Information Collection Requests (ICRs) below to the Office of Management and Budget (OMB). Before OMB decides whether to approve these proposed collections of information and issue a control number, the public must be provided 30 days to comment. Organizations and individuals desiring to submit comments on the collections of information in this rule should direct them to the Office of Management and Budget, *Attention:* Desk Officer for the Office of the Secretary of Transportation, Office of Information and Regulatory Affairs, Washington, DC 20503. OMB is required to make a decision concerning the collection of information requirements contained in this rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

We will respond to any OMB or public comments on the information collection requirements contained in this rule. The Department will not impose a penalty on persons for violating information collection requirements which do not display a current OMB control number, if required. The Department intends to obtain current OMB control numbers for the new information collection requirements resulting from this rulemaking action. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

It is estimated that the total incremental annual burden hours for the information collection requirements in this rule are 47,450 hours in the first year, 83,370 in the second year, and 51,875 thereafter. The following are the information collection requirements in this rule:

Certification of Monitoring (49 CFR 26.37(b))

Each recipient would certify that it had conducted post-award monitoring of contracts which would be counted for

[1] *See* for instance *Adarand Constructors, Inc.* v. *Slater,* 228 F.3d 1147 (10th Cir. 2000), *Northern Contracting Inc.* v. *Illinois Department of Transportation,* 473 4.3d 715 (7th Cir. 2007), *Sherbrooke Turf, Inc.* v. *Minnesota Department of Transportation,* 345 F.3d. 964 (8th Cir. 2003), *Western States Paving Co., Inc.* v. *Washington Department of Transportation,* 407 F.3d. 983 (9th Cir. 2005).

DBE credit to ensure that DBEs had done the work for which credit was claimed. The certification is for the purpose of ensuring accountability for monitoring which the regulation already requires.

Respondents: 1,050.

Frequency: 13,400 (*i.e.,* there are about 13,400 contracts per year that have DBE participation, based on 2009 data).

Estimated Burden per Response: ½ hour.

Estimated Total Annual Burden: 6,700 hours.

Small Business Program Element (49 CFR 26.39)

Each recipient would add a new DBE program element, consisting of strategies to encourage small business participation in their contracting activities. No specific element would be required, and many of the potential elements are already part of the existing DBE regulation or implementing guidance (*e.g.,* unbundling; race-neutral small business set-asides). The small business program element is intended to pull a recipient's small business efforts into a single, unified place in this DBE Program. This requirement goes into effect a year from the effective date of the rule.

Respondents: 1,050.

Frequency: Once (for a one-time task).

Estimated Burden per Response: 30 hours.

Estimated Total Annual Burden Hours: 31,500 (one time).

Accountability Mechanism (49 CFR 26.47(c))

If a recipient failed to meet its overall goal in a given year, it would have to determine the reasons for its failure and establish corrective steps. Approximately 150 large recipients would transmit this analysis to DOT; smaller recipients would perform the analysis but would not be required to submit it to DOT. We estimate that about half of recipients would be subject to this requirement in a given year.

Respondents: 525 (150 of which would have to submit reports to DOT).

Frequency: Once per year.

Estimated Average Burden per Response: 80 hours + 5 for recipients sending report to DOT.

Estimated Total Annual Burden Hours: 42,750.

Affidavit of Completeness (49 CFR 26.45(c)(4))

When a firm certified in its home state seeks certification in another state ("State B"), the firm must provide an affidavit that the information the firm provides to State B is complete and is identical to that submitted to the home state. The calculation of the burden for this item assumes that there will be an average 2600 interstate applications each year to which this requirement would apply. This requirement takes effect a year from the effective date of this rule.

Respondents: 2,600.

Frequency: Once per year to a given recipient.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden Hours: 2,600 hours.

Transmittal of On-Site Report (49 CFR 26.85(d)(1))

When a "State B" receives a request for certification from a firm certified in "State A," State A must promptly send a copy of that report to State B. This would involve simply emailing a PDF or other electronic copy of an existing report. This requirement takes effect one year from the effective date of this rule.

Respondents: 52.

Frequency: An average of 50 per year per recipient.

Estimated Average Burden per Response: ½ hour.

Estimated Total Annual Burden Hours: 1,300.

Transmittal of Decertification/Denial Information (49 CFR 26.85(f)(1))

When a unified certification program (UCP) in a state denies a firm's application for certification or decertifies the firm, it must electronically notify a DOT database of the fact. The information in the database is then available to other certification agencies for their reference. The calculation of the burden of this requirement assumes that there would be am average of 100 such actions per year by each UCP.

Respondents: 52.

Frequency: An average of 100 per year per recipient.

Estimated Average Burden per Response: ½ hour.

Estimated Total Annual Burden Hours: 2,600.

Transmittal of Denial/Decertification Documents (49 CFR 26.85(f)(3))

When a UCP notes, from the DOT database, that a firm that has applied or been granted certification was denied or decertified elsewhere, the UCP would request a copy of the decision by the other state, which would then have to send a copy. The Department anticipates that this would be done by an email exchange, the response attaching a PDF or other electronic copy of an existing document. This requirement goes into effect a year from the effective date of the rule.

Respondents: 52.

Frequency: An average of 75 per year per recipient.

Estimated Average Burden per Response: five minutes for the request; ½ hour for the response.

Estimated Total Annual Burden Hours: 2,625.

List of Subjects in 49 CFR Part 26

Administrative practice and procedure, Airports, Civil rights, Government contracts, Grant-programs—transportation, Mass transportation, Minority businesses, Reporting and record keeping requirements.

Issued this 11th day of January, 2011, at Washington, DC.

Ray LaHood,

Secretary of Transportation.

For the reasons set forth in the preamble, the Department amends 49 CFR Part 26 as follows:

PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS

■ 1. The authority citation for part 26 is amended to read as follows:

Authority: 23 U.S.C. 304 and 324; 42 U.S.C. 2000d, *et seq.* ; 49 U.S.C. 47107, 47113, 47123; Sec. 1101(b), Pub. L. 105–178, 112 Stat. 107, 113.

■ 2. In section 26.5, add a definition of "Home state" in alphabetical order to read as follows:

§ 26.5 What do the terms used in this part mean?

* * * * *

"*Home state*" means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

* * * * *

■ 3. In § 26.11, add paragraph (a) to read as follows:

§ 26.11 What records do recipients keep and report?

(a) You must transmit the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to this part, at the intervals stated on the form.

* * * * *

■ 4. Revise § 26.31 to read as follows:

§ 26.31 What information must you include in your DBE directory?

(a) In the directory required under § 26.81(g) of this Part, you must list all

firms eligible to participate as DBEs in your program. In the listing for each firm, you must include its address, phone number, and the types of work the firm has been certified to perform as a DBE.

(b) You must list each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work. You must make any changes to your current directory entries necessary to meet the requirement of this paragraph (a) by August 26, 2011.

■ 5. Revise § 26.37 (b) to read as follows:

§ 26.37 What are a recipient's responsibilities for monitoring the performance of other program participants?

* * * * *

(b) Your DBE program must also include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (*e.g.,* as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. This mechanism must include a written certification that you have reviewed contracting records and monitored work sites in your state for this purpose. The monitoring to which this paragraph refers may be conducted in conjunction with monitoring of contract performance for other purposes (*e.g.,* close-out reviews for a contract).

* * * * *

■ 6. Add § 26.39 to subpart B to read as follows:

§ 26.39 Fostering small business participation.

(a) Your DBE program must include an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

(b) This element must be submitted to the appropriate DOT operating administration for approval as a part of your DBE program by February 28, 2012. As part of this program element you may include, but are not limited to, the following strategies:

(1) Establishing a race-neutral small business set-aside for prime contracts under a stated amount (*e.g.,* $1 million).

(2) In multi-year design-build contracts or other large contracts (*e.g.,* for "megaprojects") requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.

(3) On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.

(4) Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.

(5) To meet the portion of your overall goal you project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

(c) You must actively implement your program elements to foster small business participation. Doing so is a requirement of good faith implementation of your DBE program.

■ 7 . In § 26.45:

■ a. Revise paragraphs (e)(2), (e)(3), (f)(1), and (f)(2);

■ b. Redesignate paragraphs ((f)(3) and (f)(4) as (f)(6) and (f)(7), respectively; and

■ c. Add new paragraphs (f)(3), (4), and (5).

The revisions and addition read as follows:

§ 26.45 How do recipients set overall goals?

* * * * *

(e) * * *

(2) If you are an FTA or FAA recipient, as a percentage of all FT or FAA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that you will expend in FTA or FAA-assisted contracts in the three forthcoming fiscal years.

(3) In appropriate cases, the FHWA, FTA or FAA Administrator may permit or require you to express your overall goal as a percentage of funds for a particular grant or project or group of grants and/or projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration.

(i) A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals.

(ii) A project goal covers the entire length of the project to which it applies.

(iii) The project goal should include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal.

(iv) The funds for the project to which the project goal pertains are separated from the base from which your regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

(f)(1)(i) If you set your overall goal on a fiscal year basis, you must submit it to the applicable DOT operating administration by August 1 at three-year intervals, based on a schedule established by the FHWA, FTA, or FAA, as applicable, and posted on that agency's Web site.

(ii) You may adjust your three-year overall goal during the three-year period to which it applies, in order to reflect changed circumstances. You must submit such an adjustment to the concerned operating administration for review and approval.

(iii) The operating administration may direct you to undertake a review of your goal if necessary to ensure that the goal continues to fit your circumstances appropriately.

(iv) While you are required to submit an overall goal to FHWA, FTA, or FAA only every three years, the overall goal and the provisions of Sec. 26.47(c) apply to each year during that three-year period.

(v) You may make, for informational purposes, projections of your expected DBE achievements during each of the three years covered by your overall goal. However, it is the overall goal itself, and not these informational projections, to which the provisions of section 26.47(c) of this part apply.

(2) If you are a recipient and set your overall goal on a project or grant basis as provided in paragraph (e)(3) of this section, you must submit the goal for review at a time determined by the FHWA, FTA or FAA Administrator, as applicable.

(3) You must include with your overall goal submission a description of the methodology you used to establish the goal, incuding your base figure and the evidence with which it was calculated, and the adjustments you made to the base figure and the evidence you relied on for the adjustments. You should also include a summary listing of the relevant available evidence in your jurisdiction and, where applicable, an explanation of why you did not use that evidence to adjust your base figure. You must also include your projection of the portions of the overall goal you expect to meet through race-neutral and race-consioous measures, respectively (*see* 26.51(c)).

(4) You are not required to obtain prior operating administration concurrence with your overall goal. However, if the operating

administration's review suggests that your overall goal has not been correctly calculated, or that your method for calculating goals is inadequate, the operating administration may, after consulting with you, adjust your overall goal or require that you do so. The adjusted overall goal is binding on you.

(5) If you need additional time to collect data or take other steps to develop an approach to setting overall goals, you may request the approval of the concerned operating administration for an interim goal and/or goal-setting mechanism. Such a mechanism must:

(i) Reflect the relative availability of DBEs in your local market to the maximum extent feasible given the data available to you; and

(ii) Avoid imposing undue burdens on non-DBEs.

* * * * *

■ 8. In § 26.47, add paragraphs (c) and (d) to read as follows:

§ 26.47 Can recipients be penalized for failing to meet overall goals?

* * * * *

(c) If the awards and commitments shown on your Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, you must do the following in order to be regarded by the Department as implementing your DBE program in good faith:

(1) Analyze in detail the reasons for the difference between the overall goal and your awards and commitments in that fiscal year;

(2) Establish specific steps and milestones to correct the problems you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year;

(3)(i) If you are a state highway agency; one of the 50 largest transit authorities as determined by the FTA; or an Operational Evolution Partnership Plan airport or other airport designated by the FAA, you must submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c)(1) and (2) of this section to the appropriate operating administration for approval. If the operating administration approves the report, you will be regarded as complying with the requirements of this section for the remainder of the fiscal year.

(ii) As a transit authority or airport not meeting the criteria of paragraph (c)(3)(i) of this section, you must retain analysis and corrective actions in your records for three years and make it available to FTA or FAA on request for their review.

(4) FHWA, FTA, or FAA may impose conditions on the recipient as part of its approval of the recipient's analysis and corrective actions including, but not limited to, modifications to your overall goal methodology, changes in your race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

(5) You may be regarded as being in noncompliance with this Part, and therefore subject to the remedies in § 26.103 or § 26.105 of this part and other applicable regulations, for failing to implement your DBE program in good faith if any of the following things occur:

(i) You do not submit your analysis and corrective actions to FHWA, FTA, or FAA in a timely manner as required under paragraph (c)(3) of this section;

(ii) FHWA, FTA, or FAA disapproves your analysis or corrective actions; or

(iii) You do not fully implement the corrective actions to which you have committed or conditions that FHWA, FTA, or FAA has imposed following review of your analysis and corrective actions.

(d) If, as recipient, your Uniform Report of DBE Awards or Commitments and Payments or other information coming to the attention of FTA, FHWA, or FAA, demonstrates that current trends make it unlikely that you will achieve DBE awards and commitments that would be necessary to allow you to meet your overall goal at the end of the fiscal year, FHWA, FTA, or FAA, as applicable, may require you to make further good faith efforts, such as by modifying your race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

■ 9. In § 26.51, revise paragraphs (b)(1) and (f)(1) to read as follows:

§ 26.51 What means do recipients use to meet overall goals?

* * * * *

(b)* * *

(1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39 of this part.

* * * * *

(f) * * *

(1) If your approved projection under paragraph (c) of this section estimates that you can meet your entire overall goal for a given year through race-neutral means, you must implement your program without setting contract goals during that year, unless it becomes necessary in order meet your overall goal.

Example to paragraph (f)(1): Your overall goal for Year 1 is 12 percent. You estimate that you can obtain 12 percent or more DBE participation through the use of race-neutral measures, without any use of contract goals. In this case, you do not set any contract goals for the contracts that will be performed in Year 1. However, if part way through Year 1, your DBE awards or commitments are not at a level that would permit you to achieve your overall goal for Year 1, you could begin setting race-conscious DBE contract goals during the remainder of the year as part of your obligation to implement your program in good faith.

* * * * *

■ 10. In § 26.53:

■ a. Redesignate paragraph (g) as paragraph (i);

■ b. Redesignate paragraphs (f)(2) and (3) as paragraphs (g) and (h), respectively;

■ c. Revise paragraph (f)(1); and

■ d. Add new paragraphs (f)(2) through (6) to read as follows:

§ 26.53 What are the good faith efforts procedures recipients follow in situations where there are contract goals?

* * * * *

(f)(1) You must require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without your prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

(2) You may provide such written consent only if you agree, for reasons stated in your concurrence document, that the prime contractor has good cause to terminate the DBE firm.

(3) For purposes of this paragraph, good cause includes the following circumstances:

(i) The listed DBE subcontractor fails or refuses to execute a written contract;

(ii) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contracor;

(iii) The listed DBE subcontractor fails or refuses to meet the prime contractor's

reasonable, nondisrciminatory bond requirements.

(iv) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;

(v) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;

(vii) You have determined that the listed DBE subcontractor is not a responsible contractor;

(vi) The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;

(vii) The listed DBE is ineligible to receive DBE credit for the type of work required;

(viii) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;

(ix) Other documented good cause that you determine compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

(4) Before transmitting to you its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to you, of its intent to request to terminate and/or substitute, and the reason for the request.

(5) The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise you and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why you should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (*e.g.,* safety), you may provide a response period shorter than five days.

(6) In addition to post-award terminations, the provisions of this section apply to preaward deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

* * * * *

■ 11. In § 26.67, revise paragraphs (a)(2)(i) and (iv), and in paragraphs (b), (c), and (d), remove "$750,000" and add in its place "$1.32 million".

The revisions read as follows:

§ 26.67 What rules determine social and economic disadvantage?

(a) * * *

(2)(i) You must require each individual owner of a firm applying to participate as a DBE, whose ownership and control are relied upon for DBE certification to certify that he or she has a personal net worth that does not exceed $1.32 million.

* * * * *

(iv) Notwithstanding any provision of Federal or state law, you must not release an individual's personal net worth statement nor any documents pertaining to it to any third party without the written consent of the submitter. Provided, that you must transmit this information to DOT in any certification appeal proceeding under section 26.89 of this part or to any other state to which the individual's firm has applied for certification under § 26.85 of this part.

* * * * *

■ 12. Revise § 26.71(n) to read as follows:

§ 26.71 What rules govern determinations concerning control?

* * * * *

(n) You must grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to control the firm. To become certified in an additional type of work, the firm need demonstrate to you only that its socially and economically disadvantaged owners are able to control the firm with respect to that type of work. You must not require that the firm be recertified or submit a new application for certification, but you must verify the disadvantaged owner's control of the firm in the additional type of work.

(1) The types of work a firm can perform (whether on initial certification or when a new type of work is added) must be described in terms of the most specific available NAICS code for that type of work. If you choose, you may also, in addition to applying the appropriate NAICS code, apply a descriptor from a classification scheme of equivalent detail and specificity. A correct NAICS code is one that describes, as specifically as possible, the principal goods or services which the firm would provide to DOT recipients. Multiple NAICS codes may be assigned where appropriate. Program participants must rely on, and not depart from, the plain meaning of NAICS code descriptions in determining the scope of a firm's certification. If your Directory does not list types of work for any firm in a manner consistent with this paragraph (a)(1), you must update the Directory entry for that firm to meet the requirements of this paragraph (a)(1) by August 28, 2011.

(2) Firms and recipients must check carefully to make sure that the NAICS codes cited in a certification are kept up-to-date and accurately reflect work which the UCP has determined the firm's owners can control. The firm bears the burden of providing detailed company information the certifying agency needs to make an appropriate NAICS code designation.

(3) If a firm believes that there is not a NAICS code that fully or clearly describes the type(s) of work in which it is seeking to be certified as a DBE, the firm may request that the certifying agency, in its certification documentation, supplement the assigned NAICS code(s) with a clear, specific, and detailed narrative description of the type of work in which the firm is certified. A vague, general, or confusing description is not sufficient for this purpose, and recipients should not rely on such a description in determining whether a firm's participation can be counted toward DBE goals.

(4) A certifier is not precluded from changing a certification classification or description if there is a factual basis in the record. However, certifiers must not make after-the-fact statements about the scope of a certification, not supported by evidence in the record of the certification action.

* * * * *

■ 13. Revise § 26.73(b) to read as follows:

§ 26.73 What are other rules affecting certification?

* * * * *

(b)(1) You must evaluate the eligibility of a firm on the basis of present circumstances. You must not refuse to certify a firm based solely on historical information indicating a lack of ownership or control of the firm by socially and economically disadvantaged individuals at some time in the past, if the firm currently meets the ownership and control standards of this part.

(2) You must not refuse to certify a firm solely on the basis that it is a newly formed firm, has not completed projects or contracts at the time of its application, has not yet realized profits from its activities, or has not demonstrated a potential for success. If the firm meets disadvantaged, size, ownership, and control requirements of

this Part, the firm is eligible for certification.

* * * * *

§ 26.81 [Amended]

■ 14. Amend § 26.81(g) by removing the word "section" and adding in its place the word "part" and by removing the period at the end of the last sentence and adding the words "and shall revise the print version of the Directory at least once a year."

■ 15. In § 26.83, remove and reserve paragraph (e), revise paragraph (h), and add paragraphs (l) and (m) to read as follows:

§ 26.83 What procedures do recipients follow in making certification decisions?

* * * * *

(h) Once you have certified a DBE, it shall remain certified until and unless you have removed its certification, in whole or in part, through the procedures of section 26.87. You may not require DBEs to reapply for certification or require "recertification" of currently certified firms. However, you may conduct a certification review of a certified DBE firm, including a new on-site review, three years from the date of the firm's most recent certification, or sooner if appropriate in light of changed circumstances (*e.g.,* of the kind requiring notice under paragraph (i) of this section), a complaint, or other information concerning the firm's eligibility. If you have grounds to question the firm's eligibility, you may conduct an on-site review on an unannounced basis, at the firm's offices and jobsites.

* * * * *

(l) As a recipient or UCP, you must advise each applicant within 30 days from your receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.

(m) Except as otherwise provided in this paragraph, if an applicant for DBE certification withdraws its application before you have issued a decision on the application, the applicant can resubmit the application at any time. As a recipient or UCP, you may not apply the waiting period provided under § 26.86(c) of this part before allowing the applicant to resubmit its application. However, you may place the reapplication at the "end of the line," behind other applications that have been made since the firm's previous application was withdrawn. You may also apply the waiting period provided under § 26.86(c) of this part to a firm that has established a pattern of frequently withdrawing applications before you make a decision.

§ 26.84 [Removed]

■ 16. Remove section 26.84.

■ 17. Revise § 26.85 to read as follows

§ 26.85 Interstate certification.

(a) This section applies with respect to any firm that is currently certified in its home state.

(b) When a firm currently certified in its home state ("State A") applies to another State ("State B") for DBE certification, State B may, at its discretion, accept State A's certification and certify the firm, without further procedures.

(1) To obtain certification in this manner, the firm must provide to State B a copy of its certification notice from State A.

(2) Before certifying the firm, State B must confirm that the firm has a current valid certification from State A. State B can do so by reviewing State A's electronic directory or obtaining written confirmation from State A.

(c) In any situation in which State B chooses not to accept State A's certification of a firm as provided in paragraph (b) of this section, as the applicant firm you must provide the information in paragraphs (c)(1) through (4) of this section to State B.

(1) You must provide to State B a complete copy of the application form, all supporting documents, and any other information you have submitted to State A or any other state related to your firm's certification. This includes affidavits of no change (*see* § 26.83(j)) and any notices of changes (*see* § 26.83(i)) that you have submitted to State A, as well as any correspondence you have had with State A's UCP or any other recipient concerning your application or status as a DBE firm.

(2) You must also provide to State B any notices or correspondence from states other than State A relating to your status as an applicant or certified DBE in those states. For example, if you have been denied certification or decertified in State C, or subject to a decertification action there, you must inform State B of this fact and provide all documentation concerning this action to State B.

(3) If you have filed a certification appeal with DOT (*see* § 26.89), you must inform State B of the fact and provide your letter of appeal and DOT's response to State B.

(4) You must submit an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States.

(i) This affidavit must affirm that you have submitted all the information required by 49 CFR 26.85(c) and the information is complete and, in the case of the information required by § 26.85(c)(1), is an identical copy of the information submitted to State A.

(ii) If the on-site report from State A supporting your certification in State A is more than three years old, as of the date of your application to State B, State B may require that your affidavit also affirm that the facts in the on-site report remain true and correct.

(d) As State B, when you receive from an applicant firm all the information required by paragraph (c) of this section, you must take the following actions:

(1) Within seven days contact State A and request a copy of the site visit review report for the firm (*see* § 26.83(c)(1)), any updates to the site visit review, and any evaluation of the firm based on the site visit. As State A, you must transmit this information to State B within seven days of receiving the request. A pattern by State B of not making such requests in a timely manner or by "State A" or any other State of not complying with such requests in a timely manner is noncompliance with this Part.

(2) Determine whether there is good cause to believe that State A's certification of the firm is erroneous or should not apply in your State. Reasons for making such a determination may include the following:

(i) Evidence that State A's certification was obtained by fraud;

(ii) New information, not available to State A at the time of its certification, showing that the firm does not meet all eligibility criteria;

(iii) State A's certification was factually erroneous or was inconsistent with the requirements of this part;

(iv) The State law of State B requires a result different from that of the State law of State A.

(v) The information provided by the applicant firm did not meet the requirements of paragraph (c) of this section.

(3) If, as State B, unless you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice that it is certified and place the firm on your directory of certified firms.

(4) If, as State B, you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you

must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice stating the reasons for your determination.

(i) This notice must state with particularity the specific reasons why State B believes that the firm does not meet the requirements of this Part for DBE eligibility and must offer the firm an opportunity to respond to State B with respect to these reasons.

(ii) The firm may elect to respond in writing, to request an in-person meeting with State B's decision maker to discuss State B's objections to the firm's eligibility, or both. If the firm requests a meeting, as State B you must schedule the meeting to take place within 30 days of receiving the firm's request.

(iii) The firm bears the burden of demonstrating, by a preponderance of evidence, that it meets the requirements of this Part with respect to the particularized issues raised by State B's notice. The firm is not otherwise responsible for further demonstrating its eligibility to State B.

(iv) The decision maker for State B must be an individual who is thoroughly familiar with the provisions of this Part concerning certification.

(v) State B must issue a written decision within 30 days of the receipt of the written response from the firm or the meeting with the decision maker, whichever is later.

(vi) The firm's application for certification is stayed pending the outcome of this process.

(vii) A decision under this paragraph (d)(4) may be appealed to the Departmental Office of Civil Rights under s§ 26.89 of this part.

(e) As State B, if you have not received from State A a copy of the site visit review report by a date 14 days after you have made a timely request for it, you may hold action required by paragraphs (d)(2) through (4) of this section in abeyance pending receipt of the site visit review report. In this event, you must, no later than 30 days from the date on which you received from an applicant firm all the information required by paragraph (c) of this section, notify the firm in writing of the delay in the process and the reason for it.

(f)(1) As a UCP, when you deny a firm's application, reject the application of a firm certified in State A or any other State in which the firm is certified, through the procedures of paragraph (d)(4) of this section, or decertify a firm, in whole or in part, you must make an entry in the Department of Transportation Office of Civil Rights' (DOCR's) Ineligibility Determination Online Database. You must enter the following information:

(i) The name of the firm;

(ii) The name(s) of the firm's owner(s);

(iii) The type and date of the action;

(iv) The reason for the action.

(2) As a UCP, you must check the DOCR Web site at least once every month to determine whether any firm that is applying to you for certification or that you have already certified is on the list.

(3) For any such firm that is on the list, you must promptly request a copy of the listed decision from the UCP that made it. As the UCP receiving such a request, you must provide a copy of the decision to the requesting UCP within 7 days of receiving the request. As the UCP receiving the decision, you must then consider the information in the decision in determining what, if any, action to take with respect to the certified DBE firm or applicant.

(g) You must implement the requirements of this section beginning January 1, 2012.

§ 26.87 [Amended]

■ 18. In § 26.87, remove and reserve paragraph (h).

§ 26.107 [Amended]

■ 19. In § 26.107, in paragraphs (a) and (b), remove "49 CFR part 29" and add in its place, "2 CFR parts 180 and 1200".

■ 20. In § 26.109, revise paragraph (a)(2) to read as follows:

§ 26.109 What are the rules governing information, confidentiality, cooperation, and intimidation or retaliation?

(a) * * *

(2) Notwithstanding any provision of Federal or state law, you must not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, you must transmit this information to DOT in any certification appeal proceeding under § 26.89 of this part or to any other state to which the individual's firm has applied for certification under § 26.85 of this part.

* * * * *

[FR Doc. 2011–1531 Filed 1–27–11; 8:45 am]

BILLING CODE 4910–9X–P

Proposed Rules

Federal Register

Vol. 76, No. 19

Friday, January 28, 2011

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN 3150–AI64

[NRC–2010–0340]

Draft NUREG–0561, Revision 2; Physical Protection of Shipments of Irradiated Reactor Fuel; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance document: Extension of comment period.

SUMMARY: On November 3, 2010 (75 FR 67636), the U.S. Nuclear Regulatory Commission (NRC or the Commission) published for public comment a revision to NUREG–0561, the draft implementation guidance document for a proposed rule to amend its security regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73 pertaining to the transport of irradiated reactor fuel (for purposes of this rulemaking, the terms "irradiated reactor fuel" and "spent nuclear fuel" are used interchangeably). The proposed rule was published on October 13, 2010 (75 FR 62695). The public comment period for this proposed rule was scheduled to expire on February 11, 2011; however, on January 10, 2011 (76 FR 1376), the public comment period for the proposed rule was extended to April 11, 2011. In order to allow the public sufficient time to review and comment on the draft revision to NUREG–0561, the NRC has decided to extend the comment period for the draft guidance document until May 11, 2011.

DATES: The comment period has been extended and expires on May 11, 2011. Comments received after this date will be considered if it is practical to do so. The NRC is only able to assure consideration of comments received on or before this date.

ADDRESSES: Please include Docket ID: NRC–2010–0340 in the subject line of your comments. For instructions on submitting comments and accessing documents related to this action, see Section I, "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID: NRC–2010–0340. Address questions about NRC dockets to Carol Gallagher, telephone (301) 492–3668; e-mail: *Carol.Galagher@nrc.gov.*

Mail comments to: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax comments to: RADB at (301) 492–3446.

FOR FURTHER INFORMATION CONTACT: R. Clyde Ragland, Office of Nuclear Security, and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–7008, e-mail: *Clyde.Ragland@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this 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 O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to *PDR.Resource@nrc.gov.* The draft implementation guidance is available electronically under ADAMS Accession Number ML103060094.

Federal Rulemaking Web site: Public comments and supporting materials related to the implementation guidance, including the draft implementation guidance, can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2010–0340. Documents related to the proposed rule can be found by searching on Docket ID: NRC–2009–0163.

Discussion:

On October 13, 2010 (75 FR 62695), the NRC published a proposed rule that would amend its regulations in 10 CFR Part 73 to enhance the security requirements that apply to the transportation of spent nuclear fuel. The public comment period for the proposed rule has been extended through April 11, 2011. In conjunction with the proposed rule, the NRC has revised NUREG–0561, "Physical Protection of Shipments of Irradiated Reactor Fuel." This document provides guidance on implementing the provisions of proposed 10 CFR Part 73.37, "Requirements for Physical Protection of Byproduct Material" and proposed 10 CFR 73.38, "Personnel Access Authorization Requirements for Irradiated Reactor Fuel in Transit."

On November 3, 2010 (75 FR 67636), the NRC published for public comment the proposed revision to NUREG–0561. The NRC has determined that additional time is needed for public review of the potential impacts of the proposed requirements. In order to allow the public sufficient time to review and comment on the proposed rule, the NRC

has decided to extend the comment period until May 11, 2011.

Dated at Rockville, Maryland, this 20th day of January 2011.

For the Nuclear Regulatory Commission.

Robert K. Caldwell,

Chief, Fuel Cycle and Transportation Security Branch, Division of Security Policy, Office of Nuclear Security and Incident Response.

[FR Doc. 2011–1907 Filed 1–27–11; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[SATS No. MD–056–FOR; Docket ID: OSM 2010–0008]

Maryland Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the Maryland program (the "Maryland program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) (Administrative Record No. 588.00). Maryland added provisions to regulate coal combustion byproducts (CCBs) and to establish requirements pertaining to the generation, storage, handling, processing, disposal, recycling, beneficial use, or other use of CCBs within the State. In total these regulations pertain to all CCB activities in the State, not just surface coal mining and reclamation operations. However, a section of the Code of Maryland Regulations (COMAR) specifically pertains to the surface coal mining and reclamation operations. The regulation specific to surface coal mining and reclamation operations is a new regulation, Regulation .08 under COMAR 26.20.24, Special Performance Standards. Maryland is requesting approval of this section that it submitted as an amendment on June 24, 2010.

This document gives the times and locations that the Maryland submittal are available for your inspection, the comment period during which you may submit written comments, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., local time February 28, 2011. If requested, we will hold a public hearing on February 22, 2011. We will accept requests to speak until 4 p.m., local time on February 14, 2011.

ADDRESSES: You may submit comments, identified by "MD–056–FOR; Docket ID: OSM–2010–0008" by either of the following two methods:

Federal eRulemaking Portal: http://www.regulations.gov. The proposed rule has been assigned Docket ID: OSM–2010–0008. If you would like to submit comments through the Federal eRulemaking Portal, go to *http://www.regulations.gov* and follow the instructions.

Mail/Hand Delivery/Courier: Mr. George Rieger, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Three Parkway Center, Suite 300, Pittsburgh, PA 15220.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: In addition to obtaining copies of documents at *http://www.regulations.gov,* information may also be obtained at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Pittsburgh Field Division Office.

George Rieger, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Three Parkway Center, Suite 300, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937–2153, E-mail: *grieger@osmre.gov.*

John E. Carey, Director, Maryland Bureau of Mines, 160 South Water Street, Frostburg, MD 21532, Telephone: (301) 689–1442; E-mail: *jcarey@mde.state.md.us.*

FOR FURTHER INFORMATION CONTACT: George Rieger, Telephone: (412) 937–2153. E-mail: *grieger@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program
II. Description of the Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Maryland Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior approved the Maryland program on February 18, 1982. You can find background information on the Maryland program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Maryland program in the February 18, 1982, **Federal Register** (47 FR 7214–7217). You can also find later actions concerning the Maryland program and program amendments at 30 CFR 920.12, 920.15, 920.16.

II. Description of the Amendment

By letter dated June 24, 2010, Maryland sent us an amendment to its program, Administrative Record Number MD–588.00, under SMCRA (30 U.S.C. 1201 *et seq.*). Maryland added regulations to regulate coal combustion byproducts and to establish requirements pertaining to the generation, storage, handling, processing, disposal, recycling, beneficial use, or other use of coal combustion byproducts (CCB) within the State. In total, these regulations pertain to all CCB activities in the State, not just surface coal mining and reclamation operations. However, a section of the added regulations specifically pertains to surface coal mining and reclamation operations and are proposed to be part of Maryland's Federally approved state program. The regulation specific to surface coal mining and reclamation operations has been added as a new regulation, Regulation .08 under COMAR 26.20.24, Special Performance Standards.

Specifically, Maryland's Regulation .08 Utilization of Coal Combustion Byproducts will include paragraphs A–H on the Purpose and Scope, Conditions for Utilization, and Testing and Monitoring. Additionally, Maryland is adding a Coal Combustion Byproducts Utilization Request requirement that will require a solids analysis of the CCBs and a Toxicity Characteristics Leaching Procedure (TCLP) leachate analysis of the CCBs. Maryland may also impose additional controls or conditions on the use of CCBs as it sees fit for the protection of human health and the environment.

The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the submission satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Maryland program.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent Tribal or Federal laws or regulations, technical literature, or other relevant publications. We cannot ensure that comments received after the close of the comment period (*see* **DATES**) or sent to an address other than those listed above (*see* **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may 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. We will not consider anonymous comments.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., local time February 14, 2011. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If there is only limited interest in participating in a public hearing, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the submission, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 1, 2010.

Michael K. Robinson,

Acting Regional Director, Appalachian Region.

Editorial Note: This document was received in the Office of the Federal Register on January 14, 2011.

[FR Doc. 2011–1113 Filed 1–27–11; 8:45 am]

BILLING CODE 4310–05–P

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

33 CFR Part 401

[Docket No. SLSDC–2011–0002]

RIN 2135–AA29

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories. The proposed changes will update the following sections of the Regulations and Rules: Condition of Vessels, and Preclearance and Security for Tolls. These proposed amendments are necessary to take account of updated procedures and will enhance the safety of transits through the Seaway. Several of the proposed amendments are merely editorial or for clarification of existing requirements.

DATES: Any party wishing to present views on the proposed amendment may file comments with the Corporation on or before February 28, 2011.

ADDRESSES: You may submit comments [identified by Docket Number SLSDC 2011–0002] by any of the following methods:

- *Web Site: http://www.Regulations.gov.* Follow the online instructions for submitting comments/submissions.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–001.
- *Hand Delivery:* Documents may be submitted by hand delivery or courier to 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.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be

posted without change at *http://www.Regulations.gov* including any personal information provided. Please see the Privacy Act heading under *Regulatory Notices.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.Regulations.gov;* or in person at the Docket Management Facility; U.S. Department of Transportation, 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.

FOR FURTHER INFORMATION CONTACT: Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764–3200.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is proposing to amend the joint regulations by updating the Regulations and Rules in various categories. The proposed changes would update the following sections of the Regulations and Rules: Condition of Vessels, and Preclearance and Security for Tolls. These updates are necessary to take account of updated procedures which will enhance the safety of transits through the Seaway. Many of these proposed changes are to clarify existing requirements in the regulations. Where new requirements or regulations are being proposed, an explanation for such a change is provided below.

Regulatory Notices: Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.Regulations.gov.*

The SLSDC is proposing to amend two sections of the Condition of Vessels portion of the joint Seaway regulations. Under section 401.8, "Landing booms", the SLSDC is clarifying that no more than 4 mooring lines will be handled by Seaway personnel as part of the tie-up service. In addition, the proposed change clarifies that tie-up service does not include let go service. In section 401.24, "Application for preclearance", the SLSDC is requiring that preclearance applications must be received by the SLSMC between 08:00–16:00 hours Monday through Friday and at least 24 hours prior to the vessel's arrival.

The other changes to the joint regulations are merely editorial or to clarify existing requirements.

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify this proposed regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et reg.*) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this proposed rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this proposed rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This proposed regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend 33 CFR part 401 as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

1. The authority citation for subpart A of part 401 continues to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.52, unless otherwise noted.

2. In § 401.8, revise paragraph (c) to read as follows:

§ 401.8 Landing booms.

* * * * *

(c) Vessels not equipped with or not using landing booms must use the Seaway's tie-up service at approach walls using synthetic mooring lines only. Maximum of 4 lines will be handled by Seaway personnel and the service does not include let go service.

3. In § 401.11, revise paragraph (a) introductory text to read as follows:

§ 401.11 Fairleads.

(a) Mooring lines shall:

* * * * *

4. In § 401.12 revise paragraphs (a)(1), (a)(1)(i), and (a)(2) to read as follows:

§ 401.12 Minimum requirements—mooring lines and fairleads.

(a) * * *

(1) Vessels of more than 100 m but not more than 150 m in overall length shall have three mooring lines—wires or synthetic hawsers, which shall be independently power operated by winches, capstans or windlasses. All lines shall be led through closed chocks or fairleads acceptable to the Manager and the Corporation.

(i) One shall lead forward and one shall lead astern from the break of the bow and one lead astern from the quarter.

* * * * *

(2) Vessels of more than 150 m in overall length shall have four mooring lines—wires, independently power operated by the main drums of adequate power operated winches as follows:

(i) One mooring line shall lead forward and one mooring line shall lead astern from the break of the bow.

(ii) one mooring line shall lead forward and one mooring line shall lead astern from the quarter.

* * * * *

5. Revise § 401.24 to read as follows:

§ 401.24 Application for preclearance.

The representative of a vessel may, on a preclearance form obtained from the Manager, St. Lambert, Quebec, or downloaded from the St. Lawrence Seaway Web site (*http://www.greatlakes-seaway.com*), apply for preclearance, giving particulars of the ownership, liability insurance and physical characteristics of the vessel and guaranteeing payment of the fees that may be incurred by the vessel. The preclearance application must be received by the St. Lawrence Seaway between 08:00—16:00 hours Monday through Friday excluding holidays and at least 24 hours prior to arrival.

6. In § 401.39, revise paragraph (a) as follows:

§ 401.39 Preparing mooring lines for passing through.

* * * * *

(a) Winches shall be capable of paying out and heaving in at a minimum speed of 46 m per minute; and

* * * * *

7. In § 401.40, revise paragraph (a) to read as follows:

§ 401.40 Entering, exiting, or position in lock.

(a) Unless directed by the Manager and the Corporation, no vessel shall proceed into a lock in such a manner that the stem passes the stop symbol on the lock wall nearest the closed gates.

* * * * *

8. In § 401.51, revise paragraph (b) to read as follows:

§ 401.51 Signaling approach to a bridge.

* * * * *

(b) The signs referred to in subsection (a) are placed at distances varying between 550 m and 2990 m upstream and downstream from moveable bridges at sites other than lock sites.

* * * * *

9. In § 401.57, revise paragraph (c) to read as follows:

§ 401.57 Disembarking or boarding.

* * * * *

(c) Persons disembarking or boarding shall be assisted by a member of the vessel's crew under safe conditions.

10. In § 401.65, revise paragraph (c) to read as follows:

§ 401.65 Communication—ports, docks and anchorages.

* * * * *

(c) Every vessel prior to departing from a port, dock, or anchorage shall report to the appropriate Seaway station its destination and its expected time of arrival at the next check point.

* * * * *

Issued at Washington, DC on January 18, 2011.

Saint Lawrence Seaway Development Corporation.

Collister Johnson, Jr.,

Administrator.

[FR Doc. 2011–1833 Filed 1–27–11; 8:45 am]

BILLING CODE 4910–61–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 2011–2]

Deposit Requirements for Registration of Automated Databases That Predominantly Consist of Photographs

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Copyright Office is proposing to amend its regulations, including the recently published interim regulations regarding electronic registration of automated databases that consist predominantly of photographs and group registration of published photographs (the "Interim Regulations"), governing the deposit requirements for applications for automated databases that consist predominantly of photographs. The proposed amendments would require that, in addition to providing material relating to claimed compilation authorship, the deposits for such databases include the image of each photograph in which copyright is claimed. The Office believes that this amendment will align the deposit requirements for such databases with the deposit requirements for published or unpublished photographs as a single work or group registration of published photographs and provide a better public record identifying the scope of the copyright claim.

DATES: Comments must be received in the Office of the General Counsel of the Copyright Office no later than February 28, 2011.

ADDRESSES: The Copyright Office strongly prefers that comments be submitted electronically. A comment page containing a comment form is posted on the Copyright Office Web site at *http://www.copyright.gov/docs/databases.* The Web site interface requires submitters to complete a form specifying name and organization, as applicable, and to upload comments as an attachment via a browse button. To meet accessibility standards, all comments must be uploaded in a single file in either the Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The maximum file size is 6 megabytes (MB). The name of the submitter and organization should appear on both the form and the face of the comments. All comments will be posted publicly on the Copyright Office Web site exactly as they are received, along with names and organizations. If electronic submission of comments is not feasible, please contact the Copyright Office at 202–707–8125 for special instructions.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Catherine Rowland, Attorney Advisor, Copyright Office, GC/I&R, P.O. Box 70400, Washington, DC 20024. *Telephone:* (202) 707–8380. *Telefax:* (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Background

The Copyright Office has long allowed photographers to register groups or collections of photographs, including groups of either published or unpublished photographs (or of any other unpublished works) as part of a single work when certain requirements have been met. *See* 37 CFR 202.3(b)(4)(i)(A) and (B). It has also adopted a group registration procedure for published photographs that complements the unpublished collection procedure. *See* 37 CFR 202.3(b)(10).

Despite the availability of these options, however, some applicants have registered groups of photographs as part of automated databases. A published database is registerable under the "single unit of publication" rule of § 202.3(b)(4)(i)(A), and the group database registration provisions permit single registrations that covers up to three months' worth of updates and revisions to an automated database when all of the updates or other revisions (1) are owned by the same copyright claimant, (2) have the same general title, (3) are similar in their general content, including their subject, and (4) are similar in their organization.

37 CFR 202.3(b)(5). Using this provision, stock photography agencies have registered all the photographs added to their databases within a three-month period when they have obtained copyright assignments from the photographers.

The regulations governing registration of automated databases embodied in machine-readable copies (other than in a CD–ROM format) require deposits that are significantly different than the deposits required in connection with the other regulations for registration of photographs, discussed above. Section 202.20(c)(2)(vii)(D)(5) of the Office's regulations provides that the applications for database registrations need not be accompanied by a deposit of the entire work, but instead may include identifying material consisting of fifty representative pages or data records marked to show the new material added on one representative day, along with additional identifying information. The deposit accompanying a database registration application thus can consist of a fraction of the copyrightable material covered by the registration.

This is in stark contrast to the deposit requirements for registration of unpublished collections, for group registrations of published photographs, and for most other forms of copyright registration. Section 202.3(b)(10)(x), which governs the deposit for a group registration of photographs, provides that the deposit shall consist of "one copy of each photograph [to] be submitted in one of the formats set forth in Sec. 202.20(c)(2)(xx)." *See also* 37 CFR 202.20(c)(1)(i) ("in the case of unpublished works, [the deposit shall consist of] one complete copy or phonorecord," a provision that applies to registrations of unpublished collections as well as individual unpublished works).

There is no good reason why a registration should issue for a database consisting predominantly of photographs when the copyright claim extends to the individual photographs themselves unless each of those claimed photographs is actually included as part of the deposit. As the Office said when it announced its regulations on group registration of published photographs:

> [T]he Office rejects the plea of at least one commenter to permit the use of descriptive identifying material in lieu of the actual images. Although the Office had previously expressed a willingness to consider such a proposal, the most recent notice of proposed rulemaking noted that "the Office is reluctant to implement a procedure that would permit the acceptance of deposits that do not meaningfully reveal the work for which copyright protection is claimed." Deposit of the work being registered is one of the fundamental requirements of copyright registration, and it serves an important purpose. As the legislative history of the Copyright Act of 1976 recognizes, copies of registration deposits may be needed for identification of the copyrighted work in connection with litigation or for other purposes. The ability of litigants to obtain a certified copy of a registered work that was deposited with the Office prior to the existence of the controversy that led to a lawsuit serves an important evidentiary purpose in establishing the [identity] and content of the plaintiff's work.

Registration of Claims to Copyright, Group Registration of Photographs, 66 FR 37142, 37147 (July 17, 2001) (citations omitted). Moreover, the actual practice with respect to almost all registrations of predominantly photographic databases has in fact been to include all of the photographs in the deposit.

For these reasons, in the recently announced interim regulation establishing a pilot program for online applications for group registration of databases consisting predominantly of photographic authorship, the Office included a requirement that the deposit accompanying such an online application authorship must include the image of each claimed photograph in the database. Interim Rule, Registration of claims of copyright, 76 FR 4072–4076 January 24, 2011).

In order to conform to the prevailing practice and the Office's determination of what a reasonable deposit requirement should include, the Office proposes to apply that requirement to deposits accompanying paper applications for group registration of databases consisting predominantly of photographic authorship. The proposed amendment would provide that, for any registration (whether the application is made by paper application or online pursuant to the Interim Regulation) of an automated database consisting predominantly of photographs, the deposit shall include, in addition to the descriptive statement currently required under section 202.20(c)(2)(vii)(D)(5), all of the photographs included in the copyright claim being registered. Identifying material will not constitute a sufficient deposit. As noted above, this conforms with what has in fact been the prevailing practice. The Office also notes that it will, in the future, consider extending this requirement to other types of databases.

Proposed Regulations

In consideration of the foregoing, the Copyright Office proposes to amend part 202 of 37 CFR, as follows:

List of Subjects in 37 CFR Part 202

Copyright.

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 407, 408, 702.

2. Amend § 202.20 as follows:

a. In paragraph (c)(2)(vii)(D)(5) introductory text by removing "electronically submitted" after "or in the case of";

b. In paragraph (c)(2)(vii)(D)(8) by removing "submitted electronically" after "case of an application"; and

c. In paragraph (c)(2)(xx) introductory text remove "registered with an application submitted electronically under § 202.3(b)(5)(ii)(A)" after "and for automated databases that consist predominantly of photographs".

Dated: January 24, 2011.

Maria Pallante,

Acting Register of Copyrights.

[FR Doc. 2011–1884 Filed 1–27–11; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260 and 261

[EPA–HQ–RCRA–2008–0808; FRL–9260–2]

RIN–2050–AE78

Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System To Produce Synthesis Gas; Tentative Determination To Deny Petition for Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of action—tentative determination to deny petition for reconsideration.

SUMMARY: EPA is providing notice of, and soliciting written comments on, a tentative determination to deny an administrative petition submitted by the Sierra Club under RCRA section 7004. EPA issued an earlier notice denying this same petition in November 2008. However, the Agency at that time failed to comply with notice and comment provisions in its regulations. Accordingly, we are now giving the public the opportunity to provide comments on this tentative decision. This petition requests EPA to reconsider the final rule, "Regulation of Oil-Bearing

Hazardous Secondary Materials from the Petroleum Refining Industry Processed in a Gasification System to Produce Synthesis Gas," published in the **Federal Register** on January 2, 2008. The EPA considered the petition, along with information contained in the rulemaking docket, and has tentatively decided to deny the petition. In a letter from EPA Assistant Administrator Mathy Stanislaus dated January 21, 2011, EPA provided the petitioner with its tentative decision to deny the petition for reconsideration. The letter explains EPA's reasons for tentatively deciding to deny the petition. After evaluating all public comments, as well as any other information in the rulemaking record, EPA will publish either a final denial of the petition or issue a proposed rule to amend or repeal the regulation.

DATES: Submit comments on or before March 14, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2008–0808, by one of the following methods:

- *Electronic docket at: http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Comments may be sent by electronic mail (e-mail) to *rcra-docket@epa.gov,* Attention Docket ID No. EPA–HQ–RCRA–2008–0808. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.
- *Fax:* Comments may be faxed to 202–566–0272; Attention Docket ID No. EPA–HQ–RCRA–2008–0808.
- *Mail:* Send your comments to the RCRA Docket (28221T), Attention Docket ID No. EPA–HQ–RCRA–2008–0808, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* Deliver two copies of your comments to the RCRA Docket, Attention Docket ID No. EPA–HQ–RCRA–2008–0808, EPA, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–RCRA–2008–0808. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Alan Carpien, U.S. Environmental Protection Agency, Office of General Counsel, Mail Code 2366A, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (202) 564–5507; or *carpien.alan@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

This **Federal Register** notice, the petition for reconsideration and the letter providing a tentative determination for denial of the petition for reconsideration are available in a docket EPA has established for this action under Docket ID No. EPA–HQ–RCRA–2008–0808. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, because, for example, it may be Confidential Business Information (CBI) or other information, the disclosure of which is restricted by statute. Certain material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the RCRA Docket, EPA, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270. A reasonable fee may be charged for copying docket materials.

Appendix: Letter to Earthjustice Tentatively Denying the Request for a Petition for Reconsideration

Ms. Lisa Gollin Evans, Earthjustice, 21 Ocean Avenue, Marblehead, MA 01945.

Dear Ms. Evans:

This is in response to the petition for reconsideration you submitted, dated April 1, 2008, to the U.S. Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act (RCRA) § 7004(a), 42 U.S.C. 6974(a), on behalf of the Sierra Club and the Louisiana Environmental Action Network (LEAN). Sierra Club and LEAN request that EPA reconsider the final rule, "Regulation of Oil-Bearing Hazardous Secondary Materials from the Petroleum Refining Industry Processed in a Gasification System to Produce Synthesis Gas" (Gasification Rule). This final rule was published in the **Federal Register** on January 2, 2008 (73 FR 57, *et seq.*)

Your petition raises both procedural (notice and comment) and substantive grounds for seeking the agency's reconsideration of the Gasification Rule. For the reasons stated below, EPA has made a tentative determination to deny the petition for reconsideration.[1] In accordance with the regulatory requirements of 40 CFR 260.20, EPA is providing notice of and soliciting written comments on this tentative determination to deny your petition for reconsideration in the **Federal Register**.

EPA notes that we issued a letter with essentially the same substantive response as stated in this letter in November 2008.[2]

[1] We would also note that section 7004(a) of RCRA provides that any person may petition the Administrator for the promulgation, amendment or repeal of any regulation under the Act. However, in your petition for reconsideration, you fail to state whether the Sierra Club and LEAN are requesting whether EPA amend or repeal the Gasification Rule.

[2] Letter to Lisa Gollin Evans, Earthjustice, from Susan Parker Bodine, EPA Assistant Administrator,

However, the Agency at that time failed to comply with notice and comment provisions in its regulations at 40 CFR 260.20. Accordingly, we are now giving the public the opportunity to provide comments on this tentative decision. A notice is appearing in the **Federal Register** allowing the public to respond to this decision. The comment period will be 45 days from the date of publication of the **Federal Register** notice.

Notice and Comment Issues

Your petition states as grounds for reconsideration that the rule violates the notice and comment requirements of the Administrative Procedure Act (APA) set forth at 5 U.S.C. 553. Your basis for this assertion is that EPA "relied on" a proposal suggested in a 1998 **Federal Register** notice [3] and "not on the 2002 proposed rule" [4] to formulate the Gasification Rule. You suggest that, as a result, the final rule "is not a "logical outgrowth" of the agency's proposed rule" (Petition at pg. 7) and, therefore, "the public was denied the opportunity for notice and comment in several critical areas." (Petition at pg. 8)

The "critical areas" to which you refer are noted below.

(1) You assert that the Gasification Rule does not contain "chemical and physical specifications of the synthesis gas fuel product that is produced by gasifying the oil-bearing hazardous secondary materials." (Petition at pg. 8–10) In support of this assertion, you refer to statements in the preamble to the March 2002 proposal for the Gasification Rule (67 FR 13684, *et seq.*) and one statement in the January 2, 2008, final rule. The statements in the March 2002 proposal discuss various reasons why EPA thought, at the time, there should be chemical and physical specifications for synthesis gas produced and also express concerns as to what concentrations of metals actually exist in synthesis gas.

(2) You assert that the Gasification Rule "fundamentally alters the definition of gasification and entirely removes proposed conditions pertaining to operation of the gasifier," particularly requirements for slagging inorganic feed at temperatures above 2,000 degrees C. (Petition at pg. 10)

(3) You assert that the Gasification Rule is not a logical outgrowth of the proposed rule and that it is insufficiently protective of human health and the environment because it did not "require that co-products and residues generated by the gasification system meet the Universal Treatment Standards if these materials are applied to the land," even though the agency had proposed such conditions in March 2002. (Petition at pg. 10–12)

Arbitrary and Capricious Issues

You also make several arguments as to why the Gasification Rule is arbitrary and capricious. Specifically, you argue that EPA's decision not to impose the treatment requirements, for which you claim notice and comment was inadequate, was arbitrary and capricious based on certain details regarding particular chemicals. (Petition at pg. 12–13) In addition, you argue that EPA is arbitrary and capricious for relying on the Toxicity Characteristic Leaching Procedure (TCLP) to predict leaching characteristics of gasification residues. (Petition at pg. 15)

Finally, you also argue that EPA fails to regulate facilities that burn fuel made from hazardous wastes in contravention of RCRA section 3004(q), 42 U.S.C. 6924(q). (Petition at pg. 13–15) This argument presupposes that the material fed into the gasifier is a solid and hazardous waste as opposed to a non-waste material that is being recycled.

Response

EPA does not believe that you have presented the agency with any new information that would suggest or otherwise require that we reconsider the Gasification Rule, nor have you raised any issues that have not already been raised by the comments in the rulemaking process. We also believe that the Gasification Rule meets the APA notice and comment requirements and, therefore, disagree with your view that the agency did not provide adequate notice to the public and an opportunity to comment on the provisions of the final rule.

In particular, in August 1998, EPA decided not to include gasification in the petroleum refinery exclusion when it issued the final rule "Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; And CERCLA Hazardous Substance Designation and Reportable Quantities," ("Petroleum Listing Rule"), 63 FR 42110, *et seq*. The rules, issued in 1998, which were limited to the petroleum refinery industry, only require that the materials reinserted into the petroleum refining process not be speculatively accumulated nor be placed on the land prior to reuse. In the March 2002 proposal, EPA made it very clear that it was proposing to put gasification "on the same regulatory footing (*i.e.,* excluded) as other hazardous secondary materials returned to a petroleum refining process" in the 1998 rule. In March 2002, EPA proposed a definition of gasification systems to ensure that the systems were not actually waste treatment systems, but true synthesis gas production facilities. This definition included certain operating conditions for the gasifiers, including a condition that the gasifier slag organic feed materials at temperatures above 2,000 degrees C. The proposal also suggested specifications as to various contaminants that the fuels produced contained, and specifications regarding residues. *See* 67 FR at 13693–96. These last three conditions are those to which you refer in your Petition for Reconsideration, as noted above.

Importantly, the March 2002 Gasification Proposal specifically provided notice that the provisions of the 1998 NODA were still being considered. It is significant that your petition for reconsideration ignores this discussion in the March 2002 proposal. In particular, the March 2002 proposal discusses in detail that the agency had requested comment as to whether the exclusion from the definition of solid waste issued in 1998 should apply to the recycling of oil-bearing materials into gasification systems at petroleum refineries and that the gasification and petroleum industries favored this exclusion (63 FR 13685–86, footnote 2). We also noted that reinserting secondary materials into gasification systems "is analogous" to the August 1998 exclusion for reinsertion of other petroleum residuals into the refining process. *Id.* at 13686.

In the Gasification Rule, EPA scaled back on its plans for a more "ambitious" exclusion and returned largely to its original views regarding exclusions for hazardous secondary materials returned to the petroleum refining system. *See* 73 FR 58–59. The final rule retained the conditions for speculative accumulation and land placement, and added a definition of "gasifier" to ensure that the gasification was indeed recycling of a product and not waste treatment. The final rule, however, as you noted, did not contain the slagging requirement in the definition, nor the fuel specifications or the residue requirements. These changes were the result of the agency's deliberations on each condition that took into account all of the comments received. The preamble to the final rule discussed in detail the fact that EPA received comments ranging from demands for full hazardous waste regulation to those arguing that the agency should not be regulating gasification at all since it was an integral part of the petroleum refining process and did not constitute waste management. *See* 73 FR at 59. Among the comments were those that "expressed concern with one or more of the proposed conditions" and, even if they disagreed with imposing any conditions, provided "comments on the specific conditions proposed." [5] *Id.*

The variety and nature of comments submitted demonstrates that EPA had a record upon which to make a decision that was based on a wide range of opinions and information. Indeed, it is plain that EPA's proposal succeeded in obtaining opinions and views from a wide range of interests and allowed the agency to consider the form of the final rule carefully. In fact, as noted above, EPA decided on a far less ambitious final rule for a number of reasons. We understand that you may disagree with EPA's conclusions, but we believe that the regulatory choices made by the agency are reasonable based on the rulemaking record. In the absence of any new information, it would not be useful for the agency to revisit

dated November 14, 2008. This letter is available in the docket (docket item EPA–HQ–RCRA–2008–0808–0004).

[3] Notice of Data Availability (NODA), 63 FR 38139 (July 15, 1998).

[4] "Regulation of Hazardous Oil-Bearing Secondary Materials From the Petroleum Refining Industry and Other Hazardous Secondary Materials Processed in a Gasification System To Produce Synthesis Gas," 67 FR 13684 (March 25, 2002).

[5] Your reference to an inadequacy of notice and comment with respect to the synthesis gas specification (Petition at pg. 9) is taken out of context. You claim that we only received comments on the sufficiency of the specification but, in fact, EPA received a range of comments some of which claimed the specification was too lenient, but others argued against establishing any specification. *See* 73 FR at 64.

evidence and arguments it has already carefully considered. In our view, the notice and comment issues you have raised are actually discussions of the merits of the agency's decision with which you disagree. *See* 73 FR 61–67.[6] In fact, you do not point to any information which EPA lacks to make its decision.

Finally, EPA disagrees with your legal argument that the final rule does not comport with RCRA section 3004(q). (Petition at pg. 13–15) Because EPA is providing an exclusion from the definition of solid waste for the hazardous secondary materials fed to gasifiers subject to this rule, EPA does not implicate the provisions of section 3004(q) of RCRA, 42 U.S.C. 6924(q), which requires that the hazardous secondary material first be a solid waste.

As previously stated, a notice will be published in the **Federal Register** announcing the agency's tentative decision to deny your petition for reconsideration and will provide the public a 45 day period to comment After considering any comments received, the agency will make a final decision on the merits of your petition.

If you should have any questions, you may contact Alan Carpien, EPA's Office of General Counsel at (202) 564–5507.

Sincerely,

Mathy Stanislaus
Assistant Administrator, Office of Solid Waste and Emergency Response

Dated: January 19, 2011.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 2011–1906 Filed 1–27–11; 8:45 am]

BILLING CODE 6560–50–P

[6] We also disagree with your assertion that the Agency improperly relied on the use of the Toxicity Characteristic Leaching Procedure (TCLP). The TCLP is a duly promulgated regulation of EPA and has not been challenged within the appropriate statutory time period for challenging regulations. EPA's use of the TCLP in this regulation is entirely appropriate.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R06–RCRA–2010–1052; SW–FRL–9259–3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to grant a petition submitted by Gulf West Landfill, TX, LP. (Gulf West) to exclude (or delist) the landfill leachate generated by Gulf West in Anahuac, Texas from the lists of hazardous wastes. EPA used the Delisting Risk Assessment Software (DRAS) Version 3.0 in the evaluation of the impact of the petitioned waste on human health and the environment.

DATES: We will accept comments until February 28, 2011. We will stamp comments received after the close of the comment period as late. These late comments may or may not be considered in formulating a final decision. Your requests for a hearing must reach EPA by February 14, 2011. The request must contain the information prescribed in 40 CFR 260.20(d) (hereinafter all CFR cites refer to 40 CFR unless otherwise stated).

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–RCRA- 2010–1052 by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: peace.michelle@epa.gov.*
3. *Mail:* Michelle Peace, Environmental Protection Agency, Multimedia Planning and Permitting Division, RCRA Branch, Mail Code: 6PD–C, 1445 Ross Avenue, Dallas, TX 75202.
4. *Hand Delivery or Courier:* Deliver your comments to: Michelle Peace, Environmental Protection Agency, Multimedia Planning and Permitting Division, RCRA Branch, Mail Code: 6PD–C, 1445 Ross Avenue, Dallas, TX 75202.

Instructions: Direct your comments to Docket ID No. EPA–R06–RCRA–2010–1052. 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, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials may be available either electronically in *http://www.regulations.gov* or in electronic or hard copy at the Environmental Protection Agency, RCRA Branch, 1445 Ross Avenue, Dallas, TX 75202. The hard copy RCRA regulatory docket for this proposed rule, EPA–R06–RCRA–2010–1052, is available for viewing from 8 a.m. to 5 p.m., Monday through Friday, excluding Federal holidays. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at fifteen cents per page for additional copies. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: For technical information regarding the Republic Services, Inc./BFI Gulf West Landfill petition, contact Michelle Peace at 214–665–7430 or by e-mail at *peace.michelle@epa.gov.*

Your requests for a hearing must reach EPA by February 14, 2011. The request must contain the information described in § 260.20(d).

SUPPLEMENTARY INFORMATION: Gulf West submitted a petition under 40 CFR 260.20 and 260.22(a). Section 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268 and 273. Section 260.22(a) specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator specific" basis from the hazardous waste lists.

EPA bases its proposed decision to grant the petition on an evaluation of waste-specific information provided by the petitioner. This decision, if finalized, would conditionally exclude

the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

If finalized, EPA would conclude that Gulf West's petitioned waste is non-hazardous with respect to the original listing criteria. EPA would also conclude that Gulf West's process minimizes short-term and long-term threats from the petitioned waste to human health and the environment.

Table of Contents

The information in this section is organized as follows:

I. Overview Information
A. What action is EPA proposing?
B. Why is EPA proposing to approve this delisting?
C. How will Gulf West manage the waste, if it is delisted?
D. When would the proposed delisting exclusion be finalized?
E. How would this action affect states?
II. Background
A. What is the history of the delisting program?
B. What is a delisting petition, and what does it require of a petitioner?
C. What factors must EPA consider in deciding whether to grant a delisting petition?
III. EPA's Evaluation of the Waste Information and Data
A. What wastes did Gulf West petition EPA to delist?
B. Who is Gulf West and what process does it use to generate the petitioned waste?
C. How did Gulf West sample and analyze the data in this petition?
D. What were the results of Gulf West's sample analysis?
E. How did EPA evaluate the risk of delisting this waste?
F. What did EPA conclude about Gulf West's analysis?
G. What other factors did EPA consider in its evaluation?
H. What is EPA's evaluation of this delisting petition?
IV. Next Steps
A. With what conditions must the petitioner comply?
B. What happens if Gulf West violates the terms and conditions?
V. Public Comments
A. How may I as an interested party submit comments?
B. How may I review the docket or obtain copies of the proposed exclusions?
VI. Statutory and Executive Order Reviews

I. Overview Information

A. What action is EPA proposing?

EPA is proposing to approve the delisting petition submitted by Gulf West to have the leachate from its landfill excluded, or delisted from the definition of a hazardous waste. The leachate derived from the management of several F- and K- waste codes. These wastes codes are F019, F039, K017, K019, and K020.

B. Why is EPA proposing to approve this delisting?

Gulf West's petition requests an exclusion from the F019, F039, K017, K019, and K020 waste listings pursuant to 40 CFR 260.20 and 260.22. Gulf West does not believe that the petitioned waste meets the criteria for which EPA listed it. Gulf West also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of this petition included consideration of the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(1)–(4) (hereinafter all sectional references are to 40 CFR unless otherwise indicated). In making the initial delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (a)(3). Based on this review, EPA agrees with the petitioner that the waste is non-hazardous with respect to the original listing criteria. If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition. EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. EPA believes that the petitioned waste does not meet the listing criteria and thus should not be a listed waste. EPA's proposed decision to delist waste from Gulf West is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the Anahuac, Texas facility.

C. How will Gulf West manage the waste if it is delisted?

If the leachate is delisted, Gulf West will dispose of the leachate at a publicly owned treatment works or at an industrial waste disposal facility.

D. When would the proposed delisting exclusion be finalized?

RCRA section 3001(f) specifically requires EPA to provide a notice and an opportunity for comment before granting or denying a final exclusion. Thus, EPA will not grant the exclusion until it addresses all timely public comments (including those at public hearings, if any) on this proposal.

RCRA section 3010(b)(1) at 42 USCA 6930(b)(1), allows rules to become effective in less than six months when the regulated facility does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes.

EPA believes that this exclusion should be effective immediately upon final publication because a six-month deadline is not necessary to achieve the purpose of section 3010(b), and a later effective date would impose unnecessary hardship and expense on this petitioner. These reasons also provide good cause for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, 5 U.S.C. 553(d).

E. How would this action affect the states?

Because EPA is issuing this exclusion under the Federal RCRA delisting program, only states subject to Federal RCRA delisting provisions would be affected. This would exclude states which have received authorization from EPA to make their own delisting decisions.

EPA allows states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA, 42 U.S.C. 6929. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. Because a dual system (that is, both Federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, EPA urges petitioners to contact the state regulatory authority to establish the status of their wastes under the state law.

EPA has also authorized some states (for example, Louisiana, Oklahoma, Georgia, Illinois) to administer a RCRA delisting program in place of the Federal program, that is, to make state delisting decisions. Therefore, this exclusion does not apply in those authorized states unless that state makes the rule part of its authorized program. If Gulf West transports the petitioned waste to or manages the waste in any state with delisting authorization, Gulf West must

obtain delisting authorization from that state before it can manage the waste as non-hazardous in the state.

II. Background

A. What is the history of the delisting program?

EPA published an amended list of hazardous wastes from non-specific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA. EPA has amended this list several times and published it in 40 CFR 261.31 and 261.32.

EPA lists these wastes as hazardous because: (1) The wastes typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of Part 261 (that is, ignitability, corrosivity, reactivity, and toxicity), (2) the wastes meet the criteria for listing contained in § 261.11(a)(2) or (a)(3), or (3) the wastes are mixed with or derived from the treatment, storage or disposal of such characteristic and listed wastes and which therefore become hazardous under § 261.3(a)(2)(iv) or (c)(2)(i), known as the "mixture" or "derived-from" rules, respectively.

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these regulations or resulting from the operation of the mixture or derived-from rules generally is hazardous, a specific waste from an individual facility may not be hazardous.

For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, called delisting, which allows persons to prove that EPA should not regulate a specific waste from a particular generating facility as a hazardous waste.

B. What is a delisting petition, and what does it require of a petitioner?

A delisting petition is a request from a facility to EPA or an authorized state to exclude wastes from the list of hazardous wastes. The facility petitions EPA because it does not consider the wastes hazardous under RCRA regulations.

In a delisting petition, the petitioner must show that wastes generated at a particular facility do not meet any of the criteria for which the waste was listed. The criteria for which EPA lists a waste are in part 261 and further explained in the background documents for the listed waste.

In addition, under 40 CFR 260.22, a petitioner must prove that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and present sufficient information for EPA to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. (See part 261 and the background documents for the listed waste.)

Generators remain obligated under RCRA to confirm whether their waste remains non-hazardous based on the hazardous waste characteristics even if EPA has "delisted" the waste.

C. What factors must EPA consider in deciding whether to grant a delisting petition?

Besides considering the criteria in 40 CFR 260.22(a) and § 3001(f) of RCRA, 42 U.S.C. 6921(f), and in the background documents for the listed wastes, EPA must consider any factors (including additional constituents) other than those for which EPA listed the waste, if a reasonable basis exists that these additional factors could cause the waste to be hazardous.

EPA must also consider as hazardous waste mixtures containing listed hazardous wastes and wastes derived from treating, storing, or disposing of listed hazardous waste. *See* § 261.3(a)(2)(iii and iv) and (c)(2)(i), called the "mixture" and "derived-from" rules, respectively. These wastes are also eligible for exclusion and remain hazardous wastes until excluded. *See* 66 FR 27266 (May 16, 2001).

III. EPA's Evaluation of the Waste Information and Data

A. What waste did Gulf West petition EPA to delist?

In December 2009, Gulf West petitioned EPA to exclude from the lists of hazardous wastes contained in §§ 261.31 and 261.32, landfill leachate (F019, F039, K017, K019, and K020) generated from its facility located in Anahuac, Texas. The waste falls under the classification of listed waste pursuant to §§ 261.31 and 261.32. Specifically, in its petition, Gulf West requested that EPA grant a standard exclusion for 6,436 cubic yards (150,000 gallons) per year of the landfill leachate.

B. Who is Gulf West and what process does it use to generate the petitioned waste?

Gulf West Landfill is a disposal facility. There are no products manufactured at the site. The Landfill was built to RCRA construction standards for hazardous waste disposal. However, the site since 1993 has not accepted hazardous waste and only accepts nonhazardous waste for disposal only. In separate instances Shell Oil and BAE Systems Inc. sent waste materials to the facility which were subsequently delisted but at the time of disposal at Gulf West Landfill were still considered hazardous wastes. The leachate generated from the landfill where these materials were disposed have been treated as F039 hazardous wastes which carry F019 and K017, K019, K020 waste codes as a result of the mixture and derived from rules. The petitioned waste is managed by collecting the liquids which have percolated through the land disposed wastes into the leachate collection system and conveying the leachate to storage tanks that are emptied into trucks for off-site disposal.

C. How did Gulf West sample and analyze the data in this petition?

To support its petition, Gulf West submitted:

(1) Historical information on waste generation and management practices; and

(2) Analytical results from five samples for total concentrations of compounds of concern (COC)s.

D. What were the results of Gulf West's analyses?

EPA believes that the descriptions of the Gulf West analytical characterization provide a reasonable basis to grant Gulf West's petition for an exclusion of the landfill leachate. EPA believes the data submitted in support of the petition show the landfill leachate is non-hazardous. Analytical data for the landfill leachate samples were used in the DRAS to develop delisting levels. The data summaries for COCs are presented in Table I. EPA has reviewed the sampling procedures used by Gulf West and has determined that it satisfies EPA criteria for collecting representative samples of the variations in constituent concentrations in the landfill leachate. In addition, the data submitted in support of the petition show that constituents in Gulf West's waste are presently below health-based levels used in the delisting decision-making. EPA believes that Gulf West has successfully demonstrated that the landfill leachate is non-hazardous.

TABLE 1—ANALYTICAL RESULTS/MAXIMUM ALLOWABLE DELISTING CONCENTRATION

[Landfill Leachate Republic Services, Inc./BFI Gulf West Landfill, Anahuac, Texas]

Constituent	Maximum TCLP (mg/l)	Maximum allowable TCLP delisting level (mg/L)
Acetone (2-propanone)	4.10E+00	1.27E+02
Antimony	1.20E–02	5.68E–02
Arsenic	2.70E–01	3.37E–01
Barium	1.80E+00	1.16E+01
Benzene	1.20E–02	1.88E–02
Beryllium	1.70E–04	1.03E+00
Cadmium	3.50E–04	5.10E–02
Carbon disulfide	5.20E–02	1.29E+01
Chromium	2.40E–02	5.00E+00
Cobalt	1.40E–02	3.18E–01
Copper	1.10E–02	2.21E+01
Cresol m-	1.80E–01	7.06E+00
Cresol o-	5.30E+00	7.06E+00
Cresol p-	1.40E–01	7.06E–01
DDT p,p'-	2.30E–05	9.72E+25
Dioxane 1,4-	9.10E–01	2.39E+00
Endosulfan (Endosulfan I and II, mixture)	3.90E–04	1.55E+00
Endrin	6.80E–05	2.0E–02
Ethyl ether	4.30E–03	2.25E+01
Ethylbenzene	1.10E–02	3.21E+00
HCH, (Hexachlorocyclohexane) (Lindane) gamma-	1.50E–04	4.00E–01
HCH, beta- (Hexachlorocyclohexane beta-BHC)	3.00E–05	2.26E–03
Heptachlor	3.40E–04	8.0 E–03
Heptachlor epoxide	8.90E–05	8.0 E–03
Lead	6.30E–03	2.57E+00
Mercury (Total)	8.10E–05	1.25E–02
Methoxychlor	3.40E–04	1.0E+01
Methyl ethyl ketone	5.40E–01	8.47E+01
Methyl isobutyl ketone	6.00E–01	1.13E+01
Nickel	2.70E–01	5.74E+00
Selenium	1.70E–02	4.47E–01
Silver	1.40E–04	1.71E+00
Thallium	4.08E–02	4.49 E–02
Tin	6.50E–03	5.43 E+04
Toluene	3.70E–02	3.93E+00
Trichlorophenoxy)propionic acid 2-(2,4,5- (Silvex)	7.00E–03	1.88E–01
Trichlorophenoxyacetic acid 2,4,5-	1.80E–02	1.41E+00
Vanadium	1.20E–01	4.88E+00
Xylenes (total)	1.70E–02	2.90E+00
Zinc	8.10E–02	7.77E+01

Notes: These levels represent the highest constituent concentration found in any one sample and do not necessarily represent the specific level found in one sample.

E. How did EPA evaluate the risk of delisting the waste?

For this delisting determination, EPA used such information gathered to identify plausible exposure routes (*i.e.,* groundwater, surface water, air) for hazardous constituents present in the petitioned waste. EPA determined that disposal in a surface impoundment is the most reasonable, worst-case disposal scenario for Gulf West's petitioned waste. EPA applied the Delisting Risk Assessment Software (DRAS) described in 65 FR 58015 (September 27, 2000) and 65 FR 75637 (December 4, 2000), to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned waste after disposal and determined the potential impact of the disposal of Gulf West's petitioned waste on human health and the environment. A copy of this software can be found on the world wide Web at *http://www.epa.gov/reg5rcra/wptdiv/hazardous/delisting/dras-software.html*. In assessing potential risks to groundwater, EPA used the maximum waste volumes and the maximum reported extract concentrations as inputs to the DRAS program to estimate the constituent concentrations in the groundwater at a hypothetical receptor well down gradient from the disposal site. Using the risk level (carcinogenic risk of 10^{-5} and non-cancer hazard index of 1.0), the DRAS program can back-calculate the acceptable receptor well concentrations (referred to as compliance-point concentrations) using standard risk assessment algorithms and EPA health-based numbers. Using the maximum compliance-point concentrations and EPA's Composite Model for Leachate Migration with Transformation Products (EPACMTP) fate and transport modeling factors, the DRAS further back-calculates the maximum permissible waste constituent concentrations not expected to exceed the compliance-point concentrations in groundwater.

EPA believes that the EPACMTP fate and transport model represents a reasonable worst-case scenario for possible groundwater contamination resulting from disposal of the petitioned waste in a surface impoundment, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the

protective management constraints of RCRA Subtitle C. The use of some reasonable worst-case scenarios resulted in conservative values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, will not pose a significant threat to human health or the environment.

The DRAS also uses the maximum estimated waste volumes and the maximum reported total concentrations to predict possible risks associated with releases of waste constituents through surface pathways (*e.g.,* volatilization from the impoundment). As in the above groundwater analyses, the DRAS uses the risk level, the health-based data and standard risk assessment and exposure algorithms to predict maximum compliance-point concentrations of waste constituents at a hypothetical point of exposure. Using fate and transport equations, the DRAS uses the maximum compliance-point concentrations and back-calculates the maximum allowable waste constituent concentrations (or "delisting levels").

In most cases, because a delisted waste is no longer subject to hazardous waste control, EPA is generally unable to predict, and does not presently control, how a petitioner will manage a waste after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors when applying the fate and transport model. EPA does control the type of unit where the waste is disposed. The waste must be disposed in the type of unit the fate and transport model evaluates.

The DRAS results which calculate the maximum allowable concentration of chemical constituents in the waste are presented in Table I. Based on the comparison of the DRAS and TCLP Analyses results found in Table I, the petitioned waste should be delisted because no constituents of concern tested are likely to be present or formed as reaction products or by-products in Gulf West waste.

F. What did EPA conclude about Gulf West's waste analysis?

EPA concluded, after reviewing Gulf West's processes that no other hazardous constituents of concern, other than those for which tested, are likely to be present or formed as reaction products or by-products in the waste. In addition, on the basis of explanations and analytical data provided by Gulf West, pursuant to § 260.22, EPA concludes that the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, reactivity or toxicity. See §§ 261.21, 261.22 and 261.23, respectively.

G. What other factors did EPA consider in its evaluation?

During the evaluation of Gulf West's petition, EPA also considered the potential impact of the petitioned waste via non-groundwater routes (*i.e.,* air emission and surface runoff). With regard to airborne dispersion in particular, EPA believes that exposure to airborne contaminants from Gulf West's petitioned waste is unlikely. Therefore, no appreciable air releases are likely from Gulf West's waste under any likely disposal conditions. EPA evaluated the potential hazards resulting from the unlikely scenario of airborne exposure to hazardous constituents released from Gulf West's waste in an open impoundment. The results of this worst-case analysis indicated that there is no substantial present or potential hazard to human health and the environment from airborne exposure to constituents from Gulf West's landfill leachate.

H. What is EPA's evaluation of this delisting petition?

The descriptions of Gulf West's hazardous waste process and analytical characterization provide a reasonable basis for EPA to grant the exclusion. The data submitted in support of the petition show that constituents in the waste are below the leachable concentrations (see Table I). EPA believes that Gulf West's landfill leachate will not impose any threat to human health and the environment.

Thus, EPA believes Gulf West should be granted an exclusion for the landfill leachate. EPA believes the data submitted in support of the petition show Gulf West's landfill leachate is non-hazardous. The data submitted in support of the petition show that constituents in Gulf West's waste are presently below the compliance point concentrations used in the delisting decision and would not pose a substantial hazard to the environment. EPA believes that Gulf West has successfully demonstrated that the landfill leachate is non-hazardous.

EPA therefore, proposes to grant an exclusion to Gulf West in Anahuac, Texas, for the landfill leachate described in its petition. EPA's decision to exclude this waste is based on descriptions of the treatment activities associated with the petitioned waste and characterization of the landfill leachate.

If EPA finalizes the proposed rule, EPA will no longer regulate the petitioned waste under Parts 262 through 268 and the permitting standards of part 270.

IV. Next Steps

A. With what conditions must the petitioner comply?

The petitioner, Gulf West, must comply with the requirements in 40 CFR part 261, Appendix IX, Table 1. The text below gives the rationale and details of those requirements.

(1) *Delisting Levels:*

This paragraph provides the levels of constituents for which Gulf West must test the landfill leachate, below which these wastes would be considered non-hazardous. EPA selected the set of inorganic and organic constituents specified in paragraph (1) of 40 CFR part 261, Appendix IX, Table 1, (the exclusion language) based on information in the petition. EPA compiled the inorganic and organic constituents list from the composition of the waste, descriptions of Gulf West's treatment process, previous test data provided for the waste, and the respective health-based levels used in delisting decision-making. These delisting levels correspond to the allowable levels measured in the TCLP concentrations.

(2) *Waste Holding and Handling:*

The purpose of this paragraph is to ensure that Gulf West manages and disposes of any landfill leachate that contains hazardous levels of inorganic and organic constituents according to Subtitle C of RCRA. Managing the landfill leachate as a hazardous waste until initial verification testing is performed will protect against improper handling of hazardous material. If EPA determines that the data collected under this paragraph do not support the data provided for in the petition, the exclusion will not cover the petitioned waste. The exclusion is effective upon publication in the **FEDERAL REGISTER** but the disposal as non-hazardous cannot begin until the verification sampling is completed.

(3) *Verification Testing Requirements:*

Gulf West must complete a rigorous verification testing program on the landfill leachate to assure that the sludge does not exceed the maximum levels specified in paragraph (1) of the exclusion language. This verification program operates on two levels. The first part of the verification testing program consists of testing the landfill leachate for specified indicator parameters as per paragraph (1) of the exclusion language.

If EPA determines that the data collected under this paragraph do not support the data provided for the

petition, the exclusion will not cover the generated wastes. If the data from the initial verification testing program demonstrate that the leachate meets the delisting levels, Gulf West may request quarterly testing. EPA will notify Gulf West in writing, if and when it may replace the testing conditions in paragraph (3)(A) with the testing conditions in (3)(B) of the exclusion language.

The second part of the verification testing program is the quarterly testing of representative samples of landfill leachate for all constituents specified in paragraph (1) of the exclusion language. EPA believes that the concentrations of the constituents of concern in the landfill leachate may vary over time. Consequently, this program will ensure that the leachate is evaluated in terms of variation in constituent concentrations in the waste over time.

The proposed subsequent testing would verify that the constituent concentrations of the landfill leachate do not exhibit unacceptable temporal and spatial levels of toxic constituents. EPA is proposing to require Gulf West to analyze representative samples of the landfill leachate quarterly during the first year of waste generation. Gulf West would begin quarterly sampling 60 days after the final exclusion as described in paragraph (3)(B) of the exclusion language.

EPA, per paragraph 3(C) of the exclusion language, is proposing to end the subsequent testing conditions after the first year, if Gulf West has demonstrated that the waste consistently meets the delisting levels. To confirm that the characteristics of the waste do not change significantly over time, Gulf West must continue to analyze a representative sample of the waste on an annual basis. Annual testing requires analyzing the full list of components in paragraph (1) of the exclusion language. If operating conditions change as described in paragraph (4) of the exclusion language; Gulf West must reinstate all testing in paragraph (1) of the exclusion language.

Gulf West must prove through a new demonstration that their waste meets the conditions of the exclusion. If the annual testing of the waste does not meet the delisting requirements in paragraph (1), Gulf West must notify EPA according to the requirements in paragraph (6) of the exclusion language. The facility must provide sampling results that support the rationale that the delisting exclusion should not be withdrawn.

(4) *Changes in Operating Conditions:*

Paragraph (4) of the exclusion language would allow Gulf West the flexibility of modifying its processes (for example, changes in equipment or change in operating conditions). However, Gulf West must prove the effectiveness of the modified process and request approval from EPA. Gulf West must manage wastes generated during the new process demonstration as hazardous waste until it has obtained written approval and paragraph (3) of the exclusion language is satisfied.

(5) *Data Submittals:*

To provide appropriate documentation that Gulf West's landfill leachate is meeting the delisting levels, Gulf West must compile, summarize, and keep delisting records on-site for a minimum of five years. It should keep all analytical data obtained through paragraph (3) of the exclusion language including quality control information for five years. Paragraph (5) of the exclusion language requires that Gulf West furnish these data upon request for inspection by any employee or representative of EPA or the State of Texas.

If the proposed exclusion is made final, it will apply only to 6,436 cubic yards (per year of landfill leachate generated at the Gulf West after successful verification testing. EPA would require Gulf West to file a new delisting petition under any of the following circumstances:

(a) If it significantly alters the process or treatment system except as described in paragraph (4) of the exclusion language;

(b) If it significantly changes from the current process(es) described in their petition; or

(c) If it makes any changes that could affect the composition or type of waste generated.

Gulf West must manage waste volumes greater than 6,436 cubic yards per year of landfill leachate as hazardous until EPA grants a new exclusion.

When this exclusion becomes final, Gulf West's management of the wastes covered by this petition would be relieved from Subtitle C jurisdiction, the landfill leachate from Gulf West will be treated and disposed at the Anahuac Wastewater Treatment Plant in Anahuac, TX or at the Newpark Industrial Facility in Winnie, TX.

(6) *Reopener:*

The purpose of paragraph (6) of the exclusion language is to require Gulf West to disclose new or different information related to a condition at the facility or disposal of the waste, if it is pertinent to the delisting. Gulf West must also use this procedure, if the waste sample in the annual testing fails to meet the levels found in paragraph (1). This provision will allow EPA to reevaluate the exclusion, if a source provides new or additional information to EPA. EPA will evaluate the information on which EPA based the decision to see if it is still correct, or if circumstances have changed so that the information is no longer correct or would cause EPA to deny the petition, if presented. This provision expressly requires Gulf West to report differing site conditions or assumptions used in the petition in addition to failure to meet the annual testing conditions within 10 days of discovery. If EPA discovers such information itself or from a third party, it can act on it as appropriate. The language being proposed is similar to those provisions found in RCRA regulations governing no-migration petitions at § 268.6.

EPA believes that it has the authority under RCRA and the Administrative Procedures Act (APA), 5 U.S.C. 551 (1978) *et seq.,* to reopen a delisting decision. EPA may reopen a delisting decision when it receives new information that calls into question the assumptions underlying the delisting.

EPA believes a clear statement of its authority in delistings is merited in light of EPA's experience. See Reynolds Metals Company at 62 FR 37694 and 62 FR 63458 where the delisted waste leached at greater concentrations in the environment than the concentrations predicted when conducting the TCLP, thus leading EPA to repeal the delisting. If an immediate threat to human health and the environment presents itself, EPA will continue to address these situations on a case by case basis. Where necessary, EPA will make a good cause finding to justify emergency rulemaking. *See* APA Section 553(b).

(7) *Notification Requirements:*

In order to adequately track wastes that have been delisted, EPA is requiring that Gulf West provide a one-time notification to any state regulatory agency through which or to which the delisted waste is being carried. Gulf West must provide this notification 60 days before commencing this activity.

B. What happens if Gulf West violates the terms and conditions?

If Gulf West violates the terms and conditions established in the exclusion, EPA will start procedures to withdraw the exclusion. Where there is an immediate threat to human health and the environment, EPA will evaluate the need for enforcement activities on a case-by-case basis. EPA expects Gulf West to conduct the appropriate waste analysis and comply with the criteria explained above in paragraph (1) of the exclusion.

V. Public Comments

A. How can I as an interested party submit comments?

EPA is requesting public comments on this proposed decision. Please send three copies of your comments. Send two copies to Ben Banipal, Section Chief of the Corrective Action and Waste Minimization Section (6PD–C), Multimedia Planning and Permitting Division, Environmental Protection Agency (EPA), 1445 Ross Avenue, Dallas, Texas 75202. Identify your comments at the top with this regulatory docket number: "EPA–R6–RCRA–2010–1052 Republic Services, Inc./BFI Gulf West Landfill." You may submit your comments electronically to Michelle Peace at *peace.michelle@epa.gov*.

You should submit requests for a hearing to Ben Banipal, Section Chief of the Corrective Action and Waste Minimization Section (6PD–C), Multimedia Planning and Permitting Division, U. S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

B. How may I review the docket or obtain copies of the proposed exclusion?

You may review the RCRA regulatory docket for this proposed rule at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202. It is available for viewing in EPA Freedom of Information Act Review Room from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at fifteen cents per page for additional copies. You may also request the electronic files of the docket which do not appear on regulations.gov.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA. Because this rule will affect only a particular facility, this proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism," (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. Similarly, because this rule will affect only a particular facility, this proposed rule does not have tribal implications, as specified in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the DRAS program, which considers health and safety risks to infants and children, to calculate the maximum allowable concentrations for this rule. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866. This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988, "Civil Justice Reform," (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. 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. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

Lists of Subjects in 40 CFR Part 261

Environmental protection, Hazardous Waste, Recycling, Reporting and record-keeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: January 18, 2011.

Carl E. Edlund,

Director, Multimedia Planning and Permitting Division, Region 6.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Tables 1 and 2 of Appendix IX to Part 261 add the waste stream "Gulf West Landfill" in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22

TABLE 1—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Gulf West Landfill	Anahuac, TX	Landfill Leachate (EPA Hazardous Waste Numbers F019, F039, K017, K019, K020.) generated at a maximum rate of 1,300,000 gallons (6,436 cubic yards) per calendar year after [insert publication date of the final rule]. For the exclusion to be valid, Gulf West must implement a verification testing program for each of the waste streams that meets the following Paragraphs: (1) Delisting Levels: All concentrations for those constituents must not exceed the maximum allowable concentrations in mg/l specified in this paragraph. Landfill Leachate. Leachable Concentrations (mg/l): Antimony—0.0568; Acetone—127; Arsenic—0.337; Barium—11.6; Benzene—0.0188; Beryllium—1.03; Cadmium—0.051; Chromium—5.0; Cobalt—0.318; Copper—22.1; m-Cresol—7.06; o-Cresol- 7.06; p-Cresol—0.706; p,p- DDT -0.0103; 1,4- Dioxane—2.39; Endosulfan- 1.55; Endrin—0.02; Ethyl ether- 22.5; Ethylbenzene—3.21; beta BHC- 0.0026; Heptachlor—0.008; Heptachlor epoxide- 0.008; Lead-2.57; Lindane -0.4; Mercury- 0.0125; methoxychlor- 10; methyl ethyl ketone- 84.7; methyl isobutyl ketone- 11.3; nickel- 5.74; selenium-0.447; silver-1.71; Thallium- 0.0449; tin-54,300; toluene-3.93; Silex-0.188; 2,4,5- trichlorophenoxyacetic acid-1.41; vanadium- 4.88; xylenes (total) -2.90; zinc-77.7. (2) Waste Holding and Handling: (A) Waste classification as non-hazardous can not begin until compliance with the limits set in paragraph (1) for the Landfill Leachate has occurred for four consecutive quarterly sampling events. (B) If constituent levels in any annual sample and retest sample taken by Gulf West exceed any of the delisting levels set in paragraph (1) for the Landfill Leachate, Gulf West must do the following: (i) notify EPA in accordance with paragraph (6) and (ii) manage and dispose the Landfill Leachate as hazardous waste generated under Subtitle C of RCRA. (3) Testing Requirements: Upon this exclusion becoming final, Gulf West must perform analytical testing by sampling and analyzing the Landfill Leachate as follows: (A) Initial Verification Testing: (i) Collect four representative composite samples of the Landfill Leachate at quarterly intervals after EPA grants the final exclusion. The first composite sample of each waste stream may be taken at any time after EPA grants the final approval. Sampling must be performed in accordance with the sampling plan approved by EPA in support of the exclusion. (ii) Analyze the samples for all constituents listed in paragraph (1). Any composite sample taken that exceeds the delisting levels listed in paragraph (1) indicates that the Landfill Leachate must continue to be disposed as hazardous waste in accordance with the applicable hazardous waste requirements until such time that four consecutive quarterly samples indicate compliance with delisting levels listed in paragraph (1). (iii) Within sixty (60) days after taking its last quarterly sample, Gulf West will report its analytical test data to EPA. If levels of constituents measured in the samples of the Landfill Leachate do not exceed the levels set forth in paragraph (1) of this exclusion for four consecutive quarters, Gulf West can manage and dispose the non-hazardous Landfill Leachate according to all applicable solid waste regulations. (B) Annual Testing: (i) If Gulf West completes the quarterly testing specified in paragraph (3) above and no sample contains a constituent at a level which exceeds the limits set forth in paragraph (1), Gulf West must begin annual testing as follows: Gulf West must test a representative composite sample of the Landfill Leachate for all constituents listed in paragraph (1) at least once per calendar year. If any measured constituent concentration exceeds the delisting levels set forth in paragraph (1), Gulf West must collect an additional representative composite sample within 10 days of being made aware of the exceedence and test it expeditiously for the constituent(s) which exceeded delisting levels in the original annual sample. (ii) The samples for the annual testing shall be a representative composite sample according to appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW–846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. As applicable, the SW–846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B,1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B. Methods must meet Performance Based Measurement System Criteria in which the Data Quality Objectives are to demonstrate that samples of the Gulf West Landfill Leachate are representative for all constituents listed in paragraph (1). (iii) The samples for the annual testing taken for the second and subsequent annual testing events shall be taken within the same calendar month as the first annual sample taken. (iv) The annual testing report should include the total amount of delisted waste in cubic yards disposed during the calendar year.

TABLE 1—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(4) Changes in Operating Conditions: If Gulf West significantly changes the process described in its petition or starts any processes that generate(s) the waste that may or could affect the composition or type of waste generated (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), it must notify EPA in writing and it may no longer handle the waste generated from the new process as non-hazardous until the waste meet the delisting levels set in paragraph (1) and it has received written approval to do so from EPA. Gulf West must submit a modification to the petition complete with full sampling and analysis for circumstances where the waste volume changes and/or additional waste codes are added to the waste stream. (5) Data Submittals: Gulf West must submit the information described below. If Gulf West fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in paragraph(6). Gulf West must: (A) Submit the data obtained through paragraph 3 to the Chief, Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, Texas 75202, within the time specified. All supporting data can be submitted on CD–ROM or comparable electronic media. (B) Compile records of analytical data from paragraph (3), summarized, and maintained on-site for a minimum of five years. (C) Furnish these records and data when either EPA or the State of Texas requests them for inspection. (D) Send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: "Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. If any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion." (6) Reopener (A) If, anytime after disposal of the delisted waste Gulf West possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or ground water monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Division Director in granting the petition, then the facility must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data. (B) If either the annual testing (and retest, if applicable) of the waste does not meet the delisting requirements in paragraph 1, Gulf West must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data. (C) If Gulf West fails to submit the information described in paragraphs (5),(6)(A) or (6)(B) or if any other information is received from any source, the Division Director will make a preliminary determination as to whether the reported information requires EPA action to protect human health and/or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If the Division Director determines that the reported information requires action by EPA, the Division Director will notify the facility in writing of the actions the Division Director believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed EPA action is not necessary. The facility shall have 10 days from receipt of the Division Director's notice to present such information. (E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Division Director will issue a final written determination describing EPA actions that are necessary to protect human health and/or the environment. Any required action described in the Division Director's determination shall become effective immediately, unless the Division Director provides otherwise. (7) *Notification Requirements:* Gulf West must do the following before transporting the delisted waste. Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision. (A) Provide a one-time written notification to any state Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, 60 days before beginning such activities. (B) For onsite disposal a notice should be submitted to the State to notify the State that disposal of the delisted materials have begun.

TABLE 1—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(C) Update one-time written notification, if it ships the delisted waste into a different disposal facility. (D) Failure to provide this notification will result in a violation of the delisting variance and a possible revocation of the decision.
*	*	* * * * *

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TABLE 2—WASTE EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Gulf West Landfill	Anahuac, TX	Landfill Leachate (EPA Hazardous Waste Numbers F019, F039, K017, K019, K020.) generated at a maximum rate of 1,300,000 gallons (6,436 cubic yards) per calendar year after [insert publication date of the final rule].
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[FR Doc. 2011–1794 Filed 1–27–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 11–96; MB Docket No. 11–8; RM–11618]

Television Broadcasting Services; Jackson, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by George S. Flinn, Jr., the licensee of station WWJX–DT, channel 51, Jackson, Mississippi, requesting the substitution of channel 23 for channel 51 at Jackson.

DATES: Comments must be filed on or before February 28, 2011, and reply comments on or before March 14, 2011.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Stephen C. Simpson, Esq., 1250 Connecticut Avenue, NW., Suite 200, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein, *joyce.bernstein@fcc.gov,* Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 11–8, adopted January 13, 2011, and released January 20, 2011. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622(i) [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Mississippi, is amended by adding channel 23 and removing channel 51 at Jackson.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 2011–1933 Filed 1–27–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 11–74; MB Docket No. 11–4; RM–11616]

Television Broadcasting Services; El Paso, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Comcorp of El Paso License Corp. the licensee of station KTSM–TV, channel 9, El Paso, Texas, requesting the substitution of channel 16 for channel 9 at El Paso.

DATES: Comments must be filed on or before February 28, 2011, and reply comments on or before March 14, 2011.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Scott S. Patrick, Esq., Dow Lohnes PLLC, 1200 New Hampshire Avenue, NW., Suite 800, Washington, DC 20036–6802.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, *adrienne.denysyk@fcc.gov,* Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 11–4, adopted January 11, 2011, and released January 19, 2011. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622(i) [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Texas, is amended by adding channel 16 and removing channel 9 at El Paso.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 2011–1935 Filed 1–27–11; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 177

Federal Motor Carrier Safety Administration

49 CFR Part 392

[Docket Numbers PHMSA–2010–0319 (HM–255) & FMCSA–2006–25660]

RIN 2137–AE69 & 2126–AB04 &

Highway-Rail Grade Crossing; Safe Clearance

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), and Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: FMCSA and PHMSA propose to amend the Federal Motor Carrier Safety Regulations (FMCSRs) and Hazardous Materials Regulations (HMRs), respectively, to prohibit a motor vehicle driver from entering onto a highway-rail grade crossing unless there is sufficient space to drive completely through the grade crossing without stopping. This action is in response to section 112 of the Hazardous Materials Transportation Authorization Act of 1994. The intent of this rulemaking is to reduce highway-rail grade crossing crashes.

DATES: Send your comments on or before March 29, 2011.

ADDRESSES: You may submit comments identified by Federal Docket Management System Numbers PHMSA–2010–0319 (HM–255) and FMCSA–2006–25660 by any of the following methods:

- *Web Site: http://www.regulations.gov.* Follow the instructions for submitting comments on the Federal electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency names and docket number or Regulatory Identification Number (RIN) for this rulemaking. For

detailed instructions on submitting comments and additional information on the rulemaking process, *see* the Public Participation heading below. 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.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to the ground floor, room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (65 FR 19476) or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

Public participation: The *http://www.regulations.gov* Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the "help" section of the *http://www.regulations.gov* Web site and also at the DOT's *http://docketsinfo.dot.gov* Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable. FMCSA and PHMSA, however, may issue a final rule at any time after the close of the comment period.

FOR FURTHER INFORMATION CONTACT: *At FMCSA:* Mr. Thomas Yager, Driver and Carrier Operations; or *MCPSD@dot.gov.* Telephone (202) 366–4325. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays. *At PHMSA:* Mr. Ben Supko, Office of Hazardous Materials Standards, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590 0001.

SUPPLEMENTARY INFORMATION:

Background

Section 112 of the Hazardous Materials Transportation Authorization Act of 1994 (HMTAA) [Pub. L. 103–311, title I, 108 Stat. 1673, 1676, August 26, 1994] requires FMCSA and PHMSA to amend the FMCSRs and the HMRs, respectively, to prohibit drivers of motor vehicles from driving onto a highway-rail grade crossing unless there is sufficient space to drive completely through the grade crossing without stopping. (Throughout the remainder of this document, FMCSA and PHMSA use the term "grade crossing" to refer to public, open, at-grade highway-rail grade crossings, unless otherwise noted.) The report by the Senate Committee on Commerce, Science, and Transportation (December 9, 1993) states that the intent of section 112 was to "* * * improve safety at highway-railroad crossings in response to fatalities that have occurred from accidents involving commercial motor vehicle operators who failed to use proper caution while crossing." The report also states that "[t]he Committee believes that imposing a Federal statutory obligation on drivers of all commercial motor vehicles to consider whether they can cross safely and completely * * * will help to reduce the number of tragedies associated with grade crossing accidents" (Senate Report No. 103–217, at 11 (1994), reprinted in 1994 U.S.C.C.A.N. 1763, 1773). The consequences of a motor vehicle failing to clear the tracks at a grade crossing are potentially serious, particularly if a vehicle or train is transporting hazardous materials or passengers. Over time, increased motor vehicle traffic and congestion at some grade crossings, as well as increased train movements, may amplify this risk.

The Manual on Uniform Traffic Control Devices (MUTCD 2009 edition), published by the Federal Highway Administration (FHWA) and incorporated by reference in 23 CFR part 655, subpart F, describes in chapter 8A the length of roadway necessary for a particular vehicle to clear the tracks safely as the "clear storage distance." [1] Chapter 8 guidance material also refers to "storage space." "Storage space" means the space available for stationary vehicles between a traffic control device (traffic signal, stop sign, or yield sign) and the railroad crossing behind them.

I. Legal Basis for the Rulemaking

This rulemaking is based on the authority of the Motor Carrier Act of 1935 (MCA or 1935 Act) and the HMTAA. The 1935 Act provides that "The Secretary of Transportation may prescribe requirements for (1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and, (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation" [49 U.S.C. 31502(b)]. Pursuant to 49 U.S.C. 31501(2), the definitions used in 49 U.S.C. 13102 apply to the 1935 Act. "Motor carrier," therefore, means "a person providing motor vehicle transportation for compensation" [49 U.S.C. 13102(14)]; and "motor private carrier" means "a person, other than a motor carrier, transporting property by motor vehicle when—(A) the transportation is as provided in section 13501 of this title [i.e., in interstate commerce]; (B) the person is the owner, lessee, or bailee of the property being transported; and (C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise" [49 U.S.C. 13102(15)].

The grade crossing regulations set forth in 49 CFR 392.12 of this NPRM pertain directly to the "* * * safety of operation" of the motor carriers over which FMCSA has jurisdiction. The adoption and enforcement of such rules was specifically authorized by the MCA. This proposed rule is based, in part, on that authority.

Before prescribing any regulations, FMCSA must also consider their "costs and benefits" [49 U.S.C. 31136(c)(2)(A) and 31502(d)]. Those factors are also discussed in this proposed rule.

This NPRM is also based on the authority of the Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*), under which, the Secretary of Transportation is charged with protecting the nation against the risks to life, property, and the environment that are inherent in the commercial transportation of hazardous materials. Section 5103(b)(1)(B) provides that PHMSA's Hazardous Materials Regulations (HMR; 49 CFR Parts 171 through 180) "shall govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate." As such, PHMSA has the authority to adopt requirements pertaining to hazardous materials transportation that are applicable to both intrastate and interstate commerce. The amendments to 49 CFR 177.804 proposed here are based directly on PHMSA's authority.

The primary impetus for this rulemaking is section 112 of the

[1] *See http://mutcd.fhwa.dot.gov.*

HMTAA, which directed the Secretary of Transportation to adopt a rule to prohibit the driver of a commercial motor vehicle (CMV) from driving onto a grade crossing "without having sufficient space to drive completely through the crossing without stopping." Section 112 reads as follows:

> Sec. 112 Grade Crossing Safety.
> The Secretary of Transportation shall, within 6 months after the date of enactment of this Act, amend regulations—
> (1) under chapter 51 of title 49, United States Code (relating to transportation of hazardous materials), to prohibit the driver of a motor vehicle transporting hazardous materials in commerce, and
> (2) under chapter 315 of such title (relating to motor carrier safety) to prohibit the driver of any commercial motor vehicle, from driving the motor vehicle onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping. [108 Stat. 1676]

Section 112(1), of HMTAA mandates a change to prohibit the driver of a commercial motor vehicle that is transporting hazardous materials from driving the motor vehicle onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping. Because the safety benefits associated with this section are equally applicable to drivers operating in intrastate commerce as they are to interstate commerce, this Section falls under chapter 51 of title 49 U.S.C. and corresponding changes would be incorporated into § 177.804 of the HMR. However, to promote consistency between PHMSA and FMCSA, the definition of "hazardous materials," provided by the Federal Motor Carrier Safety Regulations (FMCSRs; 49 CFR Parts 350–399), is used to define the scope of this Section.

FMCSA defines "hazardous materials" in § 383.5 of the 49 CFR as follows:

Hazardous materials means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

Based on this definition and PHMSA's authority, the scope of the proposed changes to 49 CFR 177.804 encompass all drivers who transport a quantity of hazardous materials requiring placarding under Part 172 of the 49 CFR or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73. This includes drivers of motor vehicles of any size that are used to transport the materials covered by the FMCSA definition. Additionally, it includes drivers engaged in intrastate or interstate commerce.

Although section 112(2) refers to the driver of a "commercial motor vehicle" under chapter 315 of title 49, the relevant portion of that chapter—49 U.S.C. 31502(a)–(b)—does not use the term "commercial motor vehicle," referring instead to "motor carriers" and "motor private carriers" as defined in 49 U.S.C. 13102 (the definitions of "motor carrier" and "motor private carrier" are discussed above). A "motor vehicle" is defined in section 13102(16) as "a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service." These are the definitions that determine the scope of 49 CFR 392.12, the FMCSA portion of this NPRM.

It should be noted that, unlike "CMV," the defined term that describes the motor vehicles over which FMCSA has jurisdiction in many other provisions of the FMCSRs, a "motor vehicle," as defined in section 13102(16), does not have a minimum weight threshold. This proposed rule, therefore, applies to the operation in interstate commerce of any motor vehicle used by a for-hire "motor carrier" or a "motor private carrier" in furtherance of a commercial enterprise, even if its gross vehicle weight (GVW) or gross vehicle weight rating (GVWR) is less than the 10,001-pound threshold for a CMV. In addition, § 392.12 would not apply to a private carrier of passengers because the definition of a "motor private carrier" in section 13102(15) covers only the transportation of "property," not passengers.

II. History

On July 30, 1998, FHWA published an NPRM to implement section 112(2) (63 FR 40691). The NPRM proposed to amend the FMCSRs by adding a new section, 49 CFR 392.12, to read as follows: "A driver of a commercial motor vehicle shall not drive onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping."

The Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106–159, 113 Stat. 1748, December 9, 1999) created FMCSA as a new operating administration of DOT, effective January 1, 2000. FMCSA assumed the motor carrier safety functions previously exercised by FHWA's Office of Motor Carriers.

Withdrawal of 1998 NPRM

On April 28, 2006, FMCSA withdrew the 1998 NPRM [71 FR 25128]. FMCSA stated:

> After reviewing the comments to the NPRM and the transcript of the [November 9, 1999] public meeting, FMCSA has concluded that this rulemaking has created a great deal of misunderstanding and should be terminated.
> FHWA asked the States for information on the number and location of highway-railroad grade crossings with inadequate storage—and on alternative crossings—as the first step in estimating the costs and benefits of the rule required by Section 112. In view of the expected complexity of that analysis, the Agency needed as much information as possible. Many State agencies, however, seem to have assumed that they were required to provide the information; that the final rule would then require them to reconstruct, rewire, reroute or otherwise correct every inadequate crossing; and that the Agency was indifferent to the costs of such an undertaking. In fact, the time, difficulty and cost involved in collecting reliable data on highway-railroad grade crossings became a primary focus of the comments.
> Section 112 requires a rule applicable to drivers, not to States. If the regulatory requirement prevented some motor carriers from using a particular crossing because the storage distance is too short for their normal vehicles, several options are available (such as switching to shorter trucks or using alternate crossings) before any reconstruction efforts suggested by the State commenters need to be considered. And even then, significant civil engineering projects are likely to have a low priority. Consultations among government entities, truckers, and the shippers they serve might produce quick and simple solutions.
> Therefore, FMCSA terminates this rulemaking and will open a new one less burdened by previous misunderstandings. An NPRM to address the requirements of Section 112 will be published when additional analysis of grade crossing problems, which is now under way, has been completed.

Survey of State Models

FMCSA reviewed State statutes on grade crossings. As expected, all States have laws regarding operation of vehicles near or over grade crossings. Most of these provisions are variations on the requirements in 49 CFR 392.10 and 392.11 (*e.g.,* stopping between 15 and 50 feet from the tracks, looking and listening for a train, crossing without shifting gears, etc.). On the other hand, only 24 States have storage-space laws similar or identical to the requirements of section 112 of the HMTAA. The recently enacted provisions usually match section 112 very closely. The older laws, adopted in the 1970s and 1980s, prohibit entering an intersection or grade crossing—even on a green

light—unless traffic conditions permit the vehicle to drive all the way through without blocking traffic on the cross street or rail line. Although it is not clear how the States interpret such provisions, the reference to blocking traffic on the cross street or rail line might mean that—unlike section 112—these laws would not prohibit a driver from starting across an empty grade crossing with no train in sight if a brief stop at a traffic sign or signal on the other side would leave the rear of the vehicle on the tracks.

Grade Crossing Safety Outreach Activities

Since publication of the 1998 NPRM, various regulatory actions, outreach initiatives, and research activities have helped to improve grade crossing safety. FMCSA, the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA) intensified their outreach and educational activities to prevent grade crossing crashes.[2] In 1999, DOT convened a public meeting to promote information sharing on grade crossing crashes involving CMVs. In addition, FMCSA worked with FRA, FTA, and FHWA to update the Department's "1994 Grade Crossing Action Plan." In June 2004, the Secretary issued the "Action Plan for Highway-Rail Grade Crossing Safety and Trespass Prevention," which focused Departmental and private sector resources to enhance grade crossing safety by distributing educational literature to heighten awareness about grade crossings and the "hump" (or vertical alignment profile) challenges they present, particularly to vehicles with long wheelbases or low-hanging equipment. This educational focus also extended to the development of improved highway route guidance to identify and help drivers avoid problematic grade crossings. In 2006, FMCSA, in collaboration with FRA, issued laminated visor cards for drivers, outlining safety tips for crossing railroad tracks. DOT and its agencies will continue to develop further outreach and education efforts.

2006 Public Meeting and Comments

On September 20, 2006, following notice in the **Federal Register**, FMCSA, in conjunction with FHWA, FRA, and PHMSA, held a public meeting in Washington, DC, to provide all interested parties an opportunity to express their views on this rulemaking. Only two members of the public attended, including a representative from the Association of American Railroads (AAR). There was a detailed discussion of the subject matter with that representative. A copy of the transcript from that meeting is available in docket FMCSA–2006–25660.

The Owner Operator Independent Drivers Association, Inc. (OOIDA) submitted the only comments during the public comment period for the meeting. OOIDA recommended three things. First, OOIDA suggested that FMCSA should provide pavement markings and signage at or near grade crossings to indicate the storage space available to CMV drivers. FMCSA and PHMSA do not have the statutory authority to mark, sign, or require others to mark roads and provide signs at or near grade crossings. FHWA, however, has funding available annually under 23 U.S.C. 104(b)(5) ("highway safety improvement program") as a set aside under 23 U.S.C. 148(a)(3) ("highway safety improvement project") and 23 CFR part 924, Highway Safety Improvement Program, for a variety of highway safety improvement projects (HSIPs). Eligible HSIPs include: (1) Construction of projects for the elimination of hazards at a public railroad crossing that is eligible for funding under 23 U.S.C. 130; (2) improvement of highway signage and pavement markings; and (3) installation of a traffic control or other warning device at a location with high crash potential. FMCSA and PHMSA will bring OOIDA's suggestion to the attention of FHWA. We note that competition for limited HSIP resources means that States and other public authorities must decide whether and when particular grade crossings might get pavement markings and signage and that not all grade-crossing improvements are likely to be funded.

Second, OOIDA suggested that FMCSA undertake additional comparative analyses to determine the number of grade crossings with inadequate storage space in industrial areas. OOIDA suggested that some such grade crossings are rarely used by trains and that regulatory prohibitions in these cases may be far more expensive than any possible benefits. Defining an "industrial area" has proven to be difficult and somewhat subjective. FMCSA and PHMSA do not agree that such comparative analyses are necessary. The regulation proposed today may occasionally—though not frequently—cause disproportionate expense, as OOIDA says; but this is a statutory mandate.

Finally, OOIDA suggested FMCSA and PHMSA consider educational outreach through State driver licensing agencies to inform automobile drivers of the risks of passing CMVs to occupy space left at the head of the queue by prudent truck drivers at grade crossings. OOIDA reported that its members increasingly witness this practice, which forces CMV drivers to wait through several cycles of the traffic signals before being able to cross. According to OOIDA members, some States and localities have programmed traffic lights with cycles so short that CMVs are often prevented from crossing, especially when impatient automobile drivers rush to occupy any open space ahead of a CMV. This sometimes results in automobile drivers becoming trapped on the tracks when the crossing alarm sounds. OOIDA suggests creating informational signage to inform automobile drivers of the risks involved in such me-first tactics. FMCSA will encourage Motor Carrier Safety Assistance Program lead agencies to distribute grade crossing safety materials to their driver licensing colleagues in State government and to suggest the addition of such material to State driver training manuals that do not already cover the subject.

III. The Proposed Rule

Section 392.12

Today's NPRM would adopt the statutory language of section 112 as 49 CFR 392.12. While the proposed regulatory text is essentially the same as that published in the 1998 NPRM, FMCSA believes the context in which the proposal is presented will make the potential impact of the rulemaking clearer.

Though the proposed rule would not explicitly prohibit motor vehicles from using certain grade crossings, it might have that effect where the clear storage distance between the train tracks and the next traffic control device is less than the length of the vehicle. To proceed through such a grade crossing, a motor vehicle driver would either have to ignore the traffic control device or comply with the traffic control device but violate the proposed rule by driving onto the grade crossing without having sufficient space to drive completely through the crossing without stopping.

Section 177.804

To ensure that the statutory language of section 112 applies to both interstate and intrastate motor carriers, PHMSA would revise 49 CFR 177.804. PHMSA

[2] The FRA uses the terms "accident" and "incident" in its definitions and databases used to collect data on grade crossings. The variations do not rise to a level of significance; however, FMCSA uses the term "crash" in its publications, except when the terms "accident" or "incident" appear in names or quotes.

proposes to add a new paragraph (b) to require drivers of commercial motor vehicles transporting a quantity of hazardous materials requiring placarding under Part 172 of the 49 CFR or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73 to comply with the FMCSA safe clearance requirements for highway-rail crossings. As such, motor carriers and drivers who engage in the transportation of covered materials must comply with the safe clearance requirements in § 392.12 of the FMCSRs.

Additional Assistance

FMCSA and PHMSA acknowledge OOIDA's concerns that this rulemaking could result in CMV drivers encountering situations in which compliance with the proposed rule might be difficult to achieve. Therefore, the two Agencies will work with State enforcement agencies, the motor carrier and railroad industries, and safety advocacy groups to provide information to assist carriers in identifying options for traveling safely through problematic grade crossings, including developing educational and technical assistance and frequently asked questions. FMCSA and PHMSA will also consider issuing regulatory guidance in response to inquiries to provide additional assistance to the motor carrier industry and State enforcement personnel in implementing the rule.

IV. Scope of the Safety Problem

Generally, the grade crossings where the physical storage distance is less than 100 feet would present the greatest challenge to motor vehicle drivers. A typical 3-axle "day cab" (a tractor without a sleeper berth) with a 2-axle, 53-foot semitrailer is 65 feet long. A typical 3-axle truck tractor (with a sleeper berth) pulling a 2-axle, 53-foot semitrailer would be about 65 to 72 feet long. Typical cars on American highways range from 13 to 18 feet [3] in length. With one short car and one long car ahead of it in a queue at a grade crossing with 100 feet of storage space, a 65-foot truck might find it impossible to clear the railroad track.

Number of Grade Crossings

The number of such grade crossings was determined by analyzing several FRA and geographic mapping databases. Table I summarizes the findings on grade crossings in the continental United States where the clear storage space is limited. FMCSA and PHMSA estimate that the total number of public, at-grade, open highway-rail grade crossings of all types is 145,702. Of these, 84,835 grade crossings have an estimated available clear storage distance of more than 1,500 feet.

There are about 60,867 grade crossings where the estimated available clear storage distance is 1,500 feet or less. FMCSA and PHMSA estimate that approximately 19,824 of these grade crossings have a clear storage distance of less than 100 feet. FMCSA and PHMSA estimate there are 41,043 grade crossings (60,867 minus 19,824 equals 41,043) where the estimated available storage distance is greater than 100 feet but 1,500 feet or less. In addition, there are 1,384 other grade crossings estimated to have a relatively higher risk of storage-distance issues due to a combination of factors such as the volume of motor vehicle and CMV traffic, the number of train movements, and the number of lanes of roadway. Therefore, the total number of grade crossings of primary interest for this proposed rule is 21,208 (19,824 plus 1,384 equals 21,208), representing approximately 14.5 percent of grade crossings in the United States.

TABLE I—GRADE CROSSINGS IN THE CONTINENTAL U.S.

Distance to nearest intersection	Number of grade crossings
All Grade Crossings	145,702
Greater Than 1,500 feet	84,835
Less Than or Equal To 1,500 feet	60,867
Less Than 100 feet	19,824
100–500 feet	26,959
501–1,000 feet	8,843
1,001–1,500 feet	5,241

Number of Grade Crossing Crashes

FMCSA and PHMSA used FRA's Railroad Accident/Incident Reporting System, Highway-Rail Grade Crossing Accident/Incident File to analyze the extent to which storage distance has historically been recorded as a factor in grade crossing crashes. FMCSA and PHMSA analyzed crashes involving CMVs during the period 1998 through 2005. Table II summarizes the estimated number of grade crossing crashes.

TABLE II—CRASHES AT GRADE CROSSINGS WITH LIMITED STORAGE SPACE 1998 TO 2005

Definition	Number of crashes (1998 to 2005)
All Crashes at All Highway-Rail Grade Crossings Involving All Types of Vehicles	26,027
All Crashes at Any One of the 21,208 FMCSA–Identified Grade Crossings of Interest to the Proposal's Regulatory Impact Assessment—	4,168
—With a Train Striking a Truck or Bus—	890
—Stopped or Trapped on the Crossing—	289
—Definitely or Probably Storage Related	32

[3] FMCSA and PHMSA reviewed various auto manufacturers' Web sites for the specific length measurements for small sports cars and large luxury executive sedans to arrive at the 13 to 18 feet range.

TABLE II—CRASHES AT GRADE CROSSINGS WITH LIMITED STORAGE SPACE 1998 TO 2005—Continued

Definition	Number of crashes (1998 to 2005)
—Possibly Storage Related*	122

* In order to ensure adequate consideration of the potential that the crash was storage related, this number was developed using the same proportion as those with sufficient narrative information, i.e., assuming 42.1 percent of crashes with indeterminate narratives are classified as storage-distance related. (See Regulatory Impact Assessment in dockets PHMSA–2010–0319 (HM–255) or FMCSA–2006–25660 for further information.)

V. Costs and Benefits of Rule Implementation

Data are not available to estimate with any degree of certainty the costs and benefits of implementing this rule. However, the Agencies are required by statute to implement a rule prohibiting drivers from going across grade crossings unless there is sufficient space to clear the crossings completely without stopping. States with existing statutes or regulations similar to the proposed Federal rule have somewhat lower crash rates at grade crossings identified as having significant risk of storage-related issues. While factors other than the States' storage-space rules may be responsible for some of the differences in crash rates, the Agencies believe the differential is large enough to suggest that such rules have safety benefits. The States' voluntary adoption of storage-space rules also suggests that the costs of implementing the requirements have not proven to be an issue with the States or with the motor carrier industry. Based on the safety impacts seen in the States that have adopted requirements similar to those considered in this rulemaking, FMCSA and PHMSA believe the rule would provide a cost-beneficial enhancement to safety.

As mentioned above in the Legal Basis section of the preamble, CMVs have a minimum weight threshold of 10,001 pounds. However, the "motor vehicles" to which the proposed rule would apply have no such threshold; any motor vehicle, no matter how small, used by a "motor carrier" or "motor private carrier" in interstate commerce in furtherance of a commercial enterprise would be subject to the proposed rule. Yet these lighter vehicles—mainly pickup trucks and work vans—are unlikely to be affected by this proposal because virtually every grade crossing has enough storage space to accommodate one of them; and they are simply too short and maneuverable to be trapped on grade crossings with storage space for several vehicles. Even if traffic suddenly bunched up, leaving one of these vehicles stopped on the tracks, it could drive onto the shoulder or otherwise maneuver out of harm's way. Because FMCSA has concluded that the proposed rule would impose no costs on vehicles too small to qualify as CMVs, they are ignored in the following analysis of costs and benefits.

Also mentioned in the Legal Basis section of this NPRM is that PHMSA's authority includes intrastate carriers. PHMSA estimated the number of carriers that may be affected by assessing hazmat registration data from the 2010–2011 registration year. The data is collected on DOT form F 5800.2 in accordance with § 107.608(a) of the 49 CFR. Generally, the registration requirements apply to any person who offers for transportation or transports a quantity of hazardous materials requiring placarding under Part 172 of the 49 CFR. Additional data collected on form F 5800.2 verify that the person is indeed a carrier, the mode of transportation used, and the US DOT Number. Based on PHMSA's analysis of form F 5800.2—18,841 persons have registered as motor carriers of hazardous materials. Of those 18,841 persons 17,599 included a US DOT Number. Therefore, based on PHMSA's registration data, the difference between persons registered as motor carriers and persons that have obtained a US DOT Number is 1,242 (18,841 − 17,599 = 1,242). PHMSA considers these persons to be intrastate motor carriers. PHMSA compared these numbers with the FMCSA Motor Carrier Management Information System (MCMIS). Based on MCMIS data, PHMSA verified that the 1,242 carriers identified through registration data have not been issued a US DOT Number by FMCSA.

To ensure that all intrastate carriers are identified, PHMSA multiplied the number of intrastate carriers identified through registration data by a 20% underreporting factor. As a result, the total population of intrastate carriers affected by this rulemaking is 1,490 intrastate motor carriers (1,242 × 1.20 = 1,490). For the purposes of this NPRM the cost and benefit impact is applied to each intrastate and interstate motor carrier equally. In the cost and benefit discussions that follow the Agencies consider the costs and benefits applicable to the total population of intrastate and interstate carriers affected by this proposed rule. The Agencies consider that, because the proposed rule does not mandate specific changes in carrier operations, driver training, or grade crossing infrastructure enhancements, its cost impacts should not be significant. Because a substantial number of States already have in place storage-space rules, motor vehicle drivers operating in or through those States should have the experience and knowledge needed to ensure compliance. FMCSA and PHMSA do not believe the rule is so complex that it would require special training of drivers operating in the other States. The Agencies request public comment on this issue.

For motor vehicles, the storage-distance related annual crash rate per 1,000 grade crossings is 0.72.[4] FMCSA and PHMSA found that the difference in this rate between States that have laws/regulations similar to the proposed Federal rule and those that do not is 0.285 crashes per 1,000 grade crossings per year. Thus, FMCSA and PHMSA would expect 2.62 fewer crashes per year, if all States adopted the proposed Federal rule,[5] and 0.2 fewer train derailments.[6]

The total annual savings from crashes avoided (in 2009 dollars) is estimated to be approximately $975,000. This consists of $381,000 in reduced fatalities, $159,000 in reduced injuries, $1,600 in reduced hazardous material spills, $31,000 in reduced highway property damage, and $402,000 in reduced costs for train derailments. Total implementation costs per year are estimated to be $279,000. Thus, the expected annual savings from implementation of this proposed rule would be about $696,000.

Table III displays the 10-year average annual and discounted net costs and

[4] 122 crashes/8 years/21,208 grade crossings with limited storage space × 1,000 = 0.72.

[5] 0.000285 fewer incidents per grade crossing × 9,204 storage space impacted grade crossings in states without a similar rule equals 2.62 fewer crashes per year.

[6] 14 derailments/122 grade crossing incidents × 2.62 incidents prevented equals 0.2 fewer train derailments.

benefits of the statute that we are implementing in this proposal.

TABLE III—TOTAL ESTIMATED 10-YEAR COSTS AND BENEFITS FOR IMPLEMENTING THE STATUTE MANDATING THE PROPOSED GRADE CROSSING STORAGE-SPACE RULE

[In thousands, 2009 dollars]

	Annual impact	10-Year total	10-Year (Discounted at 3 percent)*	10-Year (Discounted at 7 percent)*
Benefits	$975.0	$9,750	$8,566	$6,352
Costs **	$381.0	$3,810	$2,172	$1,818
Net Benefits	$696.0	$6,960	$5,419	$4,535

* Present values of 10-year costs are discounted at 3 percent and 7 percent as specified in OMB Circular A–4, Regulatory Analysis, September 2003. Note that the first year costs and benefits are not discounted.

** Excludes any potential costs from rerouting due to uncertainty of costs. See Sensitivity Analysis section below.

Sensitivity Analysis

It is important to note that the proposed rule could increase vehicle miles traveled (VMT) due to re-routing. Because of major data limitations, FMCSA and PHMSA performed a sensitivity analysis to explore this possibility but are unable to identify what that increase—if any—would be. The Congressionally mandated rule would be cost beneficial if the additional VMT does not exceed 0.63 percent of the maximum possible increase calculated in the sensitivity analysis.[7] The Agencies request comments from motor carriers on the extent to which this rulemaking would cause them to reroute their motor vehicles.

This proposed storage-distance rule will discourage drivers of motor vehicles, particularly tractor-trailer combinations, from using grade crossings at which the storage distance is less than the overall length of the vehicle. FMCSA and PHMSA believe most drivers will make similar trips dozens or hundreds of times a year and experience the need to re-route only the first time. This assumes that the drivers and companies learn from their mistakes and avoid re-routing. Driver and dispatcher awareness training and improved in-cab geographic information system displays may allow companies and motor vehicle drivers to plan routes more efficiently before or shortly after leaving the point of origin, enabling them to avoid problem grade crossings entirely, instead of re-routing appreciably at the last minute.

If significant numbers of companies or drivers do not plan their trips efficiently, and drivers unexpectedly encounter grade crossings with storage distances of less than their overall lengths (FMCSA and PHMSA assumed that a distance of approximately 100 feet could be problematical[8]), there would be additional costs to motor vehicle operators and the public due to the rerouting required. These route changes would likely result in additional VMT, with consequent increases in operating costs and adverse safety impacts.

The sensitivity analysis for this proposed rule first determined an estimated range of extra VMT that might result if all large motor vehicles were re-routed away from all grade crossings with insufficient storage space. This assumes that the drivers and companies never change their behavior and always go to the grade crossing before re-routing, for all trips taken along that route. FMCSA and PHMSA classify this outcome as the high-end limit of VMT increases. The actual number of re-routed trips would be only a small fraction of the possible number because companies and drivers learn from their mistakes and avoid re-routing. The low-end limit on VMT increases would occur if only minimal routing changes are made. FMCSA and PHMSA also provide an estimate that is intermediate between these two extremes. As indicated above, the proposed rule would be cost beneficial if additional VMT does not exceed 0.63 percent.

The second step in the sensitivity analysis is to calculate the additional costs resulting from each of the proposed cases. These include increases in large truck operating costs, and societal costs associated with crashes that could be expected to occur as mileage increases.

Based on the current analysis, there are an estimated 19,824 grade crossings in the U.S. where the physical storage distance is estimated to be less than 100 feet. For each of these grade crossings, the average annual daily traffic (AADT) volume of all motor vehicles passing through the grade crossing and the percent of vehicle traffic through the crossing estimated to consist of "trucks" were obtained from the FRA's Grade Crossing Inventory System (GCIS). The AADT figure for all vehicle types was transformed into an annual average equivalent figure and multiplied by the GCIS "percent trucks" data field to produce an estimate of the total number of all CMV movements (of all types of CMVs) through each grade crossing during the course of 1 year. Because only a portion of these truck movements involve tractor-trailer combinations of sufficient length, nationwide VMT distribution data by vehicle size and type was used to refine the estimate (derived both from the 2002 Vehicle Inventory and Use Survey (VIUS),[9] and the 2005 Highway Statistics[10]).

The estimated total number of all truck movements at each grade crossing is calculated from the total vehicle AADT data and the GCIS "percent truck" figure. This figure is then reduced further by 17 percent, to reflect the reduction in the relative share (from *VIUS* and the 2005 *Highway Statistics*) of combination vehicles on non-access-controlled roadways (where grade crossings would be found).

The additional miles that each motor vehicle might actually travel is likely to vary widely at each grade crossing of interest based on local conditions and the specific origin and destination of each trip. An estimate of potential average additional miles traveled per motor vehicle was developed for each grade crossing based on individual inspection of approximately 10 randomly selected grade crossings each

[7] $696,000 in annual savings ÷ 110,000,000 for maximum additional VMT equals 0.63 percent.

[8] This distance is larger than most motor coach and tractor-trailer lengths, but less than that of some multiple-trailer and over-dimensional vehicles.

[9] U.S. Department of Commerce, Economics and Statistics Administration, "2002 Economic Census: Vehicle Inventory and Use Survey," December 2004.

[10] U.S. Department of Transportation, Federal Highway Administration, Office of Highway Policy Information, "Highway Statistics," 2005.

in urban, suburban, and rural areas throughout the U.S. The actual miles traveled estimates for the 10 grade crossings in each type of area were then averaged and applied to all grade crossings (classifying their locations as rural, suburban, or urban) based on an analysis using geographic information systems (GIS) software. An estimate of the extra VMT that might be generated by each motor vehicle trying to avoid suspect grade crossings was determined to be about on average 0.75 miles. FMCSA and PHMSA believe numerous grade crossings close together in metropolitan areas may result in such a small average extra VMT estimate.

FMCSA and PHMSA included for analysis only the subset of grade crossings with storage distance estimated to be 100 feet or less that are located in the 27 jurisdictions (26 States and the District of Columbia) that do not currently have storage-space laws similar or identical to the requirements of this NPRM. The Agencies only include grade crossings where storage distance is estimated to be 100 feet or less since, for purposes of re-routing, these are the only crossings a driver could easily identify. There are 8,749 such grade crossings in these 27 jurisdictions.

The final estimate of the number of annual movements of large trucks through each of these 8,749 affected grade crossings was then multiplied by the estimates of additional miles traveled per trip to derive a final maximum estimate of 110,902,390 additional VMT annually (affecting about 146,307,200 motor vehicle trips annually) in the 27 jurisdictions where no equivalent State law currently exists.[11]

The costs of these additional miles traveled by large trucks include added motor carrier operating costs (driver salary, fuel, depreciation, etc.), and safety-related costs associated with increased risks of crashes. Estimates of the per-mile operating costs for large trucks were derived from a September 2004 study of motor carrier industry financial and operating performance profiles.[12] The average total operating cost for large motor vehicles carrying all commodity types was estimated to be $1.93 per vehicle-mile in 2001. Inflating to 2009 dollars, this is equivalent to $2.34 per vehicle-mile.

Estimates of safety-related costs were derived from average fatality, injury, and property-damage-only incidence rates developed by FMCSA for large truck transportation,[13] and cost-per-incident estimates. These results are summarized in Table IV below.

TABLE IV—ESTIMATED ANNUAL MOTOR VEHICLE OPERATING AND SAFETY COSTS RESULTING FROM ADDED VMT TO BYPASS STORAGE-SPACE IMPACTED GRADE CROSSINGS

[$2009, thousands]

Cost category	Highest possible estimate of additional VMT	Mid-range estimate; 10 percent of maximum additional VMT	Lower-end estimate; 1 percent of maximum additional VMT
Extra VMT	110,900	11,100	1,100
CMV Operations Crash Related:	$261,500	$ 26,100	$ 2,600
Fatalities	$ 15,600	$ 1,550	$ 200
Injuries	$ 8,200	$ 800	< $ 100
Property Damage	$ 500	< $ 100	< $ 100
Hazardous Material Spills	< $ 100	< $ 100	< $ 100
Total Costs	$286,000	$28,700	$3,100

These additional operations and safety costs are several hundred times greater than the estimated net benefits in Table III, which ignores potential re-routing costs. The high-end estimated crash-related costs, by themselves, are about 42 times greater than the total annual net benefits of this proposal. Motor carriers, however, are incentivized to minimize VMT in order to save time and money; FMCSA and PHMSA believe that operators will be able to find alternate routes that add little distance to their trips. We believe the lower-end estimate of additional VMT in Table IV is likely to be the most realistic.

FMCSA and PHMSA seek additional information from the public to further assess the costs and benefits of this proposal. FMCSA has found no indications of problems caused by rerouting in those States with laws similar to this NPRM. FMCSA and PHMSA seek comments from States with laws similar to this proposal on how many extra miles, on average, their grade crossing prohibitions force trucks and buses to travel to avoid crossings with insufficient storage space.

Regulatory Analyses

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA and PHMSA have determined that this action is a non-significant regulatory action within the meaning of Executive Order 12866. FMCSA and PHMSA expect the proposed rule would have minimal costs and generate minimal public interest. Previous efforts to implement section 112 of the HMTAA have elicited little public response. Of the 45 comments submitted to the July 30, 1998, NPRM, 35 were from State agencies expressing concern that the rulemaking would impose certain economic burdens on the States. As explained previously in this NPRM, however, those concerns were based on a misunderstanding of the applicability of the proposed rule. Comments were received from three transportation industry associations (the American Trucking Associations (ATA), AAR, the National School Transportation Association (NSTA)) and three transit authorities, with only four comments from other entities.

The Agencies note that when FMCSA held a public meeting on the implementation of section 112 in September 2006, there were only two participants—one from the AAR, none

[11] 8,749 affected grade crossings times ~12,676 per trip additional miles estimated equals 110,902,390 additional VMT annually.

[12] Thomas M. Corsi, *et al.*, "Motor Carrier Industry Profile Study: Financial and Operating Performance Profiles by Industry Segment, 2001–2002," Office of Information Management, Federal Motor Carrier Safety Administration, September 2004.

[13] FMCSA, "Large Truck Crash Facts," February 2007.

from the motor carrier industry or the States. The interest initially expressed by States in response to the 1998 NPRM seems to have diminished since the NPRM was withdrawn in 2006, presumably because FMCSA's discussion of the comments to the docket resolved their concerns. The motor carriers and drivers to which this rule would apply, as well as the associations that represent their interests, have shown little interest in this proceeding; FMCSA and PHMSA therefore believe the rulemaking is non-significant in the context of Executive Order 12866.

The Agency has prepared a regulatory analysis of the costs and benefits of this proposal. The estimated costs and benefits are small, and the rule may be cost beneficial. That is not certain, however, given the additional VMT that may be generated but that cannot be reliably estimated. A copy of the analysis document is included in docket FMCSA–2006–25660.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), FMCSA and PHMSA have considered the effects of this proposed regulatory action on small entities and determined that this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined by the U.S. Small Business Administration's Office of Size Standards.

FMCSA has determined that the requirements in this rulemaking apply to a substantial number of small entities (i.e., small owner/operator motor carriers and other small businesses employing CMV drivers). The NPRM, however, does not mandate specific changes in carrier operations or driver training. Any rerouting and other logistics costs that might be borne by small carriers would occur only to the extent that their private benefits were judged to be greater than their costs. Carriers are presumed to pursue the most efficient transportation routes in order to minimize time, fuel usage, tire wear-and-tear and dead heading. Obtaining the most efficient route is a function of many factors, one of which is the avoidance of deficient storage-space railroad tracks. To the extent that existing carriers have not already attained and incorporated efficient route plans, they may sustain a revenue reduction, but it is one that is expected to be minimal and temporary.

Also, there would probably be only minimal additional costs for driver training as the training would probably occur as a modification of emphasis in existing training curricula and would not likely add extra time to the training requirement.

We estimated that a preponderance of this rule's implementation costs, expected to be composed of government administrative, enforcement, or training activities, will affect transportation personnel in the 27 jurisdictions that do not have an existing law or regulation similar to the proposed Federal rule.

Accordingly, the Administrators of FMCSA and PHMSA hereby certify that this proposal would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

There is only one circumstance under which this rulemaking would impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $140.3 million or more in any 1 year. If drivers and motor carriers resolutely fail to learn from previous experience (by repeatedly approaching railroad highway grade crossings with storage space inadequate to accommodate their vehicles and then turning away to find alternative crossings), the additional VMT generated by these errors might have a cost exceeding the threshold for this statute. FMCSA and PHMSA, however, believe that drivers and carriers would make such mistakes only a few times, and thereafter select streets and roads with appropriate grade crossings that do not require re-routing. PHMSA and FMCSA, therefore, believe that this rule would not impose an unfunded Federal mandate.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 12630 (Taking of Private Property)

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

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. FMCSA and PHMSA have preliminarily determined that this rulemaking would not have a substantial direct effect on States, nor would it limit the policy-making discretion of the States. Nothing in this document would preempt any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that FMCSA and PHMSA consider the impact of paperwork and other information collection burdens imposed on the public. FMCSA and PHMSA have determined that there are no current new information collection requirements associated with this proposed rule.

National Environmental Policy Act

The Agencies analyzed this proposed rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and determined under FMCSA's environmental procedures Order 5610.1, issued March 1, 2004 (69 FR 9680), that there is no adverse impact to Air Quality because the Proposed Action would result in a decrease in highway and rail vehicle emissions as a result of fewer crashes. There are possible, moderately positive impacts to public health and safety, specifically at grade crossings, based on a decrease in the likelihood of fatalities and injuries as a result of CMV crashes due to insufficient storage distance at grade crossings. There are no identified overall negative environmental or socioeconomic impacts associated with the proposed rule.

The beneficial impacts of the proposed rule include the positive effect on hazardous materials transportation, reduced locomotive idling time otherwise incurred as follow-on trains are delayed by derailments at grade crossings, and public health and safety, specifically at grade crossings. There are also net positive socioeconomic benefits, to motor and rail carriers in particular, in addition to positive indirect impacts to aspects of the physical and human environment.

FMCSA and PHMSA have also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and

implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it involves rulemaking and policy development and issuance.

A copy of the joint FMCSA and PHMSA Environmental Assessment (EA) is included in docket FMCSA–2006–25660. FMCSA and PHMSA request the public to comment on this environmental assessment.

Executive Order 12898 (Environmental Justice)

FMCSA and PHMSA evaluated the environmental effects of this proposed rule in accordance with Executive Order 12898 and determined that there are neither environmental justice issues associated with its provisions nor any collective environmental impact resulting from its promulgation. Environmental justice issues would be raised if there were "disproportionate" and "high and adverse impact" on minority or low-income populations. None of the alternatives analyzed in FMCSA's EA, discussed under NEPA, would result in high and adverse environmental impacts.

Executive Order 13211 (Energy Effects)

FMCSA and PHMSA analyzed this proposed action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use. FMCSA and PHMSA determined preliminarily that it would not be a "significant energy action" under that Executive Order because it would not be economically significant and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 392

Highway safety, Motor carriers.

In consideration of the foregoing, PHMSA and FMCSA propose to amend title 49, Code of Federal Regulations, chapter I, part 177, and chapter III, part 392, as set forth below:

PART 177—CARRIAGE BY PUBLIC HIGHWAY

1. The authority citation for part 177 is revised to read as follows:

Authority: 49 U.S.C. 5101–5127; sec. 112 of Pub. L. 103–311, 108 Stat. 1673, 1676 (1994); 49 CFR 1.53.

2. Amend § 177.804 by redesignating the existing text as paragraph (a), amending newly designated paragraph (a) by adding a paragraph heading, and by adding a new paragraph (b) to read as follows:

§ 177.804 Compliance with Federal Motor Carrier Safety Regulations.

* * * * *

(a) General. * * *

(b) *Highway-rail crossings.* Drivers of commercial motor vehicles transporting a quantity of hazardous materials, as defined in 49 CFR 383.5, requiring placarding under part 172 of the 49 CFR or any quantity of a material listed as a select agent or toxin in 42 CFR part 73 must comply with the safe clearance requirements for highway-rail crossings in § 392.12 of the FMCSRs.

PART 392—DRIVING OF COMMERCIAL MOTOR VEHICLES

3. The authority citation for part 392 is revised to read as follows:

Authority: 49 U.S.C. 13902, 31136, 31151, 31502; Section 112 of Pub. L. 103–311, 108 Stat. 1673, 1676 (1994); and 49 CFR 1.73.

4. Section 392.12 is added to read as follows:

§ 392.12 Highway-rail crossings; safe clearance.

No driver of a commercial motor vehicle shall drive onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping.

Issued in Washington, DC on January 20, 2011 under authority delegated in 49 CFR part 1.

By the Federal Motor Carrier Safety Administration.

Anne S. Ferro,

Administrator.

By the Pipeline and Hazardous Materials Safety Administration.

Cynthia L. Quarterman,

Administrator.

[FR Doc. 2011–1841 Filed 1–27–11; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register

Vol. 76, No. 19

Friday, January 28, 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

Food Safety and Inspection Service

[Docket No. FSIS–2010–0042]

Codex Alimentarius Commission: Meeting of the Codex Committee on Fat and Oils

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the U.S. Food and Drug Administration (FDA) are sponsoring a public meeting on February 9, 2011. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions that will be discussed at the 22nd session of the Codex Committee on Fats and Oils (CCFO) of the Codex Alimentarius Commission (Codex), which will be held in Penang, Malaysia, February 21–25, 2011. The Under Secretary for Food Safety and the FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 22nd session of the CCFO and to address items on the agenda.

DATES: The public meeting is scheduled for February 9, 2011, from 1:30–4 p.m.

ADDRESSES: The public meeting will be held at FDA, Harvey W. Wiley Building, Auditorium (1A003), 5100 Paint Branch Parkway, College Park, MD 20740. Documents related to the 22nd session of the CCFO will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.*

Martin Stutsman, U.S. Delegate to the 22nd Session of the CCFO, and the FDA, invite U.S. interested parties to submit their comments electronically to the following e-mail address: *Martin.Stutsman@fda.hhs.gov.*

Call-In Number:

If you wish to participate in the public meeting for the 22nd session of the CCFO by conference call, please use the following call-in number and participant code listed below:

Call-in Number: 1–866–859–5767

Participant Code: 2225276

FOR FURTHER INFORMATION ABOUT THE 22ND SESSION OF THE CCFO CONTACT: Martin Stutsman, J.D., Office of Food Safety (HFS–317) Center for Food Safety and Applied Nutrition, FDA, 5100 Paint Branch Parkway, College Park, Maryland 20740, phone: (301) 436–1642, fax: (301) 436–2651, e-mail: *Martin.Stutsman@fda.hhs.gov.*

FOR FURTHER INFORMATION ABOUT THE PUBLIC MEETING CONTACT: Marie Maratos, U.S. Codex Office, 1400 Independence Avenue, SW., Room 4861, Washington, DC 20250, phone: (202) 690–4795, mobile: (202) 412–7901, fax: (202) 720–3157, e-mail: *Marie.Maratos@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in trade.

The CCFO is responsible for elaborating worldwide standards for fats and oils of animal, vegetable, and marine origin, including margarine and olive oil.

The Committee is hosted by Malaysia.

Issues To Be Discussed at the Public Meeting

The following items on the agenda for the 22nd Session of the CCFO will be discussed during the public meeting:

- Matters referred by Codex and other Committees
- Draft Amendment to the Standard for Named Vegetable Oils: Inclusion of Palm Kernel Olein and Palm Kernel Stearin
- Code of Practice for the Storage and Transport of Edible Fats and Oils in Bulk
  - (a) Draft Criteria to Assess the Acceptability of Substances for Inclusion in a list of Acceptable Previous Cargoes
  - (b) Draft List of Acceptable Previous Cargoes
  - (c) Proposed Draft List of Acceptable Previous Cargoes
- Proposed Draft Amendment to the Standard for Olive Oils and Olive Pomace Oils: Linolenic Acid Level
- Proposal to Amend the Standard for Olive Oils and Olive Pomace Oils: Content of Delta—7- stigmastenol
- Proposal for New Work on a Standard for Fish Oils
- Proposal to Amend the Standard for Named Vegetable Oils: Sunflower Seed Oils

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the meeting. Members of the public may access copies of these documents (*see* **ADDRESSES**).

Public Meeting

At the February 9, 2011, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 22nd Session of the CCFO—Martin Stutsman (*see* **ADDRESSES**). Written comments should state that they relate to activities of the 22nd Session of the CCFO.

USDA Nondiscrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.)

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To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410 or call

202–720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The Update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, 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_&_Events/Email_Subscription/.*

Options range from recalls, export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC on January 24, 2011.

Karen Stuck,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2011–1916 Filed 1–27–11; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Solicitation of Nomination of Veterinary Shortage Situations for the Veterinary Medicine Loan Repayment Program (VMLRP)

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice and solicitation for nominations.

SUMMARY: The National Institute of Food and Agriculture (NIFA) is soliciting nominations for veterinary service shortage situations for the Veterinary Medicine Loan Repayment Program (VMLRP; [75 FR 20239–20248]), as authorized under the National Veterinary Medical Services Act (NVMSA), 7 U.S.C. 3151a. This Notice initiates a 60-day nomination solicitation period and prescribes the procedures and criteria to be used by State, Insular Area, DC and Federal Lands (hereafter referred to as State(s)) Animal Health Officials (SAHO) in order to nominate veterinary shortage situations. All States are eligible to submit nominations, up to the maximum indicated for each State in this notice. NIFA is conducting this solicitation of veterinary shortage situation nominations under previously approved information collection (OMB Control Number 0524–0046).

FOR FURTHER INFORMATION CONTACT: Gary Sherman; National Program Leader, Veterinary Science; National Institute of Food and Agriculture; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue, SW., Washington, DC 20250–2220; Voice: 202–401–4952; Fax: 202–401–6156; E-mail: *vmlrp@nifa.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background and Purpose

A landmark series of three peer-reviewed studies published in 2007 in the Journal of the American Veterinary Medical Association (JAVMA), and sponsored by the Food Supply Veterinary Medicine Coalition (*http://www.avma.org/fsvm/recognition.asp*), gave considerable attention to the growing shortage of food supply veterinarians, the causes of shortages in this sector, and the consequences to the U.S. food safety infrastructure and to the general public if this trend continues to worsen. Food supply veterinary medicine embraces a broad array of veterinary professional activities, specialties and responsibilities, and is defined as the full range of veterinary medical practices contributing to the production of a safe and wholesome food supply and to animal, human, and environmental health. However, the privately practicing food animal veterinary practitioner population within the U.S. is, numerically, the largest, and arguably the most important single component of the food supply veterinary medical sector. Food animal veterinarians, working closely with livestock producers and State and Federal officials, constitute the first line of defense against spread of endemic and zoonotic diseases, introduction of high consequence foreign animal diseases, and other threats to the health and wellbeing of both animals and humans who consume animal products.

Among the most alarming findings of the Coalition-sponsored studies was objective confirmation that insufficient numbers of veterinary students are selecting food supply veterinary medical careers. This development has led both to current shortages and to projections for worsening shortages over the next 10 years. While there were many reasons students listed for opting not to choose a career in food animal practice or other food supply veterinary sectors, chief among the reasons was concern over burdensome educational debt. According to a survey of veterinary medical graduates conducted by the American Veterinary Medical Association (AVMA) in the spring of 2009, the average educational debt for students graduating from veterinary school is approximately $130,000. Such debt loads incentivize students to select other veterinary careers, such as companion animal medicine, which tend to be more financially lucrative and, therefore, enable students to more quickly repay their outstanding educational loans. Furthermore, when this issue was studied in the Coalition report from the perspective of identifying solutions to this workforce imbalance, panelists were asked to rate 18 different strategies for addressing shortages. Responses from the panelists overwhelmingly showed that student debt repayment and scholarship programs were the most important strategies in addressing future shortages (JAVMA 229:57–69).

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements imposed by the implementation of these guidelines

have been approved by OMB Control Number 0524–0046.

List of Subjects in Guidelines for Veterinary Shortage Situation Nominations

I. Preface and Authority
II. Nomination of Veterinary Shortage Situations
A. General
1. Eligible Shortage Situations
2. Authorized Respondents and Use of Consultation
3. Rationale for Capping Nominations and State Allocation Method
4. State Allocation of Nominations
5. FY 2011 Shortage Situation Nomination Process
6. Submission and Due Date
7. Period Covered
8. Definitions
B. Nomination Form and Description of Fields
1. Access to Nomination Form
2. Physical Location of Shortage Area or Position
3. Type I Shortage
4. Type II Shortage
5. Type III Shortage
6. Written Response Sections
C. NIFA Review of Shortage Situation Nominations
1. Review Panel Composition and Process
2. Review Criteria

Guidelines for Veterinary Shortage Situation Nominations

I. Preface and Authority

In January 2003, the National Veterinary Medical Service Act (NVMSA) was passed into law adding section 1415A to the National Agricultural Research, Extension, and Teaching Policy Act of 1997 (NARETPA). This law established a new Veterinary Medicine Loan Repayment Program (7 U.S.C. 3151a) authorizing the Secretary of Agriculture to carry out a program of entering into agreements with veterinarians under which they agree to provide veterinary services in veterinarian shortage situations. In November 2005, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Pub. L. 109–97) appropriated $495,000 for CSREES to implement the Veterinary Medicine Loan Repayment Program and represented the first time funds had been appropriated for this program. In February 2007, the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110–5) appropriated an additional $495,000 to CSREES for support of the program, and in December 2007, the Consolidated Appropriations Act, 2008 appropriated an additional $868,875 to CSREES for support of this program. On March 11, 2009, the Omnibus Appropriations Act, 2009 (Pub.L. 111–8) was enacted, providing an additional $2,950,000, for the VMLRP. In October 2009, the President signed into law, Public Law 111–80, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2010, which appropriated $4,800,000 for the VMLRP. Consequently, prior to the first group of VMLRP awards (FY 2010), there was a cumulative total of approximately $9.6 million available for NIFA to administer this program. Funding for FY 2011 and future years will depend upon annual appropriations and balances carried forward from prior years, and may vary from year to year.

Section 7105 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246, (FCEA) amended section 1415A to revise the determination of veterinarian shortage situations to consider (1) geographical areas that the Secretary determines have a shortage of veterinarians; and (2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety. This section also added that priority should be given to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.

NARETPA section 1415A requires the Secretary, when determining the amount of repayment for a year of service by a veterinarian to consider the ability of USDA to maximize the number of agreements from the amounts appropriated and to provide an incentive to serve in veterinary service shortage areas with the greatest need. This section also provides that loan repayments may consist of payments of the principal and interest on government and commercial loans received by the individual for attendance of the individual at an AVMA-accredited college of veterinary medicine resulting in a degree of Doctor of Veterinary Medicine or the equivalent. This program is not authorized to provide repayments for any government or commercial loans incurred during the pursuit of another degree, such as an associate or bachelor degree.

The Secretary delegated the authority to carry out this program to NIFA.

Pursuant to the requirements enacted in the NVMSA of 2004 (as revised), and the implementing regulation for this Act, Part 3431 Subpart A of the VMLRP Final Rule [75 FR 20239–20248], NIFA hereby implements guidelines for authorized State Animal Health Officials to nominate veterinary shortage situations for the FY 2011 program cycle:

II. Nomination of Veterinary Shortage Situations

A. General

1. Eligible Shortage Situations

Section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1997 (NARETPA), as amended and revised by Section 7105 of the Food, Conservation, and Energy Act of 2008, Pub. L. 110–246, (FCEA) directs determination of veterinarian shortage situations to consider (1) geographical areas that the Secretary determines have a shortage of veterinarians; and (2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety. This section also added that priority should be given to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.

While the NVMSA (as amended) specifies priority be given to food animal medicine shortage situations, and that consideration also be given to specialty areas such as public health, epidemiology and food safety, the Act does not identify any areas of veterinary practice as ineligible. Accordingly, all nominated veterinary shortage situations will be considered eligible for submission. However, the competitiveness of submitted nominations, upon evaluation by the external review panel convened by NIFA, will reflect the intent of Congress that priority be given to certain types of veterinary service shortage situations. NIFA therefore anticipates that, as in the first year of the program, the 2011 program cycle and perhaps additional subsequent early years of program implementation, the most competitive nominations will be those directly addressing food supply veterinary medicine shortage situations.

NIFA has adopted definitions of the practice of veterinary medicine and the practice of food supply medicine that are broadly inclusive of the critical roles veterinarians serve in both public practice and private practice situations. Nominations describing either public or private practice veterinary shortage situations will therefore be eligible for submission. However, NIFA interprets that Congressional intent is to give priority to the private practice of food animal medicine. NIFA is grateful to the Association of American Veterinary Medical Colleges (AAVMC), the American Veterinary Medical

Association (AVMA), and other stakeholders for their recommendations regarding the appropriate balance of program emphasis on public and private practice shortage situations. NIFA will seek to achieve a final distribution of approximately 90 percent of nominations (and eventual agreements) that are geographic, private practice, food animal veterinary medicine shortage situations, and approximately 10 percent of nominations that reflect public practice shortage situations.

2. State Respondents and Use of Consultation

Respondents on behalf of each State include the chief State Animal Health Official (SAHO), as duly authorized by the Governor or the Governor's designee in each State. The SAHO Nominators are requested to submit to *vmlrp@nifa.usda.gov* a Form NIFA 2009–0001, VMLRP Veterinarian Shortage Situation Nomination, which is available in the State Animal Health Officials section on the VMLRP Web site at *http://www.nifa.usda.gov/vmlrp.* One form must be submitted for each nominated shortage situation. NIFA strongly encourages the SAHO to involve leading health animal experts in the State in the identification and prioritization of shortage situation nominations.

3. Rationale for Capping Nominations and State Allocation Method

In its consideration of fair, transparent and objective approaches to solicitation of shortage area nominations, NIFA evaluated three alternative strategies before deciding on the appropriate strategy. The first option considered was to impose no limits on the number of nominations submitted. The second was to allow each State the same number of nominations. The third (eventually selected) was to differentially cap the number of nominations per State based on defensible and intuitive criteria.

The first option, providing no limits to the number of nominations per State, is fair to the extent that each State and insular area has equal opportunity to nominate as many situations as desired. However, funding for the VMLRP is limited (relative to anticipated demand) and so allowing potentially high and disproportionate submission rates of nominations could both unnecessarily burden the nominators and the reviewers with a potential avalanche of nominations and dilute highest need situations with lower-level need situations. Moreover, NIFA believes that the distribution of opportunity under this program (*i.e.,* distribution of mapped shortage situations resulting from the nomination solicitation and review process) should roughly reflect the national distribution of food supply veterinary service demand. By not capping nominations based on some objective criteria, it is likely there would be no correlation between the mapped pattern and density of certified shortage situations and the actual pattern and density of need. This in turn could undermine confidence in the program with Congress, the public, and other stakeholders.

The second option, limiting all States and insular areas to the same number of nominations suffers from some of the same disadvantages as option one. It has the benefit of limiting administrative burden on both the SAHO and the nomination review process. However, like option one, there would be no correlation between the mapped pattern of certified shortage situations and the actual pattern of need. For example, Guam and Rhode Island would be allowed to submit the same number of nominations as Texas and Nebraska, despite the large difference in the sizes of their respective animal agriculture industries and rural land areas requiring veterinary service coverage.

The third option, to cap the number of nominations in relation to major parameters correlating with veterinary service demand, achieves the goals both of practical control over the administrative burden to the States and NIFA, and of achieving a mapped pattern of certified nominations that approximates the theoretical actual shortage distribution. In addition, this method limits dilution of highest need areas with lower-level need areas. The disadvantage of this strategy is that there is no validated, unbiased, direct measure of veterinary shortage and so it is necessary to employ robust surrogate parameters that correlate with the hypothetical cumulative relative need for each State in comparison to other States. Such parameters exist and the degree to which they are not perfect measures of veterinary need is compensated for by generously assigning nomination allowances based on State rank for each parameter.

In the absence of a validated unbiased direct measure of relative veterinary service need or risk for each State and insular area, the National Agricultural Statistics Service (NASS) provided NIFA with reliable, publically accessible, high quality, unbiased data that correlate with demand for food supply veterinary service. NIFA has consulted with NASS and determined that NASS State-level variables most strongly correlated with food supply veterinary service need are "Livestock and Livestock Products Total Sales ($)" and "Land Area" (acres). The "Livestock and Livestock Products Total Sales ($)" variable broadly predicts veterinary service need in a State because this is a normalized (to cash value) estimate of the extent of (live) animal agriculture in the State. The State "land area" variable predicts veterinary service need because there is positive correlation between State land area, percent of State area classified as rural and the percent of land devoted to actual or potential livestock production. Importantly, land area is also directly correlated with the number of veterinarians needed to provide veterinary services in a State because of the practical limitations relating to the maximum radius of a standard veterinary service area; due to fuel and other cost factors, the maximum radius a veterinarian operating a mobile veterinary service can cover is approximately 60 miles, which roughly corresponds to two or three contiguous counties of average size.

NIFA recognizes that that these two NASS variables are not perfect predictors of veterinary service demand. However, for the purpose of fairly and transparently estimating veterinary service demand, NIFA believes these two unbiased composite variables account for a significant proportion of several of the most relevant factors influencing veterinary service need and risk. To further ensure fairness and equitability, NIFA is employing these variables in a straightforward, transparent and liberal manner that ensures every State and insular area is eligible for at least one nomination and that all States receive a generous apportionment of nominations, relative to their geographic size and size of agricultural animal industries.

Following this rationale, the Secretary is specifying the maximum number of nominations per State in order to (1) assure distribution of designated shortage areas in a manner generally reflective of the differential overall demand for food supply veterinary services in different States, (2) ensure a practical balance between the number of potential awardees and the available shortage situations, (3) assure the number of shortage situation nominations submitted fosters emphasis on selection by nominators and applicants of the highest priority need areas, and (4) provide practical and proportional limitations of the administrative burden borne by SAHOs preparing nominations, and by panelists serving on the NIFA nominations review panel.

Furthermore, instituting a limit on the number of nominations is consistent with language in the Final Rule stating, "The solicitation may specify the maximum number of nominations that may be submitted by each State animal health official."

4. State Allocation of Nominations

For any given program year, the number of designated shortage situations per State will be limited by NIFA, and this will in turn impact the number of new nominations a State may submit each time NIFA solicits shortage nominations. In the first year of the program, NIFA accepted a number of nominations equivalent to the allowable number of designated shortage areas. In the 2011 cycle, NIFA is again soliciting nominations. All eligible submitting entities will, for the 2011 cycle, have an opportunity to do the following: (1) Retain designated status for any shortage situation successfully designated in 2010, (2) rescind any nomination officially designated in 2010, and (3) submit new nominations. The total number of new nominations and designated nominations retained may not exceed the total number of shortages each entity is permitted. An amendment to an existing shortage nomination is presumed to constitute a significant change. Therefore, amended nominations must be rescinded and resubmitted to NIFA for evaluation by the 2011 review panel.

The State cap on number of nominations (and potential designations) will remain the same in 2011 as 2010. Thus, all States have the opportunity to re-establish the maximum number of designated shortage situations. NIFA reserves the right in the future to proportionally adjust the maximum number of designated shortage situations per State to ensure a balance between available funds and the requirement to ensure priority is given to mitigating veterinary shortages corresponding to situations of greatest need. Nomination Allocation tables are available under the State Animal Health Officials section at *http://www.nifa.usda.gov/vmlrp.*

Table I represents "Special Consideration Areas" which include any State or Insular Area not reporting data, and/or reporting less than $1,000,000 in annual Livestock and Livestock Products Total Sales ($), and/or possessing less than 500,000 Acres, as reported by NASS. One nomination is allocated to any State or Insular Area classified as a Special Consideration Area.

Table II shows how NIFA determined nomination allocation based on quartile ranks of States for two variables broadly correlated with demand for food supply veterinary services; "Livestock and Livestock Products Total Sales ($)" (LPTS) and "Land Area (acres)" (LA). The total number of NIFA-approved/designated shortage situations per State in any given program year is based on the quartile ranking of each State in terms of LPTS and LA. States for which NASS has both LPTS and LA values, and which have at least $1,000,000 LPTS and at least 500,000 acres LA (typically all States plus Puerto Rico), were independently ranked from least to greatest value for each of these two composite variables. The two ranked lists were then divided into quartiles with quartile 1 containing the lowest variable values and quartile 4 containing the highest variable values. Each State then received the number of designated shortage situations corresponding to the number of the quartile in which the State falls. Thus a State that falls in the second quartile for LA and the third quartile for LPTS may have a maximum of five designated shortage situations (2 + 3) should the external review panel recommend all allowable nominations, and NIFA concur with the panels' recommendations. This transparent computation was made for each State thereby giving a range of 2 to 8 designated shortage situations, contingent upon each State's quartile ranking for the two variables. Should changes in future funding for the program indicate the need for an increase or decrease in the maximum number of designated shortage situations, a multiplier either greater or less than one will be applied to make a proportional adjustment to every State.

The total number of designated shortage situations for each State in 2011 is shown in Table III.

While Federal Lands are widely dispersed within States and Insular Areas across the country, they constitute a composite total land area over twice the size of Alaska. If the 200-mile limit U.S. coastal waters and associated fishery areas are added, Federal Land total acreage would exceed 1 billion. Both State and Federal Animal Health officials have responsibilities for matters relating directly or indirectly to terrestrial and aquatic food animal health on Federal Lands. An example of a food animal health problem requiring coordination between State and Federal animal health officials is the reemergence of bovine TB infection, thought to be caused in part by circulation of this pathogen in a variety of undomesticated animal reservoirs that come in contact with domestic cattle. Interaction between wildlife and domestic livestock, such as sheep and cattle, is particularly common in the plains States where significant portions of Federal lands are leased for grazing. Therefore, both SAHOs and the Chief Federal Animal Health Officer (Deputy Administrator, Animal and Plant Health Inspection Service or designee) may submit nominations to address shortage situations on or related to Federal Lands.

NIFA emphasizes that shortage nomination allocation is merely intended to broadly balance the number of designated shortage situations across States prior to the applications and awards phase of the VMLRP. In the awards phase, no State will be given a preference for placement of awardees. Awards will be made based strictly on the peer review panels' assessment of the quality of the match between the knowledge, skills and abilities of the applicant and the attributes of the specific shortage situation applied for.

5. FY 2011 Shortage Situation Nomination Process

As described in Section 4 above, all SAHOs will, for the FY 2011 cycle, have an opportunity to do the following: (1) Retain designated status for any shortage situation successfully designated in 2010, without need for reevaluation by merit review panel, (2) rescind any nomination officially designated in 2010, and (3) submit new nominations. The total number of new nominations and designated nominations retained may not exceed the total number of shortages each State is allocated. An amendment to an existing shortage nomination constitutes a significant change and therefore must be rescinded and resubmitted to NIFA as a new nomination, to be evaluated by the 2011 review panel. The State cap on number of nominations (and potential designations) is the same in 2011 as 2010.

The following process is the mechanism by which a SAHO should retain or rescind a designated nomination: NIFA will initiate the process by sending an e-mail to each SAHO of States with at least one designated nomination from FY 2010 that went unfilled with a PDF copy of each nomination form attached to the e-mail. If the SAHO wishes to retain the designated nomination, the SAHO shall include the unrevised PDF copy of the designated nomination form along with any new nominations when submitting nominations by e-mail to *vmlrp@nifa.usda.gov* by the given deadline. Any previously designated nomination form not included in the

submission will be rescinded and removed from the list of designated shortage situations.

New nominations should be submitted by completing the Veterinary Shortage Situation Nomination form that is available in the State Animal Health Officials section at *http://www.nifa.usda.gov/vmlrp.* The completed nomination forms should be e-mailed to *vmlrp@nifa.usda.gov* along with any previously designated nominations that the SAHO wishes to retain.

6. Submission and Due Date

Shortage situation nominations, both new and retained, must be submitted by March 29, 2011, to the Veterinary Medicine Loan Repayment Program; Division of Animal Systems; Institute of Food Production and Sustainability; National Institute of Food and Agriculture; U.S. Department of Agriculture, or by e-mail to *vmlrp@nifa.usda.gov.*

7. Period Covered

Each designated shortage situation shall be certified and remain certified until filled, or withdrawn by the SAHO. A SAHO may request that NIFA remove a previously certified and designated shortage situation by sending an e-mail to *vmlrp@nifa.usda.gov.* The request should specifically identify the shortage situation the SAHO wishes to withdraw, and reason(s) for its withdrawal should be included. The program manager will review the request, make a determination, and inform the requesting SAHO of the final action taken. Where a request for withdrawal of a designated shortage situation leads to its removal from the list of NIFA-designated shortage situations, the withdrawn situation may not be replaced by nomination of an alternate shortage situation until the next time NIFA solicits shortage nominations for this program.

8. Definitions

For the purpose of implementing the solicitation for veterinary shortage situations, the following definitions are applicable:

Act means the National Veterinary Medical Service Act, as amended.

Agency or NIFA means the National Institute of Food and Agriculture.

Department means the United States Department of Agriculture.

Food animal means the following species: bovine, porcine, ovine/camelid, cervid, poultry, caprine, and any other species as determined by the Secretary.

Food supply veterinary medicine means all aspects of veterinary medicine's involvement in food supply systems, from traditional agricultural production to consumption.

Insular area means the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and the Virgin Islands of the United States.

NVMSA means the National Veterinary Medicine Service Act.

Practice of food supply veterinary medicine includes corporate/private practices devoted to food animal medicine, mixed animal medicine located in a rural area (at least 30 percent of practice devoted to food animal medicine), food safety, epidemiology, public health, animal health, and other practices that contribute to the production of a safe and wholesome food supply.

Practice of veterinary medicine means: To diagnose, treat, correct, change, alleviate, or prevent animal disease, illness, pain, deformity, defect, injury, or other physical, dental, or mental conditions by any method or mode; including: The prescription, dispensing, administration, or application of any drug, medicine, biologic, apparatus, anesthetic, or other therapeutic or diagnostic substance or medical or surgical technique, or the use of complementary, alternative, and integrative therapies, or the use of any manual or mechanical procedure for reproductive management, or the rendering of advice or recommendation by any means including telephonic and other electronic communications with regard to any of the above.

Rural area means any area other than a city or town that has a population of 50,000 inhabitants and the urbanized area contiguous and adjacent to such a city or town.

Secretary means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved has been delegated.

Service area means geographic area in which the veterinarian will be providing veterinary medical services.

State means any one of the fifty States, the District of Columbia, and the insular areas of the United States. Also included are total "Federal Lands", defined for convenience as a single entity.

State animal health official or SAHO means the chief State veterinarian, or equivalent, who will be responsible for nominating and certifying veterinarian shortage situations within State, insular Area, DC or Federal Lands entities.

Veterinarian means a person who has received a professional veterinary medicine degree from a college of veterinary medicine accredited by the AVMA Council on Education.

Veterinary medicine means all branches and specialties included within the practice of veterinary medicine.

Veterinary Medicine Loan Repayment Program or VMLRP means the Veterinary Medicine Loan Repayment Program authorized by the National Veterinary Medical Service Act.

Veterinarian shortage situation means any of the following situations in which the Secretary, in accordance with the process in Subpart A of 7 CFR Part 3431, determines has a shortage of veterinarians:

(1) Geographical areas that the Secretary determines have a shortage of food supply veterinarians; and

(2) Areas of veterinary practice that the Secretary determines have a shortage of food supply veterinarians, such as food animal medicine, public health, animal health, epidemiology, and food safety.

B. Nomination Form and Description of Fields

1. Access to Nomination Form

The veterinary shortage situation nomination form is available in the State Animal Health Officials section at *http://www.nifa.usda.gov/vmlrp* and should be e-mailed to *vmlrp@nifa.usda.gov.*

2. Physical Location of Shortage Area or Position

Following conclusion of the nomination submission and designation process, NIFA will prepare lists and/or map(s) that include all certified shortage situations for the current program year. This will require specification of a physical location representing the center of the service area (for a geographic shortage), or the location of the main office or work address for a public practice and/or specialty practice shortage. For example, if the State seeks to certify a tri-county area as a food animal veterinary service (*e.g.,* Type I) shortage situation, a road intersection approximating the center of the tri-county area would constitute a satisfactory physical location for NIFA's listing and mapping purposes. By contrast, if the State is identifying "veterinary diagnostician", a Type III nomination, as a shortage situation, then the nominator would complete this field by filling in the address of the location where the diagnostician would work (*e.g.,* State animal disease diagnostic laboratory).

3. Type I Shortage—80 Percent or Greater Private Practice Food Supply Veterinary Medicine

SAHOs identifying this shortage type must check one or more boxes indicating which specie(s) constitute the veterinary shortage situation. The Type I shortage situation must entail at least an 80 percent time commitment to private practice food supply veterinary medicine. The nominator will specify the minimum percent time (between 80 and 100 percent) a veterinarian must commit in order to satisfactorily fill the specific nominated situation. The shortage situation may be located anywhere (rural or non-rural) so long as the veterinary service shortages to be mitigated are consistent with the definition of "practice of food supply veterinary medicine." The minimum 80 percent time commitment is, in part, recognition of the fact that occasionally food animal veterinary practitioners are expected to meet the needs of other veterinary service sectors such as clientele owning companion and exotic animals. Type I nominations are intended to address those shortage situations where the nominator believes a veterinarian can operate profitably committing between 80 and 100 percent time to food animal medicine activities in the designated shortage area, given the client base and other socio-economic factors impacting viability of veterinary practices in the area. This generally corresponds to a shortage area where clients can reasonably be expected to pay for professional veterinary services and where food animal populations are sufficiently dense to support a (or another) veterinarian. The personal residence of the veterinarian (VMLRP awardee) and the address of veterinary practice employing the veterinarian may or may not fall within the geographic bounds of the designated shortage area.

4. Type II Shortage—30 Percent or Greater Private Practice Food Supply Veterinary Medicine in a Rural Area (as Defined)

SAHOs identifying this shortage type must check one or more boxes indicating which specie(s) constitute the veterinary shortage situation. The shortage situation must be in an area satisfying the definition of "rural." The minimum 30 percent-time (12 hr/wk) commitment of an awardee to serve in a rural shortage situation is in recognition of the fact that there may be some remote or economically depressed rural areas in need of food animal veterinary services that are unable to support a practitioner predominately serving the food animal sector, yet the need for food animal veterinary services for an existing, relatively small, proportion of available food animal business is nevertheless great. The Type II nomination is therefore intended to address those rural shortage situations where the nominator believes there is a critical shortage of food supply veterinary services, and that a veterinarian can operate profitably committing 30 to 100 percent to food animal medicine in the designated rural shortage area. The nominator will specify the minimum percent time (between 30 and 100 percent) a veterinarian must commit in order to satisfactorily fill the specific nominated situation. Under the Type II nomination category, the expectation is that the veterinarian may provide veterinary services to other veterinary sectors (*e.g.,* companion animal clientele) as a means of achieving financial viability. As with Type I nominations, the residence of the veterinarian (VMLRP awardee) and/or the address of veterinary practice employing the veterinarian may or may not fall within the geographic bounds of the designated shortage area. However, the awardee is required to verify the specified minimum percent time commitment (30 percent to 100 percent) to service within the specified geographic shortage area.

5. Type III Shortage—Public Practice Shortage (49%-Time or Greater Public Practice)

SAHOs identifying this shortage type must, in the spaces provided, identify the "Employer" and the presumptive "Position Title", and check one or more of the appropriate boxes identifying the specialty/disciplinary area(s) being nominated as a shortage situation. This is a broad nomination category comprising many types of specialized veterinary training and employment areas relating to food supply veterinary workforce capacity and capability. These positions are typically located in city, county, State and Federal Government, and institutions of higher education. Examples of positions within the public practice sector include university faculty and staff, veterinary laboratory diagnostician, County Public Health Officer, State Veterinarian, State Public Health Veterinarian, State Epidemiologist, FSIS meat inspector, Animal and Plant Health Inspection Service (APHIS) Area Veterinarian in Charge (AVIC), and Federal Veterinary Medical Officer (VMO).

Veterinary shortage situations such as those listed above are eligible for consideration under Type III nomination. However, nominators should be aware that Congress has stipulated that the VMLRP must emphasize private food animal practice shortage situations. Accordingly, NIFA anticipates that loan repayments for the Public Practice sector will be limited to approximately 10 percent of total nominations and available funds.

The minimum time commitment serving under a Type III shortage nomination is 49 percent. The nominator will specify the minimum percent time (between 49 percent and 100 percent) a veterinarian must commit in order to satisfactorily fill the specific nominated situation. NIFA understands that some public practice employment opportunities that are shortage situations may be part-time positions. For example, a veterinarian pursuing an advanced degree (in a shortage discipline area) on a part-time basis may also be employed by the university for the balance of the veterinarian's time to provide part-time professional veterinary service(s) such as teaching, clinical service, or laboratory animal care; areas that may or may not also qualify as veterinary shortage situations. The 49 percent minimum therefore provides flexibility to nominators wishing to certify public practice shortage situations that would be ineligible under more stringent minimum percent time requirements.

6. Written Response Sections

a. Objectives of a veterinarian meeting this shortage situation.

Within the allowed word limit the nominator should clearly state overarching objectives the State hopes to achieve by placing a veterinarian in the nominated situation. Include the minimum percent time commitment (within the range of the shortage Type selected) the awardee is expected to devote to filling the specific food supply veterinary shortage situation.

b. Activities of a veterinarian meeting this shortage situation.

Within the allowed word limit the nominator should clearly state the principal day-to-day professional activities that would have to be conducted in order to achieve the objectives described in a) above.

c. Past efforts to recruit and retain a veterinarian in the shortage situation.

Within the allowed word limit the nominator should explain any prior efforts to mitigate this veterinary service shortage, and prospects for recruiting veterinarian(s) in the future.

d. Risk of this veterinarian position not being secured or retained.

Within the allowed word limit the nominator should explain the

consequences of not addressing this veterinary shortage situation.

e. Candidacy for a "service in emergency" agreement.

NIFA is not requesting information in support of this type of agreements at this time.

C. NIFA Review of Shortage Situation Nominations

1. Review Panel Composition and Process

NIFA will convene a panel of food supply veterinary medicine experts from Federal and State agencies, as well as institutions receiving Animal Health and Disease Research Program funds under section 1433 of the National Agricultural Research, Extension, and Teaching Policy Act (NARETPA), who will review the nominations and make recommendations to the NIFA Program Manager. NIFA explored the possibly of including experts from professional organizations for this process, but under NARETPA section 1409A(e), panelists for the purposes of this process are limited to Federal and State agencies and cooperating State institutions (*i.e.,* NARETPA section 1433 recipients).

The VMLRP Program Manager will then review the recommendations and designate the VMLRP shortage situations. The list of shortage situations will be made available on the VMLRP Web site at *http://www.nifa.usda.gov/vmlrp.*

2. Review Criteria

Criteria used by the shortage situation nomination review panel and NIFA for certifying a veterinary shortage situation will be consistent with the information requested in the shortage situations nomination form. NIFA understands that defining the risk landscape associated with shortages of veterinary services throughout a State is a process that may require consideration of many qualitative and quantitative factors. In addition, each shortage situation will be characterized by a different array of subjective and objective supportive information that must be developed into a cogent case identifying, characterizing, and justifying a given geographic or disciplinary area as one deficient in certain types of veterinary capacity or service. To accommodate the uniqueness of each shortage situation, the nomination form provides opportunities to present a case using both supportive metrics and narrative explanations to define and explain the proposed need. At the same time, the elements of the nomination form provide a common structure for the information collection process which will in turn facilitate fair comparison of the relative merits of each nomination by the evaluation panel.

While NIFA anticipates some arguments made in support of a given shortage situation will be qualitative, respondents are encouraged to present verifiable quantitative and qualitative evidentiary information where ever possible.

The maximum point value review panelists may award for each element is as follows:

20 points: Describe the objectives of a veterinarian meeting this shortage situation as well as being located in the community, area, State/insular area, or position requested above.

20 points: Describe the activities of a veterinarian meeting this shortage situation and being located in the community, area, State/insular area, or position requested above.

5 points: Describe any past efforts to recruit and retain a veterinarian in the shortage situation identified above.

35 points: Describe the risk of this veterinarian position not being secured or retained. Include the risk(s) to the production of a safe and wholesome food supply and/or to animal, human, and environmental health not only in the community but in the region, State/insular area, nation, and/or international community.

An additional 20 points will be used by review panelists to evaluate overall merit/quality of the case made for inclusion of each nomination in the list of certified veterinary shortage situations.

Prior to the panel being convened, shortage situation nominations will be evaluated and scored according to the established scoring system by a primary reviewer. When the panel convenes, the primary reviewer will present each nomination orally in summary form. After each presentation, panelists will have an opportunity, if necessary, to discuss the nomination, with the primary reviewer leading the discussion and recording comments. After the panel discussion is complete, any scoring revisions will be made by and at the discretion of the primary reviewer. The panel is then polled to recommend, or not recommend, the shortage situation for designation. Nominations scoring 70 or higher by the primary reviewer (on a scale of 0 to 100), and receiving a simple majority vote in support of designation as a shortage situation will be "recommended for designation as a shortage situation." Nominations scoring below 70 by the primary reviewer, and failure to achieve a simple majority vote in support of designation will be "not recommended for designation as a shortage situation." In the event of a discrepancy between the primary reviewer's scoring and the panel poll results, the VMLRP program manager will be authorized to make the final determination on the nomination's designation.

Done in Washington, DC this 24th day of January, 2011.

Roger Beachy,

Director, National Institute of Food and Agriculture.

[FR Doc. 2011–1863 Filed 1–27–11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("the Department") has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates. In accordance with our regulations, we are initiating those administrative reviews.

DATES: *Effective Date:* January 28, 2011.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Notice of No Sales

Under 19 CFR 351.213(d)(3), the Department may rescind a review where there are no exports, sales, or entries of subject merchandise during the respective period of review ("POR") listed below. If a producer or exporter

named in this notice of initiation had no exports, sales, or entries during the POR, it must notify the Department within 60 days of publication of this notice in the **Federal Register**. The Department will consider rescinding the review only if the producer or exporter, as appropriate, submits a properly filed and timely statement certifying that it had no exports, sales, or entries of subject merchandise during the POR. All submissions must be made in accordance with 19 CFR 351.303 and are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended ("the Act"). Six copies of the submission should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Further, in accordance with 19 CFR 351.303(f)(3)(ii), a copy of each request must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order ("APO") to all parties having an APO within seven days of publication of this initiation notice and to make our decision regarding respondent selection within 21 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the applicable review.

Separate Rates

In proceedings involving non-market economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative 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.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, 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), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate-rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate-rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate-rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate-rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://www.trade.gov/ia* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the "Instructions for Filing the Certification" in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 60 days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [1] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on the Department's Web site at *http://www.trade.gov/ia* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 60 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate-rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than December 31, 2011.

	Period to be reviewed
Antidumping Duty Proceedings	
ARGENTINA: Honey A–357–812 ..... AGLH S.A.	12/01/09–11/30/10

[1] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceedings (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[2] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Application.

	Period to be reviewed
Algodonera Avellaneda S.A.	
Alimentos Naturales-Natural Foods Lavalle	
Alma Pura S.A.	
Apidouro Comercial Exportadora E Importadora Ltda	
Bomare S.A.	
Compania Apicola Argentina S.A.	
Compania Inversora Platense S.A.	
El Mana S.A.	
HoneyMax S.A.	
Industrial Haedo S.A.	
Interrupcion S.A.	
Mielar S.A.	
Miel Ceta SRL	
Nexco S.A.	
Patagonik SA	
Productos Afer S.A.	
Seabird Argentina S.A.	
TransHoney S.A.	
Villamore S.A.	
INDIA: Carbazole Violet Pigment 23 A–533–838	12/1/09–11/30/10
Meghmani Pigments [3]	
Certain Hot-Rolled Carbon Steel Flat Products A–533–820	12/1/09–11/30/10
Ispat Industries, Ltd.	
JSW Steel Limited	
Tata Steel Limited	
THE PEOPLE'S REPUBLIC OF CHINA: Carbazole Violet Pigment 23 [4] A–570–892	12/1/09–11/30/10
Toyo Ink Mfg. Co., Ltd.	
Certain Cased Pencils [5] A–570–827	12/1/09–11/30/10
Beijing Fila Dixon Stationery Company, Ltd. a/k/a Beijing Dixon Ticonderoga Stationery Company, Ltd. a/k/a Beijing Dixon Stationery Company, Ltd. and Dixon Ticonderoga Company	
Shandong Rongxin Import & Export Co., Ltd.	
Hand Trucks and Parts Thereof [6] A–570–891	12/1/09–11/30/10
New-Tec Integration (Xiamen) Co., Ltd.	
Honey [7] A–570–863	12/1/09–11/30/10
Ahcof Industrial Development Corp., Ltd.	
Alfred L. Wolff (Beijing) Co., Ltd.	
Anhui Honghui Foodstuff (Group) Co., Ltd.	
Anhui Honghui Import & Export Trade Co., Ltd.	
Anhui Cereals Oils and Foodstuffs I/E (Group) Corporation	
Anhui Hundred Health Foods Co., Ltd.	
Anhui Native Produce Imp & Exp Corp.	
APM Global Logistics (Shanghai) Co.	
Baiste Trading Co., Ltd.	
Cheng Du Wai Yuan Bee Products Co., Ltd.	
Chengdu Stone Dynasty Art Stone	
Damco China Limited Qingdao Branch	
Dongtai Peak Honey Industry Co., Ltd.	
Eurasia Bee's Products Co., Ltd.	
Feidong Foreign Trade Co., Ltd.	
Fresh Honey Co., Ltd. (formerly Mgl. Yun Shen)	
Golden Tadco Int'l	
Hangzhou Golden Harvest Health Industry Co., Ltd.	
Haoliluck Co., Ltd.	
Hengjide Healthy Products Co. Ltd.	
Hubei Yusun Co., Ltd.	
Inner Mongolia Altin Bee-Keeping	
Inner Mongolia Youth Trade Development Co., Ltd.	
Jiangsu Cereals, Oils Foodstuffs Import Export (Group) Corp.	
Jiangsu Kanghong Natural Healthfoods Co., Ltd.	
Jiangsu Light Industry Products Imp & Exp (Group) Corp.	
Jilin Province Juhui Import	
Maersk Logistics (China) Company Ltd.	
Nefelon Limited Company	
Ningbo Shengye Electric Appliance	
Ningbo Shunkang Health Food Co., Ltd.	
Ningxia Yuehai Trading Co., Ltd.	
Product Source Marketing Ltd.	
Qingdao Aolan Trade Co., Ltd.	
QHD Sanhai Honey Co., Ltd.	
Qinhuangdao Municipal Dafeng Industrial Co., Ltd.	
Renaissance India Mannite	
Shaanxi Youthsun Co., Ltd.	
Shanghai Bloom International Trading Co., Ltd.	
Shanghai Foreign Trade Co., Ltd.	

	Period to be reviewed
Shanghai Hui Ai Mal Tose Co., Ltd.	
Shanghai Taiside Trading Co., Ltd.	
Shine Bal Co., Ltd.	
Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd.	
Silverstream International Co., Ltd.	
Sunnice Honey	
Suzhou Aiyi IE Trading Co., Ltd.	
Suzhou Shanding Honey Product Co., Ltd.	
Tianjin Eulia Honey Co., Ltd.	
Tianjin Weigeda Trading Co., Ltd.	
Wanxi Haohua Food Co., Ltd.	
Wuhan Bee Healthy Co., Ltd.	
Wuhan Shino-Food Trade Co., Ltd.	
Wuhu Anjie Food Co., Ltd.	
Wuhu Deli Foods Co. Ltd.	
Wuhu Fenglian Co., Ltd.	
Wuhu Qinshi Tangye	
Xinjiang Jinhui Food Co., Ltd.	
Youngster International Trading Co., Ltd.	
Zhejiang Willing Foreign Trading Co.	
Countervailing Duty Proceedings	
ARGENTINA: Honey C–357–813	1/1/10–12/31/10
INDIA: Certain Hot-Rolled Carbon Steel Flat Products C–533–821	1/1/10–12/31/10
Ispat Industries Limited	
Suspension Agreements	
None.	

[3] Successor-in-interest to Alpanil Industries (75 FR 62765, 10/13/2010).

[4] If the above named company does not qualify for a separate rate, all other exporters of Carbazole Violet Pigment 23 from the People's Republic of China ("PRC") who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[5] If one of the above named companies does not qualify for a separate rate, all other exporters of Certain Cased Pencils from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[6] If the above named company does not qualify for a separate rate, all other exporters of Hand Trucks and Parts Thereof from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[7] If one of the above named companies does not qualify for a separate rate, all other exporters of Honey from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed. Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures "gap" period, of the order, if such a gap period is applicable to the POR.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed in 19 CFR 351.101(d)).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: January 24, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–1958 Filed 1–27–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–804]

Sparklers From the People's Republic of China: Final Results of Sunset Review and Revocation of Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce

DATES: *Effective Date:* December 5, 2010.

SUMMARY: On November 1, 2010, the Department of Commerce ("the Department") initiated the third sunset review of the antidumping duty order on sparklers from the People's Republic of China ("PRC"). Because the domestic interested parties did not participate in this sunset review, the Department is revoking this antidumping duty order.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5047.

SUPPLEMENTARY INFORMATION: On June 18, 1991, the Department issued an antidumping duty order on sparklers from the PRC. *See Antidumping Duty Order: Sparklers From the People's Republic of China,* 56 FR 27946 (June 18, 1991). On December 5, 2005, the Department published its most recent continuation of the order. *See Continuation of Antidumping Duty Order: Sparklers From the People's Republic of China,* 70 FR 72425 (December 5, 2005). On November 1, 2010, the Department initiated the current sunset review of this order. *See Initiation of Five-Year ("Sunset") Review,* 75 FR 67082 (November 1, 2010).

We did not receive a notice of intent to participate from domestic interested parties in this sunset review by the deadline date. As a result, in accordance with 19 CFR 351.218(d)(1)(iii)(A), the Department determined that no domestic interested party intends to participate in the sunset review and, on November 22, 2010, we notified the International Trade Commission, in writing, that we intend to issue a final determination revoking this antidumping duty order. *See* 19 CFR 351.218(d)(1)(iii)(B)(2).

Scope of the Order

The products subject to this order are fireworks each comprising a cut-to-length wire, one end of which is coated with a chemical mix that emits bright sparks while burning. Sparklers are currently classified under subheadings 3604.10.10.00, 3604.10.90.10, and 3604.10.90.50 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Sparklers were formerly classified under HTSUS subcategory 3604.10.00. The Department has reviewed the current categories and has determined that sparklers are currently classified in the above subcategories. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Determination To Revoke

Pursuant to section 751(c)(3)(A) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested party files a notice of intent to participate, the Department shall, within 90 days after the initiation of the review, issue a final determination revoking the order. Because the domestic interested parties did not file a notice of intent to participate in this sunset review, the Department finds that no domestic interested party is participating in this sunset review. Therefore, consistent with 19 CFR 351.222(i)(1)(i) and section 751(c)(3)(A) of the Act, we are revoking this antidumping duty order. The effective date of revocation is December 5, 2010, the fifth anniversary of the date of publication in the **Federal Register** of the most recent notice of continuation of this antidumping duty order. *See* 751(c)(6)(A)(iii) of the Act, and 19 CFR 351.222(i)(2)(i).

Effective Date of Revocation

Pursuant to sections 751(c)(3)(A) and 751(c)(6)(A)(iii) of the Act, and 19 CFR 351.222(i)(2)(i), the Department will instruct U.S. Customs and Border Protection ("CBP") to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from warehouse, on or after December 5, 2010. The Department will issue instructions to CBP 15 days after publication of this notice. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests of review.

This five-year (sunset) review and notice are published in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: January 19, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–1940 Filed 1–27–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA180

Pacific Fishery Management Council (Council); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a meeting of the Ecosystem Advisory Subpanel (EAS), which is open to the public.

DATES: The EAS will meet on Wednesday, February 16, 2011, beginning at 8:30 a.m. and concluding at 5 p.m., or when business for the day is completed.

ADDRESSES: The EAS meeting will be held at the Hyatt Place—Portland Airport, Meeting Place #3, 9750 NE. Cascades Parkway, Portland, OR 97220; telephone: (503) 288–2808.

FOR FURTHER INFORMATION CONTACT: Mike Burner, Staff Officer; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: Please note, this is not a public hearing; it is a work session for the primary purpose of reviewing a report of the Ecosystem Plan Development Team (EPDT) and considering recommendations to the Council on the development of an Ecosystem Fishery Management Plan (EFMP). At the September 2010 Council meeting, the Council tasked the EPDT with a review of the Council's four fishery management plans (FMPs) to identify existing ecosystem-based principles as well as common management needs that may benefit from a coordinated overarching EFMP framework. The EPDT is meeting January 26–27, 2011 and plans to provide its final report in advance of the EAS meeting. The EPDT report is also scheduled to be included in the March 2011 Council Briefing Book and be presented to the Council and its Advisory Bodies at the March 5–10, 2011 Council meeting in Vancouver, WA. EAS recommendations to the Council on the development of an EFMP are anticipated to be discussed on February 16th and may be presented to the Council in March.

Although non-emergency issues not contained in the meeting agenda may come before the EAS for discussion, those issues may not be the subject of formal EAS action during this meeting. EAS action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: January 25, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–1925 Filed 1–27–11; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletion from the Procurement List.

SUMMARY: This action adds services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes a product from the Procurement List previously furnished by such agency.

DATES: *Effective Date:* 2/28/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 11/26/2010 (75 FR 72815) and 12/3/2010 (75 FR 75461–75462), 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 services and impact of the additions on the current or most recent contractors, the Committee has determined that the 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 provide the services to the Government.
2. The action will result in authorizing small entities to provide the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Custodial Service, TSA, Central Illinois Regional Airport, Airport Business Center, 2901 E Empire Street, Bloomington, IL.
NPA: United Cerebral Palsy of the Land of Lincoln, Springfield, IL.
Contracting Activity: GSA, Public Buildings Service, Property Management Division, Springfield, IL.
Service Type/Location: Mailroom Operation, IRS, 801 Tom Martin Drive, Birmingham, AL.
NPAs: ServiceSource, Inc., Alexandria, VA (Prime Contractor). Alabama Industries for the Blind, Talladega, AL (Subcontractor).
Contracting Activity: Dept of the Treasury, IRS/Contracts & Acquisition Division, Washington, DC.
Service Type/Location: Janitorial Service, Bureau of Reclamation—Ephrata Field Office, 32 C Street, NW., Ephrata, WA.
NPA: Good Works, Inc., Spokane, WA.
Contracting Activity: Dept of the Interior, Bureau of Land Management, ID–Boise District Office, Boise, ID.
Service Type/Location: Military Environment Support, Program Executive Office for Simulation, Training and Instrumentation (PEO STRI), 12350 Research Parkway, Orlando, FL.
NPA: Able Forces, Inc, Front Royal, VA.
Contracting Activity: Dept Of The Army, XR W6EC PEO STRI Orlando, FL.
Service Type/Location: Base Supply Center, 2000 Wyoming Boulevard, Kirtland AFB, NM.
NPA: San Antonio Lighthouse for the Blind, San Antonio, TX.
Contracting Activity: Dept of the Air Force, FA9401 377 CONS CC, Kirtland AFB, NM.
Service Type/Location: Landscaping & Groundskeeping, FAA Potomac TRACON, 3699/3701 MacIntosh Drive, Warrenton, VA.
NPA: Portco, Inc., Portsmouth, VA.
Contracting Activity: Department of Transportation, Federal Aviation Administration, Jamaica, NY.

Deletion

On 12/3/2010 (75 FR 75461–75462), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletion from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the product listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the product 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 product deleted from the Procurement List.

End of Certification

Accordingly, the following product is deleted from the Procurement List:

Product

Tape, Pocket Duct.
NSN: 5640–00–NIB–0005—2 in. x 5 YD.
NPA: Cincinnati Association for the Blind, Cincinnati, OH.
Contracting Activity: General Services Administration, New York, NY.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2011–1887 Filed 1–27–11; 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 services to the Procurement List

that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must be Received On or Before: 2/28/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the services to the Government.
2. If approved, the action will result in authorizing small entities provide the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services 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 services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Prime Vendor Support for Foreign Military Sales RDECOM Contracting Center—Aberdeen (Off-site: 507 Kent Street, Utica NY)
NPA: Central Association for the Blind & Visually Impaired, Utica, NY
Contracting Activity: Dept of the Army, PR W2DF RDECOM Acquisition Center, Aberdeen Proving Ground, MD

Service Type/Location: Hospital Housekeeping Service Ireland Army Community Hospital and associated clinics 851 Ireland Loop Fort Knox, KY
NPA: Professional Contract Services, Inc., Austin, TX
Contracting Activity: Dept of the Army, XR W40M Natl Region Contract OFC, Washington, DC

Service Type/Location: Full Food Service USMA Preparatory School West Point, NY
NPA: New Dynamics Corporation, Middletown, NY
Contracting Activity: Mission And Installation Contracting Command—West Point, NY

The DoD contracting activity identified its requirements as Full Food Service; therefore, as required, initially offered this opportunity to the New York State Commission for the Blind and Visually Handicapped Business Enterprise Program (NYCBVH) under the Randolph-Sheppard Act (RSA). The NYCBVH notified the contracting activity via letters on November 2, 2010 and December 1, 2010, that they would not be exercising its priority to provide the services under the RSA and would not disturb the status quo if the project is awarded to another vendor. Accordingly, after coordination with the contracting activity, this project is being considered for addition to the AbilityOne Procurement List.

Service Type/Location: Base Operations Support Service Directorate of Public Works (DPW)/Directorate of Logistics (DOL) Carlisle Barracks, Carlisle, PA
NPA: The Chimes, Inc., Baltimore, MD
Contracting Activity: Dept of the Army, Mission and Installation Command (MICC)—Fort Eustis (Joint Base Langley-Eustis), Fort Eustis, VA

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2011–1886 Filed 1–27–11; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, February 2, 2011; 10 a.m.–11 a.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

Matter To Be Considered

Compliance Status Report

The Commission staff will brief the Commission on the status of compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: January 25, 2011.

Todd A Stevenson,

Secretary.

[FR Doc. 2011–2036 Filed 1–26–11; 4:15 pm]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

AGENCY: Department of the Army, DoD.

ACTION: Meeting Notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, and Federal regulations governing advisory committee meetings, the Department of Defense announces a Federal advisory committee meeting for the United States Military Academy Board of Visitors. This is the 2011 Organizational Meeting of the USMA Board of Visitors. Members of the Board will be provided updates on Academy issues.

DATES: Wednesday, February 16, 2011 at 12 p.m.–3:30 p.m.

ADDRESSES: Capitol Visitors Center, SVC 201/200, Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Committee's Designated Federal Officer or Point of Contact is Ms. Joy A. Pasquazi, (845) 938–5078, *Joy.Pasquazi@us.army.mil*.

SUPPLEMENTARY INFORMATION: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the following Federal advisory committee meeting will take place:

1. *Name of Committee:* United States Military Academy Board of Visitors.
2. *Date:* Wednesday, February 16, 2011.

3. *Time:* 12 p.m.–3:30 p.m. Members of the public wishing to attend the meeting will need to show photo identification in order to gain access to the meeting location. All participants are subject to security screening.

4. *Location:* Capitol Visitors Center, SVC 201/200, Washington, DC.

5. *Purpose of the Meeting:* This is the 2011 Organizational Meeting of the USMA Board of Visitors (BoV). Members of the Board will be provided updates on Academy issues.

6. *Agenda:* The Academy leadership will provide the Board updates on the following: USMA mission, vision, priorities and initiatives, the Cadet Leader Development System (CLDS), and FY2011 budget.

7. *Public's Accessibility to the Meeting:* Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

8. *Committee's Designated Federal Officer or Point of Contact:* Ms. Joy A. Pasquazi, (845) 938–5078, *Joy.Pasquazi@us.army.mil*.

Any member of the public is permitted to file a written statement with the USMA Board of Visitors. Written statements should be sent to the Designated Federal Officer (DFO) at: United States Military Academy, Office of the Secretary of the General Staff (MASG), 646 Swift Road, West Point, NY 10996–1905 or faxed to the Designated Federal Officer (DFO) at (845) 938–3214. Written statements must be received no later than five working days prior to the next meeting in order to provide time for member consideration. By rule, no member of the public attending open meetings will be allowed to present questions from the floor or speak to any issue under consideration by the Board.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–1885 Filed 1–27–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for U.S. Navy F–35C West Coast Homebasing 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 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 (Navy) announces its intent to prepare an Environmental Impact Statement (EIS) to identify and evaluate the potential environmental consequences associated with providing facilities and functions to homebase the F–35C Joint Strike Fighter (JSF) aircraft on the West Coast of the United States. Under this proposal, a total of seven active-duty F/A–18C Hornet aircraft squadrons and one fleet replacement squadron (FRS) will progressively transition from F/A–18C Hornet aircraft to the more advanced F–35C JSF beginning in 2015. This transition will occur as a one-for-one replacement. The aging FA–18C Hornet aircraft are expected to be replaced with F–35C aircraft by 2025. The Navy will evaluate two basing options (plus a no action alternative) to efficiently and economically transition the F–35C aircraft into the fleet. This basing action is consistent with past Navy strike-fighter homebasing actions.

Dates and Addresses: Public scoping meetings are scheduled to receive oral and/or written comments on environmental concerns that should be addressed in the EIS, as follows:

1. Tuesday, February 15, 2011, at the Southwest High School, 2001 Ocotillo Drive, El Centro, CA 92243 (located in Imperial County, California).

2. Thursday, February 17, 2011, at Lemoore Senior Center, 789 South Lemoore Avenue (18th Avenue), Lemoore, CA (located in Kings County, California).

Each meeting will occur from 5 p.m. to 8 p.m. The meetings will be an open house format with informational displays and materials available for public review. The public will have an opportunity to submit written comments on environmental concerns that should be addressed in the U.S. Navy F–35C West Coast Homebasing EIS. Navy staff will be present at these open houses to answer questions.

FOR FURTHER INFORMATION CONTACT: U.S. Navy F–35C West Coast Homebasing EIS Project Manager; Naval Facilities Engineering Command, Southwest; 619–532–2799.

SUPPLEMENTARY INFORMATION: As a replacement for the Navy's aging F/A–18C Hornet aircraft, the U.S. Congress has authorized and appropriated for the procurement of F–35C JSF, the next generation strike-fighter for the Navy. The F–35C is a highly advanced, single-engine, single-seat, supersonic, multi-role strike-fighter aircraft that can operate from conventional runways and aircraft carriers and includes stealth features that makes it difficult to detect on radar. This aircraft will provide the Navy with enhanced war-fighting capabilities while achieving efficiencies in operations and support.

The proposed action would provide facilities and functions to support homebasing a total of one hundred (100) F–35C aircraft (seven squadrons of 10 aircraft each, plus up to 30 aircraft in the FRS) at the selected West Coast homebasing location. By 2025, when the program is complete, the 109 F/A–18C aircraft currently homebased at Naval Air Station (NAS) Lemoore will have been replaced with 100 F–35C aircraft.

The selected homebase installation may require some construction, facility renovations and utility upgrades in order to accommodate the new aircraft. Facility construction and modification would occur prior to and continue throughout the F–35C arrivals. The F–35C would operate within existing airspace and at existing training ranges.

The purpose of the proposed action is to replace aging Pacific Fleet FA–18C Hornet aircraft with the F–35C while meeting the aircrews' associated training and readiness requirements. The need for the proposed action is to support the Navy's Maritime Strategy by maintaining strike fighter capability in the Pacific Fleet with the more advanced F–35C.

During the initial planning process to identify suitable homebase locations for the F–35C, the Navy evaluated 134 Department of Defense installations against the operational and facilities requirements necessary to support the homebasing of the F–35C. Taking into account these requirements and the purpose of and need for the proposed action, the preliminary screening process identified two potential west coast homebasing locations: NAS Lemoore, located in Kings County, California and Naval Air Facility (NAF) El Centro, located in Imperial County, California.

In order to maximize efficiency of support facilities, simulation devices and on-site support personnel, the Navy intends to base all its west coast F–35C aircraft at one location. Accordingly, initial action alternatives to be considered are basing seven F–35C fleet squadrons and one F–35C FRS at either NAS Lemoore or NAF El Centro. Additionally, the U.S. Navy F–35C West Coast Homebasing EIS will evaluate a No Action Alternative at each of the potential homebase locations to provide a baseline for comparison and analysis of the environmental consequences associated with the basing alternatives.

No decision will be made to implement any alternative until the U.S. Navy F–35C West Coast Homebasing EIS process is completed and a Record of Decision is signed by the Assistant Secretary of the Navy (Energy, Installations and Environment) or designee.

Resource areas to be addressed in the U.S. Navy F–35C West Coast Homebasing EIS will include, but not be limited to: Air quality, noise environment, land use, socioeconomics, infrastructure and community services, natural resources, biological resources, cultural resources, safety and environmental hazards. The analysis will evaluate direct and indirect impacts, and will account for cumulative impacts from other relevant activities in the area of NAS Lemoore and NAF El Centro. Relevant and reasonable measures that could avoid or mitigate environmental effects will also be analyzed. Additionally, the Navy will undertake any consultations required by all applicable laws or regulations.

The Navy is initiating the scoping process to identify community concerns and issues that should be addressed in the U.S. Navy F–35C West Coast Homebasing EIS. Federal, state, local agencies, and interested parties and persons are encouraged to provide comments on the proposed action that clearly describe specific issues or topics of environmental concern that the commenter believes that the Navy should consider.

Public scoping comments may be submitted during the 45-day public comment period (from January 28, 2011 through March 14, 2011). All comments will receive the same attention and consideration in the preparation of the EIS. Comments may be submitted either orally or in writing at the two scheduled public scoping meetings; electronically through the project Web site at: *http://www.navyf35cwestcoasteis.com;* and/or may be mailed to: U.S. Navy F–35C West Coast Homebasing EIS Project Manager; Naval Facilities Engineering Command, Southwest (Code EV21/AK); 1220 Pacific Highway, Bldg. 1, San Diego, CA 92132. All public scoping comments on the U.S. Navy F–35 West Coast Homebasing EIS, both written and oral, must be submitted or postmarked no later than March 14, 2011.

Dated: January 25, 2011.

D.J. Werner,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2011–1964 Filed 1–27–11; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before February 28, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov*. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: January 25, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of the Secretary

Type of Review: Extension.

Title of Collection: ED–524 Budget Information Non-Construction Programs Form and Instructions.

OMB Control Number: 1894–0008.

Agency Form Number(s): Department of Education (ED) 524 Form.

Frequency of Responses: New awards.

Affected Public: Private sector; businesses or other for-profit.

Total Estimated Number of Annual Responses: 18,900.

Total Estimated Annual Burden Hours: 330,750.

Abstract: The ED 524 form and instructions are included in U.S. Department of Education discretionary grant application packages and are needed in order for applicants to submit summary-level budget data by budget category, as well as a detailed budget narrative, to request and justify their proposed grant budgets which are part of their grant applications.

Requests for copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4451. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–1929 Filed 1–27–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Availability of the Final Long-Term Management and Storage of Elemental Mercury Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the *Final Long-Term Management and Storage of Elemental Mercury Environmental Impact Statement* (DOE/

EIS–0423, "Mercury Storage FEIS" or "FEIS"). This FEIS, prepared in accordance with the implementing regulations under the National Environmental Policy Act (NEPA), evaluates the potential health and environmental effects of storing a projected total of up to 10,000 metric tons (11,000 tons) of elemental mercury at each of seven alternative sites across the U.S. The FEIS also addresses comments received during the public comment period on the Draft EIS. The U.S. Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), and the Mesa County, Colorado, Board of Commissioners are cooperating agencies on this FEIS.

DATES: DOE will issue a Record of Decision pursuant to the Mercury Storage FEIS no sooner than 30 days after publication of EPA's notice of its availability in the **Federal Register**.

ADDRESSES: Questions and requests for printed or CD copies of the Summary or full FEIS may be directed to: Mr. David Levenstein, EIS Document Manager, Office of Environmental Compliance, EM–41, U.S. Department of Energy, Germantown, Maryland 20874.

The FEIS is available on the Department's NEPA Web site at *http://www.nepa.energy.gov.* Printed copies are also available at the public reading rooms identified under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Further information related to the EIS can be obtained by contacting Mr. Levenstein at the address listed above. Further information about DOE's NEPA process is available on the NEPA Web site at *http://www.nepa.energy.gov* or by contacting: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U. S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Telephone: (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION: The Mercury Export Ban Act of 2008 (the Act) prohibits the export of elemental mercury from the U.S., effective January 1, 2013 (subject to certain essential use exemptions). Section 5 of the Act, *Long-Term Storage,* directs DOE to designate a facility or facilities for the long-term management and storage of elemental mercury generated within the U.S. and, by January 1, 2013, to have the facility or facilities operational and ready to accept custody of such elemental mercury delivered there.

DOE thus needs to develop a capability for the safe and secure long-term management and storage of elemental mercury generated within the U.S. as required by the Act. To this end, DOE proposes to select one or more existing or new facilities for this purpose. Existing facilities may need to be modified. All facilities, whether newly constructed or existing, must comply with applicable requirements of Section 5(d) of the Act, *Management Standards for a Facility,* including the requirements of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA). DOE is following the NEPA process to identify candidate sites for the facility(ies). EPA, TCEQ, and the Mesa County, Colorado, Board of Commissioners are cooperating agencies on the EIS, which has been prepared pursuant to Council on Environmental Quality NEPA implementing regulations at 40 CFR Parts 1500–1508 and DOE NEPA Implementing Procedures at 10 CFR Part 1021.

Based on a structured process described in the Draft EIS issued in January 2010, as well as the FEIS, DOE identified seven government and commercial sites as the range of reasonable alternatives to be evaluated in the EIS: DOE Grand Junction Disposal Site, Grand Junction, Colorado; DOE Hanford Site, Richland, Washington; Hawthorne Army Depot, Hawthorne, Nevada; DOE Idaho National Laboratory, Idaho Falls, Idaho; DOE Kansas City Plant, Kansas City, Missouri; DOE Savannah River Site, Aiken, South Carolina; and Waste Control Specialists, LLC, Andrews, Texas. As required under NEPA, the Draft EIS and FEIS also analyzed a No Action Alternative.

DOE's evaluation includes the facilities and their locations, along with any construction, facility operations, and transportation to the storage facility(ies). Consideration of potential locations includes climate, proximity of human populations, and environmental resource areas for each alternative, along with the potential human health and socioeconomic impacts. DOE has identified the Waste Control Specialists, LLC, site as its preferred alternative.

DOE held a public comment period on the Draft EIS that extended from January 29 through March 30, 2010, and held nine public hearings during this period near the sites analyzed in the Draft EIS. DOE considered all public comments received, including late comments. The FEIS contains DOE's responses.

Public Reading Rooms

Printed copies of the Mercury Storage EIS and supporting technical reports are available for public review at the locations listed below.

Colorado

Mesa County Library, 530 Grand Avenue, Grand Junction, CO 81502–5019, (970) 243–4442.

U.S. Department of Energy, Office of Legacy Management, 2597 B ¾ Road, Grand Junction, CO 81503, (970) 248–6089.

District of Columbia

U.S. Department of Energy, Freedom of Information Act Public Reading Room, 1000 Independence Avenue, SW., Room 1G–033, Washington, DC 20585, (202) 586–5955.

Georgia

Augusta State University, Reese Library, 2500 Walton Way, Augusta, GA 30904, (706) 737–1745.

Savannah State University, Asa H. Gordon Library, 2200 Tompkins Road, Savannah, GA 31404, (912) 356–2183.

Idaho

U.S. Department of Energy, Public Reading Room, 1776 Science Center Drive, Idaho Falls, ID 83402, (208) 526–0833.

Missouri

Mid-Continent Public Library, Blue Ridge Branch, 9253 Blue Ridge Boulevard, Kansas City, MO 64138, (816) 761–3382.

Nevada

Mineral County Library, First & "A" Street, Hawthorne, NV 89415, (775) 945–2778.

New Mexico

Eunice Public Library, 1039 10th Street, Eunice, NM 88231, (575) 394–2336.

Oregon

Portland State University, Government Information, Branford Price Millar Library, 1875 SW. Park Avenue, Portland, OR 97201, (503) 725–5874.

South Carolina

University of South Carolina-Aiken, Gregg-Graniteville Library, 471 University Parkway, Aiken, SC 29801, (803) 641–3320.

South Carolina State Library, 1500 Senate Street, Columbia, SC 29211, (803) 734–8026.

Texas

Andrews County Library, 109 NW. 1st Street, Andrews, TX 79714, (432) 523–9819.

Washington

U.S. Department of Energy, Public Reading Room, Consolidated Information Center, 2770 University Drive, Room 101L, Richland, WA 99352, (509) 372–7443.

University of Washington, Suzzallo-Allen Library, Government Publications Division, Seattle, WA 98195, (206) 543–1937.

Gonzaga University, Foley Center Library, 101–L East 502 Boone, Spokane, WA 99258, (509) 313–5931.

Issued in Washington, DC on January 24, 2011.

Inés R. Triay,

Assistant Secretary for Environmental Management.

[FR Doc. 2011–1892 Filed 1–27–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, February 3, 2011, 6 p.m.

ADDRESSES: Barkley Centre, 111 Memorial Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Reinhard Knerr, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6825.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda:

- Call to Order, Introductions, Review of Agenda
- Deputy Designated Federal Officer's Comments
- Federal Coordinator's Comments
- Liaisons' Comments
- Administrative Issues
- Presentations
- Subcommittee Chairs' Comments
- Public Comments
- Final Comments
- Adjourn

Breaks Taken As Appropriate

Public Participation: The EM SSAB, Paducah, 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 Reinhard Knerr as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Reinhard Knerr at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days prior to the meeting date due to programmatic issues, logistical circumstances, and members' availability. This meeting is being rescheduled to replace the Board's January 20, 2011, meeting which was canceled due to winter weather conditions.

Minutes: Minutes will be available by writing or calling Reinhard Knerr at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.pgdpcab.energy.gov/2011Meetings.html.*

Issued at Washington, DC, on January 24, 2011.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–1900 Filed 1–27–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13226–003]

Blue Heron Hydro LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

January 20, 2011.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 13226–003.

c. *Date filed:* November 1, 2010.

d. *Applicant:* Blue Heron Hydro LLC.

e. *Name of Project:* Ball Mountain Dam Hydroelectric Project.

f. *Location:* U.S. Army Corps of Engineers Ball Mountain Dam on the West River near the Town of Jamaica, Windham County, Vermont.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Lori Barg, Blue Heron Hydro LLC, 113 Bartlett Road, Plainfield, Vermont 05667. (802) 454-1874.

i. *FERC Contact:* Dr. Nicholas Palso, (202) 502–8854 or *nicholas.palso@ferc.gov*.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the "eFiling" link. For a simpler method of submitting text only comments, click on "eComment." 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 eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. Project Description: The Ball Mountain Dam Hydroelectric Project would utilize the U.S. Army Corps of Engineers' existing Ball Mountain Dam and reservoir and would consist of: (1) Two turbine generator modules located within the existing intake tower, each containing 6 horizontal mixed flow turbines directly connected to 6

submersible generator units for a total installed capacity of 2,200 kilowatts; (2) a new 12.47-kilovolt, 1,320-foot-long transmission line; and (3) appurtenant facilities. The project would have an estimated average annual generation of approximately 6,000 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, and prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING APPLICATION;"(2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–1716 Filed 1–27–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Loveland Area Projects—Western Area Colorado Missouri Balancing Authority—Rate Order No. WAPA–155

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Transmission and Ancillary Services Formula Rates.

SUMMARY: The Western Area Power Administration (Western) is proposing to update its Loveland Area Projects (LAP) Transmission and Western Area Colorado Missouri (WACM) Balancing Authority Ancillary Services formula rates. Current formula rates, under Rate Schedules L–FPT1, L–NFPT1, L–NT1, L–AS1, L–AS2, L–AS3, L–AS4, L–AS5, L–AS6 and L–AS7, have been extended and will expire on February 28, 2013. Pursuant to Western's revised Open Access Transmission Tariff (OATT), which was effective December 1, 2009, Western is also proposing new formula rates for Generator Imbalance Service and Unreserved Use Penalties. Western has prepared a brochure that provides detailed information on the proposed formula rates to all interested parties. If adopted, the proposed formula rates, under Rate Schedules L–FPT1, L–NFPT1, L–NT1, L–AS1, L–AS2, L–AS3, L–AS4, L–AS5, L–AS6, L–AS7, L–AS9 and L–AS10, would be in effect from October 1, 2011, through September 30, 2016, or until superseded. Publication of this **Federal Register** notice begins the formal process for consideration of the proposed formula rates.

DATES: The consultation and comment period begins today and will end April 28, 2011. Western will present a detailed explanation of the proposed formula rates at a public information forum that will be held on March 9, 2011, at 9 a.m. MST. Western will accept oral and written comments at a public comment forum that will be held on March 9, 2011, from 1 p.m. to no later than 2:30 p.m. MST. Western will accept written comments any time during the consultation and comment period.

ADDRESSES: The location for both the public information forum and the public comment forum is the Budweiser Events Center, 5290 Arena Circle, Loveland, Colorado. Send written comments to Mr. Bradley S. Warren, Regional Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, e-mail *LAPTransAdj@wapa.gov.* Western will post information about the rate process, as well as comments received via letter and e-mail, on its Web site at *http://www.wapa.gov/rm/ratesRM/2012/default.htm.* Written comments must be received by the end of the consultation and comment period to be considered by Western in its decision process.

FOR FURTHER INFORMATION CONTACT: Mrs. Sheila D. Cook, Rates Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, telephone (970) 461–7211, e-mail *scook@wapa.gov.*

SUPPLEMENTARY INFORMATION: The existing formula-based rates approved under Rate Order WAPA–106 [1] became effective on March 1, 2004, with an expiration date of February 28, 2009. The rate schedules, with the exception of Rate Schedule L–AS3, Regulation and Frequency Response, were extended through February 28, 2011, under Rate Order No. WAPA–141.[2] Rate Schedule L–AS3 was revised and approved under Rate Order No. WAPA–118,[3] which became effective June 1, 2006, with an expiration date of May 31, 2011. All Transmission and Ancillary Services rate schedules, including the Regulation and Frequency Response Service schedule, were extended through February 28, 2013, under Rate Order No.

[1] WAPA–106 was approved by FERC on a final basis on January 31, 2005, in Docket No. EF–04–5182–000 (110 FERC ¶ 62,084).

[2] WAPA–141 Extension of Rate Order No. WAPA 106, 2-year extension through February 28, 2011. 73 FR 48382, August 19, 2008.

[3] WAPA–118 was approved by FERC on a final basis on November 17, 2006, in Docket No. EF–06–5182–000 (117 FERC ¶ 62,163).

WAPA–154.[4] The current rate schedules contain formula-based rates that are recalculated annually using updated financial and load information. The proposed rates continue this approach. If adopted, these proposed formula-based rates would be in effect October 1, 2011, through September 30, 2016. This **Federal Register** notice describes each service and contains a Rate Comparison Table for quick reference.

Proposed Formula Rate for Network Transmission Service

The proposed formula for calculating the Network Transmission Service rate, Rate Schedule L–NT1 is unchanged from the current formula:

Monthly Charge = 1/12 × Annual Transmission Revenue Requirement × Customer Load Ratio Share

The load ratio share is based on the 12-month average of the network customer's hourly load coincident with the LAP monthly transmission system peak. See discussion below on the calculation of the Annual Transmission Revenue Requirement (ATRR).

Proposed Formula Rate for Firm Point-to-Point Transmission Service

Western proposes no change in the rate formula for Firm Point-to-Point Transmission Service, Rate Schedule L–FPT1. The monthly rate is 1/12 of the ATRR divided by the 12-month average of the system peak load of the LAP transmission system.

Proposed Formula Rate for Non-Firm Point-to-Point Transmission Service

Western proposes no change in the rate formula for Non-Firm Point-to-Point Transmission Service, Rate Schedule L–NFPT1. The proposed monthly Non-Firm Point-to-Point Transmission Service rate formula is the same as the monthly Firm Point-to-Point Transmission Service rate. Non-Firm Point-to-Point Transmission Service is available for periods ranging from 1 hour to 1 month.

Proposed Annual Transmission Revenue Requirement

The proposed ATRR would be applicable to both Network and Point-to-Point Transmission Service. The formula for calculating the ATRR would be unchanged from the current formula:

$$\text{Annual Transmission Revenue Requirement} = \text{Annual Transmission Cost} + \text{Transmission Expenses Which Increase Transmission System Capacity} - \text{Miscellaneous Revenue Credits} - \text{Revenue Credits For Existing Contracts}$$

The Annual Transmission Cost is the ratio of Net Investment Cost for Transmission Facilities to Net Investment Cost for All Facilities multiplied by the Total Annual Costs for All Facilities. Total Annual Costs include operations and maintenance, interest and depreciation expenses. The calculation is:

$$\text{Annual Transmission Cost} = \frac{\text{Gross Investment Cost for Transmission Facilities}}{\text{Gross Investment Cost for All Facilities}} \times \text{Total Annual Costs}$$

This represents a change in how the inputs for the rate are developed. Currently, the Annual Transmission Cost is derived by multiplying the Net Investment Cost for Transmission Facilities by a fixed charge rate.

The Net Investment Cost for Transmission Facilities would be determined by an analysis of the LAP Transmission System. Each LAP facility is classified by function: transmission, sub-transmission, distribution, or generation-related. The facilities identified as performing the function of transmission include all transmission lines that are normally operated in a continuously-looped manner and the associated substations and switchyard facilities. In the LAP Transmission System, these are primarily the 115-kV and the 230-kV transmission lines. In addition, a portion of the communication and maintenance facilities is included in the investment costs for transmission. Only the investment costs of the facilities identified as "transmission", including allocated costs for communication and maintenance facilities, are used in developing the Annual Transmission Cost. The investment costs of facilities identified as "sub-transmission" and "distribution" are excluded from the ATRR, as the LAP sub-transmission and distribution systems are used primarily for delivery of Federal power to Federal customers. If a transmission customer requires the use of the sub-transmission or distribution systems, an additional facility-use charge will be assessed. All costs of the Fryingpan-Arkansas Project are considered generation-related and, therefore, are excluded from the ATRR.

The transmission expenses which increase transmission system capacity would continue to include payments made to others for their systems' augmentation of the LAP Transmission System. Miscellaneous Revenue Credits and Revenue Credits for Existing Contracts would include, but not be limited to, non-firm, discounted firm, and short- and long-term firm transmission sales; Scheduling, System Control, and Dispatch (SSCD) Service; Unreserved Use Penalties; and facility charges for transmission facility investments included in the revenue requirement.

Proposed Change to Forward-Looking Transmission Rates

Western proposes to change the method it uses to calculate the ATRR to recover transmission expenses and investments on a current basis rather than a historical basis. The change Western proposes would allow it to more accurately match cost recovery with cost incurrence. Western would use projections to estimate transmission costs and load for the upcoming year in the annual rate calculation. Currently, the rate calculation for a year uses actual data from 2 years prior to that year. The proposed method would be a change in the manner in which the inputs for the rate are developed, rather

[4] WAPA–154 Extension of Rate Order Nos. WAPA–106 and WAPA–118. 76 FR 1429, January 10, 2011.

than a change to the formula rate itself. When actual cost information for a year becomes available, Western would calculate the actual revenue requirement. Revenue collected in excess of Western's actual revenue requirement would be included as a credit in the ATRR in a subsequent year. Similarly, any under-collection of the revenue requirement would be recovered in a subsequent year. This true-up procedure would ensure that Western recovers no more and no less than the actual transmission costs for the year. For example, as FY 2012 actual financial data becomes available during FY 2013, the under- or over-collection of revenue during FY 2012 can be determined. When the rates are recalculated for FY 2014, the implemented rates would include an adjustment for revenue under- or over-collected in FY 2012.

Proposed Penalty Rate for Unreserved Use of Transmission Service

Unreserved Use of Transmission Service (Unreserved Use) under the proposed Rate Schedule L–AS10 is provided when a transmission customer uses transmission service it has not reserved or that exceeds its reserved capacity. Western proposes to assess Unreserved Use Penalties against a transmission customer that has not secured reserved capacity or exceeds its reserved capacity at any point of receipt or any point of delivery.

Western proposes that a transmission customer that engages in Unreserved Use be assessed a penalty charge of 200 percent of Western's approved transmission service rate for Point-to-Point Transmission Service as follows:

(i) The Unreserved Use Penalty for a single hour of Unreserved Use would be based upon the rate for daily Firm Point-to-Point Service.

(ii) The Unreserved Use Penalty for more than one assessment for a given duration (*e.g.,* daily) would increase to the next longest duration (*e.g.,* weekly).

(iii) The Unreserved Use Penalty charge for multiple instances of Unreserved Use (*e.g.,* more than one hour) within a day would be based on the rate for daily Firm Point-to-Point Service. Multiple instances of Unreserved Use isolated to one calendar week would result in a penalty based on the charge for weekly Firm Point-to-Point Service. The penalty charge for multiple instances of Unreserved Use during more than one week during a calendar month would be based on the charge for monthly Firm Point-to-Point Service.

A transmission customer that exceeds its firm reserved capacity at any point of receipt or point of delivery, or an eligible customer that uses transmission service at a point of receipt or point of delivery that it has not reserved, would be required to pay for all ancillary services identified in Western's OATT based on the amount of transmission service it used and did not reserve.

Unreserved Use Penalties collected over and above the base Point-to-Point Transmission Service charge would be credited against the LAP ATRR in a subsequent year.

Proposed Rate Schedule for Transmission Losses Service

The proposed rate schedule for Transmission Losses Service, Rate Schedule L–AS7, is unchanged, except that losses settled financially would use WACM pricing rather than LAP pricing. The loss rate is updated periodically and posted on the Rocky Mountain Region (RMR) Open Access Same Time Information System Web site. Transmission Losses are assessed for all real-time and prescheduled transactions on transmission facilities managed by RMR or inside the WACM Balancing Authority. Transmission Customers are allowed the option of financial settlement or energy repayment. Energy repayment is either concurrently or 7 days later. Financial settlement is based on WACM pricing.

Proposed Formula Rate for Scheduling, System Control and Dispatch Service

The proposed formula for SSCD Service, Rate Schedule L–AS1, would be as follows:

$$\text{Cost per Schedule} = \frac{\text{Annual Cost of Scheduling Personnel and Related Costs}}{\text{Number of Schedules per Year}}$$

This formula represents a change from the prior formula. In the past, RMR included some salaries, facility costs, and information technology support costs for the Automatic Generation Control, Switching, Transmission Planning and Operations Management groups in the formula, viewing the rate as encompassing all of system control and dispatch. Under the proposed formula, the Annual Cost of Scheduling Personnel and Related Costs would capture costs primarily for scheduling but would exclude costs for system control and dispatch. Those costs would be captured in other rates. The change in the formula reflects the philosophy that this rate should recover only the costs of providing scheduling/tagging service. The denominator would continue to be the yearly total of daily tags which result in a schedule. However, Schedules for delivery of Transmission Losses would no longer be included in the calculation of the rate, nor would they be invoiced. This would allow customers to submit an unlimited number of loss tags, which permits the Balancing Authority to relate the loss tags to their specific scheduled transactions, without the customers being charged for these separate tags.

Western is also proposing a change in the implementation of this rate. As SSCD Service is one that transmission providers must obtain from the Balancing Authority, Western would allocate the cost of each schedule equally among all transmission providers listed on the tag that are inside the WACM Balancing Authority. Western would charge all non-Federal transmission providers for their allocated costs. Any Federal transmission segment would be exempt from billing, as costs for these segments would be included in the LAP Transmission Service. Currently, the last transmission provider inside the WACM Balancing Authority is charged for the entire cost of the tag unless one of the transmission segments is Federal transmission. In that case, no charge is assessed.

Proposed Formula Rate for Reactive Supply and Voltage Control From Generation or Other Sources Service (VAR Support)

The proposed formula for calculating the revenue requirement for VAR service, Rate Schedule L–AS2, is unchanged from Western's current formula:

$$\text{VAR Support Rate} = \frac{\text{TARRG} \times \text{\% of Resource}}{\text{Load Requiring VAR Support}}, \text{ where}$$

TARRG = Total Annual Revenue Requirement for Generation
% of Resource = Percentage of Resource Capacity Used for VAR Support

The numerator captures the percentage of annual generation plant costs which are used for this service. Net generation plant costs are multiplied by a fixed charge rate for generation to determine the TARRG. The percentage of TARRG which is included in the revenue requirement would be based on the nameplate capability of the generating units with regard to reactive and real power production. The TARRG would be multiplied by the complement of the weighted average power factor rating for generating units. For example, if the weighted average power factor is 98 percent, the numerator would include 2 percent of the TARRG. This is a change in the process for collecting data inputs to the formula rate. In the current formula rate, the percentage of resource for a unit is calculated by measuring actual production of volt-amperes reactive and dividing by the unit nameplate power capability. The rate is applicable to all transmission transactions inside the WACM Balancing Authority in excess of any Federal entitlement. The charge for transmission of a customer's Federal entitlement would be included in the customers' firm electric service charges. Credit may be given to those customers with generators providing the WACM Balancing Authority with VAR support.

Proposed Formula Rate for Regulation and Frequency Response Service (Regulation Service)

The proposed formula for Regulation Service, Rate Schedule L–AS3, would have 4 components:

(1) Load-based Assessment.

$$\text{Regulation Service Rate} = \frac{\text{Total Annual Revenue Requirement for Regulation Service}}{\text{Load in the Balancing Authority Requiring Regulation Service Plus the Installed Nameplate Capacity of Intermittent Resources Serving Load inside the WACM Balancing Authority}}$$

The rate applies to all entities' auxiliary load (total metered load less Federal entitlements) plus the nameplate of intermittent resources serving load inside the WACM Balancing Authority. Restricting this service to intermittent resources serving load inside the WACM Balancing Authority is a change from the current rate. See "Exporting Intermittent Resource Requirement" below. Otherwise, the formula is unchanged.

The revenue requirement will include such costs as plant costs, purchases of a regulation product, purchases of power in support of the units' ability to regulate, purchases of transmission for regulating units that are trapped geographically inside another balancing authority, purchases of transmission required to relocate energy due to regulation/load following issues, and lost sales opportunities resulting from the requirement to generate at night to permit units to have 'down' regulating capability.

The methodology for determining annual plant costs is unchanged. First, the annual costs for plants used to regulate is calculated by multiplying the net plant costs by the fixed charge rate for generation. Then, the annual cost per unit of capacity for regulating plants is calculated by dividing the annual plant costs by the capacity of those plants. Next, the portion of the total annual plant costs to be recovered in the Regulation Service Rate is calculated by multiplying the annual unit cost by the amount of capacity required for regulation. The capacity required for regulation is subject to re-evaluation every year.

(2) Exporting Intermittent Resource Requirement. An entity that exports the output from an intermittent resource to another balancing authority will be required to dynamically meter or dynamically schedule that resource out of the WACM Balancing Authority to another balancing authority. An intermittent resource is a generator that is not dispatchable and cannot store its fuel source and, therefore, cannot respond to changes in system demand or to transmission security constraints.

Western supports the installation of renewable sources of energy but recognizes that certain operational constraints exist in managing the significant fluctuations that are a normal part of their operation. Western has marketed the maximum practical amount of power from its projects, leaving little flexibility for additional balancing authority services. Consequently, Western will not regulate for the difference between the output of an intermittent generator located inside the WACM Balancing Authority and a delivery schedule from that generator serving load located outside the WACM Balancing Authority.

(3) Self-Provision Using Automatic Generation Control (AGC). Western allows entities with automatic or manual generation control to self-provide for all or a portion of their loads. Entities with generation control are known as Sub-Balancing Authorities (SBA) and must meet all of the following criteria: A well-defined boundary, with revenue-quality metering that is approved by the WACM Balancing Authority, accurate as defined by NERC, and which includes megawatt (MW) flow data availability at 6-second or smaller intervals; AGC capability; and Demonstrated Regulation Service capability.

Self-provision would be measured by use of the entity's 1-minute average Area Control Error (ACE) to determine the amount of Self-provision. The assessment would be calculated every hour and the value of ACE would be used to calculate Regulation Service charges as follows:

a. If the entity's 1-minute average ACE is ≤ than 0.5 percent of the entity's hourly average load, no Regulation Service charges would be assessed by the WACM Balancing Authority.

b. If the entity's 1-minute average ACE is > 1.5 percent of the entity's hourly average load, the WACM Balancing Authority would assess Regulation Service charges to the entity's entire load, using the Load-based Regulation Service rate.

c. If the entity's 1-minute average ACE is > 0.5 percent of the entity's hourly average load, but < 1.5 percent of the entity's hourly average load, the WACM Balancing Authority would assess Regulation Service charges based on linear interpolation of zero charge and full charge, using the Load-based Regulation Service rate.

This represents a change from the current formula. Under the current formula rate, the customer has the option of measuring Self-provision by use of either the 1-minute average of its ACE *or* the 1-minute average of the first derivative of its ACE.

Western will monitor the entity's Self-provision on a regular basis. If Western determines that the entity has not been attempting to self-regulate, Western will, upon notification, employ the Load-based Assessment described in (1) above.

(4) Other Self- or Third-party Supply. Western may allow an entity to supply some or all of its required regulation or contract with a third party to do so, even without well-defined boundary metering. The WACM Balancing Authority will evaluate the entity's metering, telecommunications and regulating resource, as well as the required level of regulation, and determine whether the entity qualifies to Self-supply under this provision. This is a new provision under the proposed formula rate.

Proposed Formula Rate for Energy Imbalance Service

Western proposes to revise its formula rate for Energy Imbalance Service, Rate Schedule L–AS4, to be more consistent with Federal Energy Regulatory Commission (FERC) guidelines. Currently, Western calculates imbalances in two deviation bands and assesses a 25 percent penalty for hourly deviations in excess of 5 percent of metered load. Western proposes to implement a penalty and bandwidth structure with 3 deviation bands as follows:

(1) Imbalances of less than or equal to 1.5 percent of metered load (or 4 MW, whichever is greater) would be settled financially at 100 percent of the WACM Balancing Authority pricing for that hour. Each hour will stand on its own—there will be no monthly netting. There is no change in the use of pricing. If the WACM Balancing Authority aggregate imbalance is a net over-delivery, sales pricing will be used; if the aggregate imbalance is a net under-delivery, purchase pricing will be used.

(2) Imbalances between 1.5 percent and 7.5 percent of metered load (or 4 to 10 MW, whichever is greater) would be settled financially at 90 percent of the WACM Balancing Authority hourly sales price for over-scheduling imbalances or 110 percent of the WACM Balancing Authority hourly purchase price for under-scheduling imbalances.

(3) Imbalances greater than 7.5 percent of metered load (or 10 MW, whichever is greater) would be settled financially at 75 percent of the WACM Balancing Authority hourly sales price for over-scheduling imbalances or 125 percent of the WACM Balancing Authority hourly purchase price for under-scheduling imbalances.

Western is proposing to assess an administrative charge on each monthly settlement under this service. Western would establish a pool of costs to be recovered to include, but not be limited to, salaries for personnel administering this service. Western would then calculate the ratio of this amount to the absolute value of all Energy Imbalance Service settlements for the most current year for which data is available. This percentage will be applied to the amount of each monthly settlement, reducing payments and increasing charges to the customer.

Proposed Formula Rate for Generator Imbalance Service

Western is proposing a new Generator Imbalance Service Formula Rate, Rate Schedule L–AS9, pursuant to FERC guidelines. This service would be provided to the following customers:

(1) Multi-party generators whose output is shared by several entities. If the operator of the generator prefers, the generator's output will be allocated among the unit participants and included in the Energy Imbalance Service calculations for those participants.

(2) Intermittent resources serving load inside the WACM Balancing Authority.

An entity's solely-owned non-intermittent resource inside the WACM Balancing Authority would be included in the entity's Energy Imbalance Service calculation.

Western has marketed the maximum amount of capacity from its projects, leaving little flexibility for additional WACM Balancing Authority services. Consequently, Western will not regulate for the difference between the output of an intermittent generator located within the WACM Balancing Authority and a delivery schedule from that generator serving load located outside the WACM Balancing Authority. Intermittent generators serving load outside the WACM Balancing Authority would be required to dynamically meter or dynamically schedule their generation to another balancing authority. An intermittent resource is a generator that is not dispatchable and cannot store its fuel source and, therefore, cannot respond to changes in system demand or to transmission security constraints (see discussion on the proposed formula rate for Regulation Service).

The formula rate for Generator Imbalance Service would be identical to that for Energy Imbalance Service, with the following exceptions:

(1) Bandwidths would be calculated as a percentage of metered generation, since there is no load.

(2) Intermittent resources would be exempt from the outer bandwidth. All deviations greater than 1.5 percent of metered generation will be subject only to a 10 percent penalty.

In any hour, Western may charge a customer a penalty for either Generator Imbalance Service under Rate Schedule L–AS9 or Energy Imbalance Service under Rate Schedule L–AS4, but not both, unless the imbalances aggravate rather than offset each other.

Generator Imbalance Service calculations would be included with Energy Imbalance Service calculations in the allocation of a single pool of administrative costs.

Proposed Rate Schedules for Operating Reserves Service—Spinning and Supplemental

The proposed rate schedules for Spinning and Supplemental Reserves, Rate Schedules L–AS5 and L–AS6 are unchanged. The WACM Balancing Authority has no reserves available for sale. However, at a customer's request, the WACM Balancing Authority will purchase reserves and, if necessary, activation energy and pass the cost, plus a fee for administration, through to the customer. For all reserves purchased, the customer will be responsible for purchasing adequate transmission to support the purchase.

Rate Comparison

Following is a table which compares the proposed formula rates for FY 2012 with the current formula rates for FY 2011:

FORMULA RATE COMPARISON TABLE

Class of service	Proposed Rate Schedule and estimated rate effective October 1, 2011 [1] (FY 2012)	Existing Rate Schedule and rate effective October 1, 2010 (FY 2011)
Network Transmission Service	L–NT1 Load ratio share of 1/12 of the revenue requirement of $56,146,133	L–NT1. Load ratio share of 1/12 of the revenue requirement of $48,000,660.
Firm Point-to-Point Transmission Service.	L–FPT1 $3.45/kW-month	L–FPT1. $3.18/kW-month Unauthorized Use Penalty of 150% of demand charge, with a maximum of monthly service.
Non-Firm Point-to-Point Transmission Service.	L–NFPT1 Maximum of 4.73 mills/kWh	L–NFPT1. Maximum of 4.17 mills/kWh Unauthorized Use Penalty of 150% of demand charge, with a maximum of monthly service.
Scheduling, System Control, and Dispatch Service.	L–AS1 $24.03 per schedule per day for non-transmission customers.	L–AS1. $38.30 per tag per day for non- transmission customers.
Reactive Supply and Voltage Control from Generation or Other Sources Service.	L–AS2 $0.318/kW-month	L–AS2. $0.180/kW-month.
Regulation and Frequency Response Service.	L–AS3 $0.322/kW-month	L–AS3. $0.339/kW-month.
Energy Imbalance Service	L–AS4 —Imbalances less than or equal to 1.5% (minimum 4 MW) of metered load settled using WACM hourly pricing with no penalty. —Imbalances 1.5% to 7.5% (minimum 4 MW to 10 MW) of metered load settled using WACM hourly pricing with a 10% penalty. —Imbalances greater than 7.5% (minimum 10 MW) of metered load settled using WACM hourly pricing with a 25% penalty. —Administrative fee charged on every settlement.	L–AS4. —Imbalances less than or equal to 5% (minimum 4 MW) of metered load settled using WACM pricing with no penalty. —Imbalances greater than 5% of metered load settled using WACM pricing with a 10% penalty.
Operating Reserves Service—Spinning and Supplemental.	L–AS5, L–AS6 Long-term reserves are not available from WACM. Reserves may be provided on a pass-though cost, plus an amount for administration.	L–AS5, L–AS6. Long-term reserves are not available from WACM. Reserves may be provided on a pass-though cost, plus an amount for administration.
Transmission Losses Service	L–AS7 Transmission losses may be settled either financially or with energy. Insufficient losses supplied will be settled financially by default All customers will have the option to return the loss obligation for both prescheduled and real-time transactions 7 days later, same profile Pricing used is WACM weighted average hourly purchase price.	L–AS7 Transmission losses may be settled either financially or with energy. Insufficient losses supplied will be settled financially by default. All customers will have the option to return the loss obligation for both prescheduled and real-time transactions 7 days later, same profile. Pricing used is LAP weighted average hourly purchase price.
Generator Imbalance Service	L–AS9 —Imbalances less than or equal to 1.5% (minimum 4 MW) of metered generation settled using WACM hourly pricing with no penalty. —Imbalances 1.5% to 7.5% (minimum 4 MW to 10 MW) of metered generation settled using WACM hourly pricing with a 10% penalty. —Imbalances greater than 7.5% (minimum 10 MW) of metered generation settled using WACM hourly pricing with a 25% penalty. —Intermittent Resources not subject to 3rd band penalties. —Administrative fee charged on every settlement.	Provided Under Rate Schedule L–AS4.
Penalty Rate for Unreserved Use of Transmission Service.	L–AS10 Penalized 200% of demand charge, with a maximum of monthly service.	Provided Under Rate Schedules L–FPT1 and L–NFPT1.

[1] Rates effective October 1, 2011, are preliminary and are subject to change upon publication of final formula rates.

Legal Authority

Because the proposed formula rates constitute a major rate adjustment as defined by 10 CFR part 903, Western will hold both a public information forum and a public comment forum. After review of public comments, Western will take further action on the proposed formula rates consistent with 10 CFR part 903.

Western is proposing LAP Transmission and WACM Ancillary

Services formula rates under the Department of Energy (DOE) Organization Act (42 U.S.C. 7152); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts specifically applicable to the projects involved.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents that Western initiates or uses to develop the proposed formula rates are available for inspection and copying at the Rocky Mountain Regional Office, located at 5555 East Crossroads Boulevard, Loveland CO. Many of these documents and supporting information are also available on Western's Web site under the 2012 Rate Adjustment—Transmission and Ancillary Services section located at *http://www.wapa.gov/rm/ratesRM/2012/default.htm.*

Ratemaking Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347), Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and DOE NEPA Regulations (10 CFR part 1021), Western is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: January 21, 2011.

Timothy J. Meeks,

Administrator.

[FR Doc. 2011–1894 Filed 1–27–11; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9259–5; Docket ID No. EPA–HQ–ORD–2010–1077]

Availability of Draft Report, Biofuels and the Environment: First Triennial Report to Congress

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of peer review meeting and public comment period.

SUMMARY: EPA is announcing that it will convene an independent panel of experts to review the external review draft document titled, *Biofuels and the Environment: The First Triennial Report to Congress* (EPA/600/R–10/183A). The peer review meeting will be organized by Versar, Inc., an EPA contractor for external scientific peer review. The EPA also is announcing a 30-day public comment period for the draft document. The draft document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development. The 2007 Energy Independence and Security Act (EISA) mandates increased production of biofuels (fuels derived from organic materials) from 9 billion gallons per year in 2008 to 36 billion gallons per year by 2022. EISA (Section 204) also requires the U.S. Environmental Protection Agency (EPA) to assess and report to Congress every three years on the current and potential future environmental and resource conservation impacts associated with increased biofuel production and use. *Biofuels and the Environment: First Triennial Report to Congress* is the first report on this issue.

The public comment period and the external peer review meeting are separate processes that provide opportunities for all interested parties to comment on the document. EPA intends to forward public comments that are submitted in accordance with this notice, to the external peer review panel, prior to the meeting for their consideration. When finalizing the draft document, EPA intends to consider any public comments that EPA receives in accordance with this notice.

EPA is releasing this draft document solely for the purpose of obtaining public comment and peer review under applicable information quality guidelines. This document does not represent and should not be construed to represent any Agency policy or determination.

EPA, through its Peer Review contractor, Versar, Inc., invites the public to register to attend the peer review meeting. In addition, EPA through Versar, Inc., invites the public to give oral and/or provide written comments during the meeting regarding the draft document under review. The draft document and EPA's charge to the peer reviewers are available primarily via the Internet on NCEA's home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* In preparing a final report, EPA will consider the comments and recommendations from the external peer review meeting and any public comments that EPA receives in accordance with this notice.

DATES: The peer review panel meeting will begin on March 14, 2011, at 9 a.m. and end at 5 p.m. The 30-day public comment period begins January 28, 2011, and ends February 28, 2011. Technical comments should be in writing and must be received by EPA by February 28, 2011.

ADDRESSES: The peer review meeting will be held at the Marriott Courtyard Arlington Crystal City/Reagan National Airport, 2899 Jefferson Davis Highway, Arlington, VA 22202, *telephone:* 703–549–3434. The EPA contractor, Versar, Inc., is organizing, convening and conducting the peer review meeting. To attend the meeting, register by March 7, 2011, by contacting Versar, Inc. via *e-mail: saundkat@versar.com* (*subject line:* Biofuels Report to Congress Peer Review Meeting), by *telephone:* 703–750–3000, ext. 545, or toll free at 1–800–2–VERSAR (1–800–283–7727), ask for Kathy Coon, the Biofuels Report to Congress Meeting Coordinator, or by faxing a registration request to 703–642–6809 (please reference the Biofuels Report to Congress Peer Review Meeting and include your name, title, affiliation, full address and contact information).

Information on Services for Individuals with Disabilities: EPA welcomes the attendance of the public at the Biofuels Report to Congress Peer Review Meeting and will make every effort to accommodate persons with disabilities. For information on access or services for individuals with disabilities, please contact Versar, Inc. via *e-mail: saundkat@versar.com* (*subject line:* Biofuels Report to Congress Peer Review Meeting), by *telephone:* 703–750–3000, ext. 545, or toll free at 1–800–2–VERSAR (1–800–

283–7727), ask for Kathy Coon, the Biofuels Report to Congress Meeting Coordinator, or by faxing a registration request to 703–642–6809 (please reference the Biofuels Report to Congress Peer Review Meeting and include your name, title, affiliation, full address and contact information). To request accommodation of a disability, please contact Versar, Inc., preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

The draft report, *Biofuels and the Environment: First Triennial Report to Congress,* is available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Information Management Team, NCEA; *telephone:* 703–347–8561; *facsimile:* 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title, *Biofuels and the Environment: First Triennial Report to Congress.* Copies are not available from Versar, Inc.

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Questions regarding information, registration, access or services for individuals with disabilities, or logistics for the external peer-review meeting should be directed to Versar, Inc., 6850 Versar Center, Springfield, VA 22151, by *e-mail: saundkat@versar.com* (subject line: Biofuels Report to Congress Peer Review Meeting), by *telephone:* 703–750–3000, ext. 545 or toll free at 1–800–2–VERSAR (1–800–283–7727), ask for Kathy Coon, the Biofuels Report to Congress Meeting Coordinator. To request accommodation of a disability, please contact Versar, Inc. preferably at least 10 days prior to the meeting, to give as much time as possible to process your request.

For information on the public comment period, contact the Office of Environmental Information Docket; *telephone:* 202–566–1752; *facsimile:* 202–566–1753; or *e-mail: ORD.Docket@epa.gov.*

If you need technical information about the document, please contact Bob Frederick, National Center for Environmental Assessment (NCEA); *telephone:* 703–347–5308; *facsimile:* 703–347–8694; *e-mail: frederick.bob@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About the Report to Congress

Many different feedstocks can be used to produce different types of biofuels. This report focuses on impacts from production and use of six feedstocks: Corn and soybeans, which together account for the vast majority of biofuel feedstock currently in use, and four others (corn stover, perennial grasses, woody biomass and algae) that represent a range of feedstocks under development.

Two biofuels, ethanol (both conventional and cellulosic) and biomass-based diesel, are emphasized in this report because they are the most commercially viable in 2010 and/or projected to be the most commercially available by 2022.

As required by the Energy Independence and Security Act (Section 204) of 2007, the report covers impacts on air and water quality, soil quality and conservation, water availability, ecosystem health and biodiversity; the potential invasiveness of feedstocks; and international environmental impacts. This report reviews impacts and mitigation tools across the entire biofuel supply chain, including feedstock production and logistics, and biofuel production, distribution, and use.

Throughout the biofuel supply chain, activities take place and materials are used that have the potential to impact the environment or affect resource use and availability. The specific impacts associated with a particular feedstock or biofuel will vary depending on many factors, including the type, source and method of feedstock production; the technology used to convert the feedstock to fuel; methods used and distances traveled to transport biofuels; the types and quantities of biofuels used; and, controls in place to avoid or mitigate any impacts. EPA's ability to assess environmental and resource conservation impacts is constrained by substantial uncertainties. Since many feedstock technologies are in the early stages of research and development, data relevant to impacts are limited and projections of their potential future use are highly speculative.

II. Meeting Information

Members of the public may attend the peer review meeting as observers and there will be a limited time of no more than five minutes for individual comments from the public during the meeting. Please let Versar, Inc. know if you wish to make comments during the meeting. Space is limited, and reservations will be accepted on a first-come, first-served basis.

III. How To Submit Technical Comments to the Docket at www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2010–1077, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov.*
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, Room 3334 EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2010–1077. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked "late" and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://*

www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: Documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: January 24, 2011.

Darrell A. Winner,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 2011–1920 Filed 1–27–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8995–1]

Environmental Impact 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 01/18/2011 Through 01/21/2011

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 website 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. 20110016, Draft EIS, FTA, MI, Woodward Avenue Light Rail Transit Project, Construction and Operation, City of Detroit, Wayne County, MI, Comment Period Ends: 03/14/2011, Contact: Tricia M. Harr 202–366–0486.

EIS No. 20110017, Draft EIS, BR, CA, Bunker Hill Groundwater Basin, Riverside-Corona Feeder Projects, To Increase Firm Water Supplies, Improve Water Quality, and to Reduce Water Costs, San Bernardino and Riverside Counties, CA, Comment Period Ends: 03/22/2011, Contact: Amy Witherall 951–695–5310.

EIS No. 20110018, Draft EIS, BLM, NV, Salt Wells Energy Projects, Proposal for Three Separate Geothermal Energy and Transmission Projects, Implementation, Churchill County, NV, Comment Period Ends: 03/28/2011, Contact: Colleen Sievers 775–885–6000.

EIS No. 20110019, Final EIS, DOE, 00, Long -Term Management and Storage of Elemental Mercury Storage Project, Designate a Facility or Facilities for Mercy Storage, Seven Alternative Sites, CO, ID, MO, NV, SC and WA, Review Period Ends: 02/28/2011, Contact: David Levenstein 301–903–6500.

EIS No. 20110020, Draft EIS, NRCS, IA, Clarke County Water Supply, To Construct a Multiple-purpose Structure that Provides for Rural Water Supply and Water Based Recreational Opportunities, Clarke County, IA, Comment Period Ends: 03/14/2011, Contact: Richard Sims 515–284–6655.

EIS No. 20110021, Final EIS, NPS, 00, Long Walk National Historic Trail Feasibility Study, To Evaluate the Suitability and Feasibility of Designating the Routes, Implementation, Apache, Coconino, Navajo Counties, AZ; Bernalillo, Cibola, De Baca, Guadalupe, Lincoln, McKinley, Mora, Otero, Santa Fe, Sandolval, Torrance, Valencia Counties, NM, Review Period Ends: 02/28/2011, Contact: Sharon Brown 505–988–6717.

EIS No. 20110022, Draft EIS, USFS, MT, Cedar-Thom Project, Desired Landscapes Conditions and Current Conditions Related to Forest Vegetation, Fuels, Wildlife and Aquatic Habitat and Recreation, Lolo National Forest, Superior Ranger District, Mineral County, MT, Comment Period Ends: 03/14/2011, Contact: Pat Partyka 406–826–4314.

EIS No. 20110023, Final EIS, NRC, WY, Nichols Ranch In-Situ Uranium Recovery (ISR) Project, Proposal to Construct, Operate, Conduct Aquifer Restoration, and Decommission and In-Situ Recovery Uranium Milling Facility, Campbell and Johnson Counties, WY, Review Period Ends: 02/28/2011, Contact: Patricia Swain 301–415–5405.

EIS No. 20110024, Final EIS, USFS, OR, Three Trails Off-Highway Vehicle Project, Designated Off-Highway Vehicle (OHV) Trail System, Crescent Ranger District, Deschutes National Forest, Klamath County, OR, Review Period Ends: 02/28/2011, Contact: Joan Kittrell 541–433–3200.

EIS No. 20110025, Final EIS, FTA, CO, North Metro Corridor Project, Proposed a Commuter Rail Transit from downtown Denver, Colorado, north to State Highway (SH) 7, in the Cities of Denver, Commerce City, Thornton, Northglenn, and Adams County, CO, Review Period Ends: 02/28/2011, Contact: David Beckhouse 720–963–3306.

Amended Notices

EIS No. 20100450, Draft EIS, USFS, ID, Upper Lochsa Land Exchange Project, Proposes to Exchange National Forest System Land for approximately 39,371 Acres of western Pacific Timber Land, Federal Land Exchange, Clearwater, Nez Perce and Idaho Panhandle National Forests, Clearwater, Latah, Idaho, Benewah, Kootenai and Bonner Counties, ID, Comment Period Ends: 03/09/2011, Contact: Teresa Trulock 208–935–4256 Revision to FR Notice 11/26/2010: Extending Comment from 02/23/2011 to 03/09/2011.

EIS No. 20110000, Final EIS, USFS, CA, Concow Hazardous Fuels Reduction Project, Propose to Reduce Hazardous Forest Fuels, Plus Establish and Maintain Spaces - Defensible Fuel Profile Zones (DFPZs), Feather River Ranger District, Plumas National Forest, Towns of Paradise, Magalia, Concow, Butte County, CA, Review Period Ends: 02/14/2011, Contact: Carol Spinos 530–532–8932 Revision to FR Notice Published 01/14/2011: Correction to Contact Phone Number.

Dated: January 25, 2011.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2011–1901 Filed 1–27–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9259–6]

Public Water Supply Supervision Program; Program Revision for the State of Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Alaska has revised its approved State Public Water Supply Supervision Primacy Program. Alaska has adopted regulations analogous to EPA's Stage 2 Disinfectants and Disinfection Byproducts Rule; Long Term 2 Enhanced Surface Water Treatment Rule; and Lead and Copper Short-Term Regulatory Revisions and Clarifications Rule. EPA has determined that these revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA intends to approve these State program revisions. By approving these rules, EPA does not intend to affect the rights of Federally recognized Indian Tribes within "Indian country" as defined by 18 U.S.C. 1151, nor does it intend to limit existing rights of the State of Alaska.

DATES: All interested parties may request a public hearing. A request for a public hearing must be submitted by February 28, 2011 to the Regional Administrator at the EPA address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by February 28, 2011, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on February 28, 2011. Any request for a public hearing shall include the following information: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 9 a.m. and 4 p.m., Monday through Friday, at the following offices: Alaska Department of Environmental Conservation (ADEC), 410 Willoughby, Suite 303, Juneau, Alaska 99801; ADEC South Central Regional Office, 555 Cordova Street, Anchorage, Alaska 99501; ADEC Northern Regional Office, 610 University Avenue Fairbanks, Alaska 99709–3643 and between the hours of 9 a.m.–12 p.m. and 1–4 p.m. at the EPA Region 10 Library, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Wendy Marshall, EPA Region 10, Drinking Water Unit, by mail at the Seattle address given above, by telephone at (206) 553–1890, or by e-mail at *marshall.wendy@epa.gov*.

Authority: Section 1420 of the Safe Drinking Water Act, as amended (1996), and 40 CFR Part 142 of the National Primary Drinking Water Regulations.

Dated: January 20, 2011.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2011–1918 Filed 1–27–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 24, 2011.

Summary: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501—3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

Dates: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 29, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

Addresses: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov*.

For Further Information Contact: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact Judith B. Herman, OMD, 202–418–0214 or e-mail *judith-b.herman@fcc.gov.*

Supplementary Information:

OMB Control Number: 3060–0537.

Title: Section 13.217, COLEM Records.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 9 respondents; 9 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154 and 303.

Total Annual Burden: 9 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain their full three year approval. There is no change in the recordkeeping requirement. There is no change in the Commission's burden estimates.

Section 13.217 requires that each Commercial Operator License Examination Manager (COLEM) recovering fees from examinees who took the Commercial Operator Examination must maintain records of expenses and revenues, frequency of examinations administered, and examination pass rates. These records must cover the period from January 1 to December 31 of the preceding year, be maintained for one year, and be made available to the Commission upon request. This recordkeeping requirement is in place in order to assist the Commission in detecting any wrongdoing within the commercial operator examination program.

The records are journal entries showing revenues collected and expenses incurred. The records may be inspected by FCC field investigators. The records will provide a vehicle for the FCC to cancel the designation of a person or organization as an examination manager. If the information were not maintained, it is conceivable that fraud and abuse could occur in the commercial operator examination program.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–1844 Filed 1–27–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 24, 2011.

Summary: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

Dates: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 29, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

Addresses: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov.*

For Further Information Contact: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact Judith B. Herman, OMD, 202–418–0214 or e-mail *judith-b.herman@fcc.gov*.

Supplementary Information:

OMB Control Number: 3060–1021.

Title: Section 25.139, NGSO FSS Coordination and Information Sharing Between MVDDS Licensees in the 12.2 GHz to 12.7 GHz Band.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 6 respondents; 6 responses.

Estimated Time per Response: 6 hours.

Frequency of Response: Recordkeeping and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 308 and 309(j).

Total Annual Burden: 36 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the full three year approval from them. There is no change in the recordkeeping and/or third party disclosure requirements. There is no change in the Commission's burden estimates.

Section 25.139 requires NGSO FSS licensees to maintain a subscriber database in a format that can be readily shared to enable MVDDS licensees to determine whether a proposed Multichannel Video Distribution and Data Service (MVDDS) transmitting antenna meets the minimum spacing requirements relative to qualifying, existing NGSO FSS subscriber receivers (set forth in 47 CFR 101.129 of the Commission's rules).

The Commission uses the information to ensure that NGSO FSS licensees provide MVDDS licensees with the data needed to determine whether a proposed MVDDS transmitting site meets the minimum spacing requirement relative to certain NGSO FSS receivers.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–1845 Filed 1–27–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

January 19, 2011.

Summary: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to

further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

Dates: Written Paperwork Reduction Act (PRA) comments should be submitted on or before February 28, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

Addresses: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via e-mail to *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.* To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called "Currently Under Review", (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

For Further Information Contact: For additional information or copies of the information collection(s), contact Cathy Williams on (202) 418–2918.

Supplementary Information:

OMB Control Number: 3060–0016.

Title: Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator, or TV Booster Station, FCC Form 346.

Form Number: FCC Form 346.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; not-for-profit institutions; State, local or tribal government.

Number of Respondents and Responses: 3,500 respondents and 3,500 responses.

Estimated Time per Response: 7 hours.

Frequency of Response: On occasion reporting requirements; third party disclosure requirement.

Total Annual Burden: 24,500 hours.

Total Annual Costs: $15,043,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: Confidentiality is not required for this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Licensees/permittees/applicants use FCC Form 346 to apply for authority to construct or make changes in a Low Power Television, TV Translator, or TV Booster broadcast station. On September 9, 2004, the Commission adopted a Report and Order, FCC 04–220, MB Docket Number 03–185, In the Matter of Parts 73 and 74 of the Commission's Rules to Established Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations. To implement the new rules, the Commission revised FCC Form 346 to allow licensees/permittees/applicants to use the revised FCC Form 346 to file for digital stations or for conversion of existing analog to digital.

Applicants are also subject to the third party disclosure requirements under 47 CFR 73.3580. Within 30 days of tendering the application, the applicant is required to publish a notice in a newspaper of general circulation when filing all applications for new or major changes in facilities—the notice is to appear at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be maintained with the application. FCC staff use the data to determine if the applicant is qualified, meets basic statutory and treaty requirements, and will not cause interference to other authorized broadcast services.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–1851 Filed 1–27–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 24, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 29, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact Judith B. Herman, OMD, 202–418–0214 or e-mail *judith-b.herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0290.

Title: Section 90.517, Report of Operation Under Developmental Authorization.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 10 respondents; 10 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7).

Total Annual Burden: 20 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Matters which may be so labeled, that the applicant does not wish to disclose publicly, will not be publicly disclosed without permission of the applicant, and will be used solely for the Commission's information. *See* 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the full three year approval from them. There is no change in the reporting requirement. There is no change in the Commission's burden estimates.

Section 90.517 requires that a report, which shall include comprehensive and detailed information on:

(a) The final objective;

(b) results of operation to date;

(c) analysis of the results obtained;

(d) copies of any published reports;

(e) need for continuation of the program; and

(f) number of hours of operation on each frequency on the results of a developmental program.

The required information shall be filed with and made a part of each application for renewal of authorization. In cases where no renewal is requested, such reports shall be filed within 60 days of the expiration of such authorization. This report is not required if the sole reason for the developmental authorization is that the frequency of operation is restricted to developmental use only.

Commission personnel use the data to evaluate the need for renewal of the applicant's authorization. This information is also used by policy-making personnel to decide the desirability of instituting rulemaking proceedings involving new technologies or new uses of the radio spectrum.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–1846 Filed 1–27–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 11–124]

Emergency Access Advisory Committee; Announcement of Date of Second Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the date of the Emergency Access Advisory Committee's ("Committee or EAAC") second meeting.

DATES: The Committee's second meeting will take place on Friday, February 11, 2011, 10:30 a.m. to 5 p.m. (EST), at Commission Headquarters.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Cheryl King, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 202–418–2284 (voice) or 202–418–0416 (TTY), *Cheryl.King@fcc.gov* (e-mail) or Patrick Donovan, Public Safety and Homeland Security Bureau, Federal Communications Commission, 202–418–2413, *Patrick.Donovan@fcc.gov* (e-mail).

SUPPLEMENTARY INFORMATION: On December 7, 2010, in document DA 10–2318, Chairman Julius Genachowski announced the establishment, and appointment of members and Co-Chairpersons, of the EAAC, an advisory committee required by the Twenty-first Century Communications and Video Accessibility Act of 2010, Public Law 111–260 (Communications Accessibility Act), which directs that an advisory committee be established, for the purpose of achieving equal access to emergency services by individuals with disabilities as part of our nation's migration to a national Internet protocol-enabled emergency network, also known as the next generation 9–1–1 system ("NG9–1–1").

The purpose of the EAAC is to determine the most effective and efficient technologies and methods by which to enable access to NG9–1–1 emergency services by individuals with disabilities. In order to fulfill this mission, the Communications Accessibility Act directs that within one year after the EAAC's members are appointed, the Committee shall conduct a national survey, with the input of groups represented by the Committee's membership, after which the Committee shall develop and submit to the Commission recommendations to implement such technologies and methods.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Federal Communications Commission.

Joel Gurin,

Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2011–1932 Filed 1–27–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Advisory Committee on Diversity for Communications in the Digital Age

AGENCY: Federal Communications Commission.

ACTION: Notice of intent to renew charter.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice is to announce that the Federal Communications Commission (FCC) has renewed the charter of the Advisory Committee on Diversity for Communications in the Digital Age ("Diversity Committee").

ADDRESSES: A copy of the charter is available at the Federal Communications Commission, Reference Information Center, 445 12th Street, SW., Room 7–C753, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Barbara Kreisman, *Barbara.Kreisman@fcc.gov*, (202) 418–1605, Chief, Video Division, Media Bureau, 445 12th Street, SW., Room 2–A666, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: The Committee's objective is to provide recommendations to the FCC regarding policies and practices that will further enhance diverse participation in the telecommunications and related

industries. In particular, the Committee will focus primarily on lowering barriers to entry to communications and related industries for historically disadvantaged men and women, exploring ways in which to ensure universal access to and adoption of broadband in historically disadvantaged communities, and creating an environment that enables employment of a diverse workforce within the communications and related industries. The Committee is charged with gathering the data and information necessary to formulate meaningful recommendations for the objectives outlined above. In developing its recommendations, the Committee will consider industry-based as well as targeted regulatory solutions to challenges identified by the data and information it gathers. Additional information regarding the Diversity Committee can be found at *http://www.fcc.gov/DiversityFAC.*

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 2011–1939 Filed 1–27–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: Thursday, February 3, 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 Minutes for January 20, 2011.

Audit Division Recommendation Memorandum on the Georgia Federal Elections Committee.

Kucinich for President, Inc.—Statement of Reasons—Repayment Determination upon Administrative Review.

Audit Division Recommendation Memorandum on the Kansas Republican Party.

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, 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. 2011–2047 Filed 1–26–11; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS11–03]

Determination Regarding National Appraisal Complaint Hotline

AGENCY: Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council.

ACTION: Determination by the ASC regarding a national appraisal complaint hotline.

SUMMARY: Pursuant to section 1473(p) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Act), the Appraisal Subcommittee (ASC) has determined that no one national hotline presently exists that fully complies with the Act. The determination was made on January 12, 2011, during the ASC's open meeting. In making this determination, the ASC initiated a project to study the establishment and operation of a national appraisal complaint hotline as required by the Act.

DATES: *Effective Date:* Effective immediately.

FOR FURTHER INFORMATION CONTACT: James R. Park, Executive Director, at (202) 595–7575, or Alice M. Ritter, General Counsel, at (202) 595–7577, via Internet e-mail at *jim@asc.gov* and *alice@asc.gov,* respectively, or by U.S. Mail at Appraisal Subcommittee, 1401 H Street, NW., Suite 760, Washington, DC 20005.

SUPPLEMENTARY INFORMATION: Consistent with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended by section 1473(p) of the Act, the ASC must determine within six months of the Act's enactment whether a national appraisal complaint hotline exists. In making the determination, the ASC must consider whether a national hotline exists to receive complaints of noncompliance with appraisal independence standards and the Uniform Standards of Professional Appraisal Practice. Further, the national hotline must have the capability to receive complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process. Based on research by ASC staff of national consumer and other complaint hotlines currently operated by various federal government agencies, including those of the ASC member agencies and the Federal Trade Commission, the ASC has determined that there is no one hotline that fully complies with the Act. In making this determination, the ASC initiated a project to study the establishment and operation of a national appraisal complaint hotline as required by Act. Consistent with the Act, the national appraisal hotline must receive complaints, refer complaints to the appropriate federal or state agency for resolution, and provide the capability to monitor the resolution of complaints.

Dated: January 24, 2011.

By the Appraisal Subcommittee.

Deborah S. Merkle,

Chairman,

[FR Doc. 2011–1866 Filed 1–27–11; 8:45 am]

BILLING CODE P

FEDERAL HOUSING FINANCE AGENCY

[No. 2011–N–02]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: Submission of Information Collection for Emergency Approval from the Office of Management and Budget.

SUMMARY: The Federal Housing Finance Agency (FHFA) submitted to the Office of Management and Budget (OMB) for emergency review, revisions to the information collection, "Federal Home Loan Bank Directors," OMB No. 2590–0006. The revisions were approved under the Paperwork Reduction Act of 1995, Public Law 104–13. Specifically, FHFA requested review of revisions to the 2008 OMB-approved *Federal Home Loan Bank Elective Director Eligibility Certification Form,* the *Federal Home Loan Bank Appointive Director Application Form,* and the *Federal Home Loan Bank Appointive Director Certification Form.* Since 2008, when the Federal Home Loan Banks' (Bank) former regulator, the Federal Housing Finance Board (Finance Board), last obtained OMB approval for this information collection, there have been statutory and regulatory changes affecting the use of the forms. The passage of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289 (2008) amended section 7

of the Federal Home Loan Bank Act (Bank Act) which provided for the appointment of a portion of each Federal Home Loan Bank's board of directors. The HERA amendments resulted in needed revisions to the current OMB-approved forms associated with these appointments. The first of the revisions to the forms includes renaming them respectively, the *Federal Home Loan Bank Member Director Eligibility Certification Form,* the *Federal Home Loan Bank Independent Director Application Form,* and the *Federal Home Loan Bank Independent Director Annual Certification Form.* A more detailed description of the remaining revisions is discussed below in Overview of the Information Collection. FHFA requested emergency review of these revisions because the revised forms are being used in January 2011. These revisions did not result in a change in burden.

To allow interested persons to comment on this information collection, FHFA is publishing this notice and plans to submit a request for a three-year extension of OMB's approval. Comments regarding this information collection should be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, Fax: 202–395–6974, Email: *OIRA_Submission@omb.eop.gov.* Please also submit comments to FHFA using any one of the following methods and include "Comments: Federal Home Loan Bank Directors (No. 2011–N–02)" as the subject:

- *E-mail: RegComments@fhfa.gov;*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by e-mail to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA.
- *U.S. Mail/Hand Delivery:* Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, on the FHFA website at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at 202–414–6924.

DATES: Interested persons may submit comments on or before March 28, 2011.

FOR FURTHER INFORMATION CONTACT: Patricia L. Sweeney, Management Analyst, Division of FHLBank Regulation, *patricia.sweeney@fhfa.gov*, (202) 408–2872 (this is not a toll-free number), Federal Housing Finance Agency, 1625 Eye Street, NW., Washington, DC 20006; Eric M. Raudenbush, Assistant General Counsel, *eric.raudenbush@fhfa.gov*, (202) 414–6421 (this is not a toll-free number); Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

A. Overview of the Information Collection

Title of the Collection: Federal Home Loan Bank Directors.

OMB No.: 2590–0006.

Expires: July 31, 2011.

Need and Use of the Information Collection: Section 7 of the Bank Act vests the management of each Bank in its board of directors. *See* 12 U.S.C. 1427(a)(1). As required by section 7, each Bank's board comprises two types of directors: (1) Member directors, who are drawn from the officers and directors of member institutions located in the Bank's district and who are elected every four years to represent members in a particular state; and (2) independent directors, who are unaffiliated with any Bank member and who are elected every four years on an at-large basis in each Bank district. *See* 12 U.S.C. 1427(b) and (d). Section 7 and FHFA's implementing regulation, codified at 12 CFR part 1261, establish the eligibility requirements for both types of Bank directors and the qualifications for independent directors, and set forth the procedures for their election.

Under part 1261 of the regulations, the Banks determine the eligibility of nominees for member and independent directorships and administer the annual director election process. As part of this process, candidates for both types of directorship, including incumbents, are required to complete and return to the Bank a form that solicits information about the candidate's statutory eligibility to serve and, in the case of independent director candidates, about his or her qualifications for the directorship being sought. *See* 12 CFR 1261.7(c) and (f); 12 CFR 1261.14(b). Specifically, member director candidates are required to complete the *Federal Home Loan Bank Member Director Eligibility Certification Form (Member Director Eligibility Certification Form),* while independent director candidates must complete the *Federal Home Loan Bank Independent Director Application Form (Independent Director Application Form).* Part 1261 also requires that all directors certify annually that they continue to meet all eligibility requirements. *See* 12 CFR 1261.12. Member directors do this by completing the *Member Director Eligibility Certification Form* again every year, while Independent Directors complete the abbreviated *Federal Home Loan Bank Independent Director Annual Certification Form (Independent Director Annual Certification Form)* to certify their ongoing eligibility. (These three forms are hereinafter referred to collectively as the "Bank Director Forms.")

Since 2008, when the Banks' former regulator, the Finance Board, last obtained OMB approval for this information collection, there have been statutory and regulatory changes affecting the use of the forms. Prior to the passage of HERA, section 7 of the Bank Act provided for the appointment of a portion of each Bank's board of directors by the Finance Board. HERA amended section 7 by replacing this "appointive director" requirement with the current requirement that independent directors be elected by each Bank's membership on an at-large basis. Because the eligibility requirements and qualifications that HERA established for independent directors are similar to those that previously applied to appointive directors, FHFA made some minor revisions to the OMB-approved Federal Home Loan Bank Appointive Director Application Form to create the *Independent Director Application Form.* Similarly, FHFA made some minor revisions to the OMB-approved Federal Home Loan Bank Appointive Director Certification Form to create the *Independent Director Annual Certification Form.* Although no significant changes were made, FHFA also revised the OMB-approved Federal Home Loan Bank Elective Director Eligibility Certification Form in order to conform to the new nomenclature established by HERA and thereby created the *Member Director Eligibility Certification Form.* None of these revisions resulted in any change in the burden associated with the completion of any of the Bank Director Forms.

Affected Public: Private Sector.

Costs: FHFA estimates that there will be no annualized capital/start-up costs

for the respondents to collect and submit the information.

Type of Respondents: Individuals who are prospective and incumbent Bank Directors.

B. Burden Estimate

FHFA estimates the total number of respondents is 295, which includes 160 prospective directors (100 member and 60 independent) and 135 incumbent directors (80 member and 55 independent). As explained below, FHFA estimates that the total annual hour burden for all respondents is 278 hours.

1. Prospective and Incumbent Member Directors

FHFA estimates the total annual average hour burden for all the prospective and incumbent member directors is 70 hours. This includes a total annual average of 100 prospective member directors, with 1 response per individual taking an average of 30 minutes (.5 hours) (100 individuals × .5 hours = 50 hours). It also includes a total annual average of 80 incumbent member directors, with 1 response per individual taking an average of 15 minutes (.25 hours) (80 individuals × .25 hours = 20 hours).

2. Prospective and Incumbent and Independent Directors

FHFA estimates the total annual average hour burden for all the prospective and incumbent independent directors is 208. This includes a total annual average of 60 prospective independent directors, with 1 response per individual taking an average of 3 hours (60 individuals × 3 hours = 180 hours). It also includes a total annual average of 55 incumbent independent directors, with 1 response per individual taking an average of 30 minutes (.5 hours) (55 individuals × .5 hours = 28 hours).

C. Comment Request

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

Dated: January 19, 2011.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

BILLING CODE 8070–01–P

FEDERAL HOME LOAN BANK MEMBER DIRECTOR ELIGIBILITY CERTIFICATION FORM

1. Print or type your full name:

_____

2. Are you a citizen of the United States? **Yes** ☐ **No** ☐

3. Provide the address of your principal residence:

Street	City	State	Zip code

4. Provide the following information about the institution you serve as an officer or director that is a member of your Federal Home Loan Bank:

Name of member	**Your title or position**

Telephone number	**Fax number**	**E-mail address**

Street	**City**	**State**	**Zip code**

Mailing address (if different)	**City**	**State**	**Zip code**

5. Provide the name and location of any other institution you serve as an officer or a director that is a member of any Federal Home Loan Bank:

Name of member	**City**	**State**	**Your title or position**
Name of member	**City**	**State**	**Your title or position**

Expires 7/31/2011
OMB No. 2590-0006

FEDERAL HOME LOAN BANK MEMBER DIRECTOR ELIGIBILITY CERTIFICATION FORM

6. Does each member listed in LINE 4 and LINE 5 comply with all of its applicable minimum capital requirements established by its appropriate federal or state regulator?

Yes ☐ **No** ☐

I HEREBY CERTIFY that the information provided on this Federal Home Loan Bank Member Director Eligibility Certification Form is true, correct, and complete to the best of my knowledge.

_____ _____
Signature Date

State of _____)
County of _____)

Signed and sworn to before me this ____ day of _____ of 20___.

_____
Signature of Notary Public

(Notarial Seal)

My commission expires: _____

DIRECTIONS

If you need assistance in completing this Form or have any questions, please contact:

Name:
Federal Home Loan Bank of
Address:
Telephone:
Fax:
E-Mail:

Who Must File and When

The Federal Home Loan Bank (Bank) uses the information you provide on this Form to determine whether you meet the statutory and regulatory eligibility requirements to serve as a member director. You can find these requirements in section 1427 of Title 12 of the United States Code (12 U.S.C. § 1427) and in part 1261 of Title 12 of the Code of Federal Regulations (12 C.F.R. part 1261). A copy of the statutory and regulatory eligibility requirements is enclosed for your reference. Only individuals who satisfy these requirements may run for a member directorship or serve as a member director.

Nominees for a Member Bank Directorship

If you wish to accept a nomination to serve as a member director, you must complete this Form and return it to the Bank on or before _____ . If you do not submit this Form to the Bank by the deadline, you will be deemed to have declined the nomination.

Incumbent Member Bank Directors

Every year, each incumbent member director must complete this Form and return it to the Bank on or before March 1st. The Bank will use the information to confirm your continued eligibility to serve as a member director. If you do not submit this form by the March 1st deadline, the Bank may declare that you are no longer eligible to serve as a member director, and may declare vacant the member directorship that you hold. If March 1st falls on a Saturday, Sunday, or federal holiday, you have until the next business day to submit the completed Form.

Individuals Selected to Fill a Vacancy

If the Bank selected you to fill a vacancy on the board of directors, you must complete this Form and return it to the Bank on or before _____ . You cannot become a member director unless you complete and return the Form to the Bank.

Line-by-Line Instructions

LINE 1. Print or type your full name.

LINE 2. You must be a United States citizen in order to serve as a member director. Check the appropriate answer.

LINE 3. Provide the address of your principal residence.

LINE 4. You must be an officer or a director of an institution that is a member of the Bank in order to be a member director of that Bank. In addition, the member must be located in the state within the Bank district that is to be represented by the directorship you wish to hold. In most cases, a member will be deemed to be located where it maintains its home office or its principal place of business. Provide the requested information for the member you serve as an officer or director, as well as your title or position at that institution.

LINE 5. If you are an officer or director of any other institution that is a member of this or any other Bank, provide the name and location of the institution(s), as well as the position that you hold at the institution(s).

LINE 6. In order for you to be eligible to serve as a member director, every Bank member you serve as an officer or director must be in compliance with all of its applicable minimum capital requirements established by its appropriate federal or state regulator. The term "appropriate federal regulator" has the same meaning as the term "appropriate Federal banking agency" in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(q)), and, for federally insured credit unions, means the National Credit Union Administration. The term "appropriate state regulator" means any state officer, agency, supervisor, or other entity that has regulatory authority over, or is empowered to institute enforcement action against, a member.

Each institution you listed in LINE 4 and LINE 5 must be in compliance with all of the applicable minimum capital requirements established by its appropriate federal or state regulator. Please check the appropriate answer to this question.

FEDERAL HOME LOAN BANK INDEPENDENT DIRECTOR APPLICATION FORM

PERSONAL INFORMATION

Full name: _____

Address:

Current employment:

_____ _____
Name of organization **Your title or position**

_____ _____ _____
Telephone number **Fax number** **E-mail address**

_____ _____ _____ _____
Street **City** **State** **Zip code**

_____ _____ _____ _____
Mailing address (if different) **City** **State** **Zip code**

Expires 7/31/2011
OMB No. 2590-0006

STATUTORY ELIGIBLITY REQUIREMENTS

An individual must satisfy certain statutory requirements in order to be eligible for election as an independent director of a Federal Home Loan Bank (Bank). The requirements relate to citizenship, residency, and, for prospective public interest directors, experience in that field. The statute also prohibits an independent director from serving as an officer, employee, or director of an institution that is a member of, or that receives advances from, the Bank on whose board the director serves. The questions below address these statutory requirements.

1. ***Citizenship.*** Are you a citizen of the United States? **Yes** ☐ **No** ☐

2. ***Residency.*** In order to be an independent director you must be a bona fide resident of a state that is in the geographic district of the Bank on whose board you wish to serve. You will satisfy this requirement if your principal residence is located in that geographic district (A), or if you own or lease a second residence in the district *and* are employed in the district (B). Please indicate the basis you are using to demonstrate bona fide residence.

A. Is your principal residence located in the Bank's geographic district? **Yes** ☐ **No** ☐

B. If you answered **No**, do you own or lease a second residence in the Bank's district *and* are you employed in the district? **Yes** ☐ **No** ☐

If so, provide the address of your second home, the name of, and identifying information on, your employer, and your title or position, if different from that on page 1 of this Form.

Second home address:

Employer information:

Name of organization	**Your title or position**

Telephone number	**Fax number**	**E-mail address**

Street	**City**	**State**	**Zip code**
Mailing address (if different)	**City**	**State**	**Zip code**

Expires 7/31/2011
OMB No. 2590-0006

3. ***Public Interest Directors.*** If you are seeking election as a public interest director, you must be able to demonstrate that you have more than four years experience representing consumer or community interests on banking services, credit needs, housing, or consumer financial protections.

If you meet this requirement, provide information on how you have represented such consumer or community interests for more than four years.

4. ***Conflicts of interest.*** Independent directors and their spouses may not serve as an officer of any Bank or as an officer, employee, or director of any member of, or any recipient of advances from, the Bank on whose board the independent director serves. You and your spouse will have to give up any conflicting position before you can become a Bank director.

For purposes of this conflict of interest provision, the terms:

"Member" and "Recipient of advances" include the institution itself and any subsidiary of the institution. If the institution is owned by a holding company, the terms include the holding company if 35 percent or more of the holding company's assets, on a consolidated basis, are attributable to institutions that are members of, or recipients of advances from, the Bank on whose board the independent director serves. Thus, you may not serve as a director, employee, or officer of a holding company if one or more members of, or one or more recipients of advances from, your Bank constitute 35 percent or more of the holding company's assets.

A. Please specify each position you and your spouse have in any member of, or recipient of advances from, the Bank on whose board you would serve.

B. Do you agree to give up positions that are deemed to be conflicting interests before becoming an independent director of that Bank? **Yes** ☐ **No** ☐

Expires 7/31/2011
OMB No. 2590-0006

SELECTION CRITERIA

The Banks are multi-billion dollar financial institutions, the principal business of which is to borrow funds in the capital markets and then provide secured loans to their members. Each Bank is required to have independent directors who possess knowledge or expertise in financial management, derivatives, auditing and accounting, risk management practices, project development, organizational management, or the law.

1. ***Leadership Experience.*** Bank directors should have experience in senior management or policy-making in one or more fields of business, government, education, or community/civic affairs, and should have a record of achievement in their chosen profession or field of business. This experience should provide directors with the ability to understand the business of the Bank, to act independently, and to ask Bank management appropriate questions about how they are conducting Bank business.

A. If you have ever served as the CEO, CFO, COO, or in a similar capacity for a business enterprise, or as a dean or senior faculty member at a prominent college or university, or as a senior official for a federal or state government or prominent nonprofit organization, please provide the details for those positions, including the dates of service and the positions held.

B. If you have other experience dealing with issues such as developing or implementing business strategies, overseeing regulatory compliance, corporate governance, or board operations, or have previously served on the board of a large business enterprise, please describe those experiences.

Expires 7/31/2011
OMB No. 2590-0006

C. If you have other significant business or professional achievements that demonstrate your ability to lead an organization please describe them.

2. ***Business Knowledge.*** Bank directors must be financially literate, meaning they must be familiar with how financial statements and various financial ratios are used in managing a business enterprise, how basic accounting conventions apply to the Bank, and how internal controls are used to manage risk. They also must have some knowledge about one or more of the areas of the Bank's business, such as mortgage finance, capital markets transactions, accounting/modeling practices, affordable housing, community and economic development, and legal and regulatory compliance.

A. Do you know how to read and understand a financial statement, and do you understand how financial ratios and other indices are used for evaluating the performance of a business enterprise? **Yes** ☐ **No** ☐

If you answered **Yes**, please describe the setting in which you gained that knowledge.

B. Do you have a working familiarity with basic finance and accounting practices, including internal controls and risk management? **Yes** ☐ **No** ☐

If you answered **Yes**, please describe the setting in which you acquired that knowledge.

Expires 7/31/2011
OMB No. 2590-0006

C. Do you have experience with financial accounting and auditing, particularly with a publicly traded company? **Yes** ☐ **No** ☐

If you answered **Yes**, please describe that experience.

D. Do you have experience in project development or organizational management?
Yes ☐ **No** ☐

If you answered **Yes**, please describe that experience.

E. Do you have experience in an organization providing financing for residential mortgages, housing for low or moderate income individuals and families, or real estate development?
Yes ☐ **No** ☐

If you answered **Yes**, please describe that experience.

F. Have you served in any position that required an understanding of the legal and other fiduciary obligations associated with being an independent director? **Yes** ☐ **No** ☐

If you answered **Yes**, please describe that experience.

Expires 7/31/2011
OMB No. 2590-0006

G. The mission of the Banks is to support the housing finance activities of their members, which includes residential mortgage finance and community and economic development lending activities. Please describe any prior experience that is related to the mission of the Banks.

3. ***Commitment to Service.*** In order to serve effectively on the board of a Bank, a director must be able to attend the meetings of the board of directors and subcommittees on which the director serves, and to devote the time necessary to prepare for those meetings.

A. Do you have any other business or professional commitments that would hinder your ability to prepare for and attend board of director and committee meetings? **Yes** ☐ **No** ☐

If so, please describe the constraints on your ability to serve.

B. If you serve on any other corporate boards, please provide the name and location of the organization, your role (*e.g.*, chair and committee assignments), and the term of service.

Name of organization	Your role	Term
Name of organization	Your role	Term
Name of organization	Your role	Term

Expires 7/31/2011
OMB No. 2590-0006

4. ***Personal Integrity.*** Character is an important consideration in evaluating any prospective Bank director. All directors must have high ethical standards and integrity in both their personal and professional dealings. Please indicate whether you ever have been convicted of a felony, been found to have violated any federal or state civil laws relating to the securities, banking, housing or real estate industries, or have had a professional license suspended or revoked. **Yes** ☐ **No** ☐

If you answered **Yes**, please explain.

5. ***Independence.*** It is essential that an independent director be able to act independently of management in overseeing the policy and operations of a Bank, and not have any relationships that may create actual or apparent conflicts of interest. Please disclose whether you have any familial or business relationships with any members of Bank management or the board of directors of the Bank, and any other relationship(s) that might lead a reasonable person to question your independence. **Yes** ☐ **No** ☐

If you answered **Yes**, please explain.

6. ***Other Experience and Education.*** Please provide a copy of your resume if it describes other business, professional, or educational achievements that are not described in the responses to the questions above. Resume attached. **Yes** ☐ **No** ☐

BY EXECUTING AND SUBMITTING THIS APPLICATION FORM, YOU ARE CERTIFYING THAT THE INFORMATION YOU PROVIDED IS TRUE, CORRECT, AND COMPLETE TO THE BEST OF YOUR KNOWLEDGE AND THAT YOU AGREE TO SERVE AS A DIRECTOR IF ELECTED.

_____ _____

Signature Date

Expires 7/31/2011
OMB No. 2590-0006

FEDERAL HOME LOAN BANK INDEPENDENT DIRECTOR ANNUAL CERTIFICATION FORM

Full name: _____

Federal Home Loan Bank of: _____

Every year, each incumbent independent Federal Home Loan Bank (Bank) director must certify that he or she continues to meet all of the following requirements:

- United States citizen
- Bona fide resident of a state in the geographic district of the Bank on whose board you serve
  - your principal residence is located in that geographic district OR
  - you own or lease a second residence in the district *and* are employed in the district
- During your term of office, you and your spouse may not:
  - serve as an officer of any Federal Home Loan Bank
  - serve as an officer, employee, or director of any member or subsidiary of a member of the Bank you serve, or any holding company that controls one or more members of the Bank you serve if the assets of all such members constitute 35 percent or more of the assets of the holding company, on a consolidated basis
  - serve as an officer, employee, or director of any recipient of advances from the Bank you serve, or any holding company that controls one or more recipients of advances from the Bank you serve if the assets of all such recipients constitute 35 percent or more of the assets of the holding company, on a consolidated basis
- To be designated a public interest director, you must have more than four years experience representing consumer or community interests on banking services, credit needs, housing, or consumer financial protections
- If you are not designated as a public interest director, you must have knowledge or experience in one of the following: auditing and accounting, derivatives, financial management, organizational management, project development, risk management practices, or the law.

By executing this form, you are certifying that you continue to meet these requirements and that the director application form you submitted previously, or any amended certification form you submitted previously, is true, correct, and complete to the best of your knowledge.

Expires 7/31/2011
OMB No. 2590-0006

Please check one box:

☐ **No changes have occurred.**

☐ **Changes have occurred to my responses in these sections of my Form:**

Personal information:

Eligibility information, including conflicts of interest:

Commitment to serve:

Personal integrity:

Independence:

Other changes:

Dated: _____

Signature: _____

Expires 7/31/2011
OMB No. 2590-0006

[FR Doc. 2011–1825 Filed 1–27–11; 8:45 am]

BILLING CODE 8070–01–C

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*http://www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 012082–001.

Title: HSDG/CCNI Space Charter Agreement.

Parties: Compania Chilena de Navegacion Interoceania S.A. ("CCNI") and Hamburg-Sud.

Filing Parties: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street, NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment would add Brazil to the geographic scope of the Agreement and delete obsolete language regarding duration of the Agreement. The Parties request expedited review.

Dated: January 25, 2011.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2011–1913 Filed 1–27–11; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 24, 2011.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *SBW Bancshares, Inc.,* Waterloo, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Waterloo, Waterloo, Illinois.

Board of Governors of the Federal Reserve System, January 25, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–1919 Filed 1–27–11; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Statement of Organization, Functions, and Delegations of Authority

This reorganization of AoA establishes the Office of Community Living Assistance Services and Supports (Office of CLASS) and in doing so, capitalizes on the agency's current administrative structures for purposes of implementing the Community Living Assistance Services and Supports Act (CLASS Act).

FOR FURTHER INFORMATION CONTACT: Dan Berger, Administration on Aging, Washington, DC 20201, telephone 202–357–3419.

This notice amends Part B of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), Administration on Aging (AoA), as last amended at 75 FR 18219–18228, dated April 9, 2010, as follows:

I. Under Part B, Section B.10 Organization, insert the following: "Office of Community Living Assistance Services and Supports (Office of CLASS) (BC)."

II. Under Part B, Section B.20 Functions, establish a new Chapter BC, "Office of Community Living Assistance Services and Supports (Office of CLASS)" to read as follows:

Chapter BC, Office of Community Living Assistance Services and Supports (Office of CLASS)

BC.00 Mission

BC.10 Organization

BC.20 Functions

BC.00 Mission. The Office of Community Living Assistance Services and Supports (Office of CLASS) is the office with a primary focus on the efficient and effective implementation and management of the provisions of Title VIII of the Affordable Care Act of 2010—the Community Living Assistance Services and Supports Act (CLASS Act).

BC.10 Organization. The head of the Office of CLASS reports to the Assistant Secretary for Aging.

BC.20 Functions. The Office of CLASS will play an important role in helping working adults who meet benefit eligibility requirements protect their independence and remain in the community through a cash benefit to purchase long-term services and supports. The responsibilities of the Office of CLASS include: Establishing the national voluntary insurance program; setting premiums; developing and implementing rules for enrollment and eligibility systems; specifying and designing the benefit; establishing systems for advice and assistance; supporting a protection and advocacy network to serve eligible beneficiaries of the program; paying benefits and handling related responsibilities; convening and supporting two Federal Advisory Committees (the Personal Care Attendants Workforce Advisory Panel and the CLASS Independence Advisory Council); and liaising and coordinating with a number of public and private entities, including the Department of the Treasury, the Social Security Administration, employers, and state Medicaid agencies.

Dated: January 25, 2011.

Kathy Greenlee,

Assistant Secretary for Aging.

[FR Doc. 2011–1903 Filed 1–27–11; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10112 and CMS–287–05]

Agency Information Collection Activities: Proposed Collection; 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) 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:* Extension without change of a currently approved collection; *Title of Information Collection:* Phone Surveys of Products and Services for Medicare Payment Validation and Supporting Regulations in 42 CFR 405.502. *Use:* The phone surveys of products and services for Medicare payment validation and supporting regulations in 42 CFR 405.502 will be used to identify specific products/services provided to Medicare beneficiaries and the costs associated with the provision of those products/services. The information collected will be used to validate the Medicare payment amounts for those products/services and institute revisions of payment amounts where necessary. The respondents will be the companies that have provided the product/service under review to Medicare beneficiaries. *Form Number:* CMS–10112 (OMB# 0938–0939); *Frequency:* Occasionally; *Affected Public:* Private sector—business or other for-profit; *Number of Respondents:* 4,000; *Total Annual Responses:* 4,000; *Total Annual Hours:* 16,000. (For policy questions regarding this collection contact Michael Rich at 410–786–6856. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Extension without change of a currently approved collection; Title *of Information Collection:* Chain Home Office Cost Statement and supporting Regulations in 42 CFR 413.17 and 413.20; *Use:* The Form CMS–287–05 is filed annually by Chain Home Offices to report the information necessary for the determination of Medicare reimbursement to components of chain organizations. However, where providers are components of chain organizations, information included in the chain home office cost statement is in addition to that included in the provider cost report and is needed to determine whether payments are appropriate. *Form Number:* CMS–287–05 (OMB# 0938–0202); *Frequency:* Yearly; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 1,541; *Total Annual Responses:* 1,541; *Total Annual Hours:* 718,106.

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.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.

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 *March 29, 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.

Martique Jones,

Director, Regulations Development Division-B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2011–1865 Filed 1–27–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0464]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Testing Communications on Biological Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by February 28, 2011.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910—New and title "Testing Communications on Biological Products." Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Johnny 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: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Testing Communications on Biological Products—(OMB Control Number 0910—New)

FDA is authorized by section 1003(d)(2)(D) of the Federal Food Drug and Cosmetic Act (21 U.S.C. 393(d)(2)(D)) (Attachment 2) to conduct educational and public information programs relating to the safety of regulated biological products. FDA must conduct needed research to ensure that such programs have the highest likelihood of being effective. FDA expects that improving communications about biological products including

vaccines and blood products will involve many research methods, including individual in-depth interviews, mall-intercept interviews, focus groups, self-administered surveys, gatekeeper reviews, and omnibus telephone surveys.

The information collected will serve three major purposes. First, as formative research it will provide critical knowledge needed about target audiences to develop messages and campaigns about biological product use. Knowledge of consumer and healthcare professional decisionmaking processes will provide the better understanding of target audiences that FDA needs to design effective communication strategies, messages, and labels. These communications will aim to improve public understanding of the risks and benefits of using biological products including vaccines and blood products by providing users with a better context in which to place risk information more completely.

Second, as initial testing, it will allow FDA to assess 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 will be asked to give their reaction to the messages in either individual or group settings.

Third, as evaluative research, it will allow FDA to ascertain the effectiveness of the messages and the distribution method of these messages in achieving the objectives of the message campaign. Evaluation of campaigns is a vital link in continuous improvement of communications at FDA.

In the **Federal Register** of October 5, 2010 (75 FR 61492), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received on the information collection.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
1003(d)(2)(D)	16,448	1	16,448	0.1739	2,860
Total					2,860

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 24, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–1862 Filed 1–27–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0411]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Guide To Minimize Microbial Food Safety Hazards of Fresh-Cut Fruits and Vegetables

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Guide to Minimize Microbial Food Safety Hazards of Fresh-Cut Fruits and Vegetables" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3793.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 25, 2010 (75 FR 65491), 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 0910–0609. The approval expires on January 31, 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: January 24, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–1861 Filed 1–27–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program: Revised Amount of the Average Cost of a Health Insurance Policy

The Health Resources and Services Administration (HRSA) is publishing an updated monetary amount of the average cost of a health insurance policy as it relates to the National Vaccine Injury Compensation Program (VICP).

Section 100.2 of the VICP's implementing regulation (42 CFR Part 100) states that the revised amounts of an average cost of a health insurance policy, as determined by the Secretary, are to be published periodically in a notice in the **Federal Register**. This figure is calculated using the most recent Medical Expenditure Panel Survey—Insurance Component (MEPS–IC) data available as the baseline for the average monthly cost of a health insurance policy. This baseline is adjusted by the annual percentage increase/decrease obtained from the most recent annual Kaiser Family Foundation and Health Research and Educational Trust (KFF/HRET) Employer Health Benefits survey or other authoritative source that may be more accurate or appropriate.

In 2010, MEPS–IC, available at *http://www.meps.ahrq.gov*, published the annual 2009 average total single premium per enrolled employee at private-sector establishments that provide health insurance. The figure published was $4,669. This figure is divided by 12-months to determine the cost per month of $389.08. The $389.08 shall be increased or decreased by the percentage change reported by the most recent KFF/HRET, available at *http://www.kff.org*. The percentage increase was published at 5 percent. By adding this percentage increase, the calculated average monthly cost of a health insurance policy for 12-month period is $408.53.

The Department will periodically (generally on an annual basis) recalculate the average cost of a health insurance policy by obtaining a new figure from the latest MEPS–IC data and updating this figure using the percentage change(s) reported by the most recent data from KFF/HRET or other authoritative source that may be more accurate or appropriate in the future. The updated calculation will be published as a notice in the **Federal Register** and filed with the Court.

Therefore, the Secretary announces that the revised average cost of a health insurance policy under the VICP is $408.53 per month. In accordance with § 100.2, the revised amount was effective upon its delivery by the Secretary to the United States Court of Federal Claims. Such notice was delivered to the Court on January 7, 2011.

Dated: January 21, 2011.

Mary K. Wakefield,

Administrator.

[FR Doc. 2011–1965 Filed 1–27–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; NIH Office of Intramural Training & Education Application

Summary: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of Intramural Training & Education, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 20, 2010 (Vol. 75, No. 138 on pages 42097–42098) and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: NIH Office of Intramural Training & Education Application. *Type of Information Collection Request:* REVISION. *Need and Use of Information Collection:* The Office of Intramural Training & Education (OITE) administers a variety of programs and initiatives to recruit pre-college through post-doctoral educational level individuals into the National Institutes of Health Intramural Research Program (NIH–IRP) to facilitate develop into future biomedical scientists. The proposed information collection is necessary in order to determine the eligibility and quality of potential awardees for traineeships in these programs. The applications for admission consideration include key areas such as: Personal information, eligibility criteria, contact information, student identification number, training program selection, scientific discipline interests, educational history, standardized examination scores, reference information, resume components, employment history, employment interests, dissertation research details, letters of recommendation, financial aid history, sensitive data, future networking contact, travel information, as well as feedback questions about interviews and application submission experiences. Sensitive data collected on the applicants, race, gender, ethnicity and recruitment method, are made available only to OITE staff members or in aggregate form to select NIH offices and are not used by the admission committee for admission consideration; optional to submit.

Over the last several years the OITE has used three OMB Clearance Numbers for the collection of applications for the training programs. To improve announcement of all training programs and lessen the burden of applicants, the OITE proposes to merge the following:

- 0925–0299—NIH Intramural Research Training Award, Program Application
- 0925–0438—Undergraduate Scholarship Program (UGSP)
- 0925–0501—Graduate Student Training Program Application

Renewing 0925–0299 OMB Clearance Number with the new name "Office of Intramural Training & Education Application".

Frequency of Response: On occasion. *Affected Public:* Individuals seeking intramural training opportunities and references for these individuals. *Type of Respondents:* Students, post-baccalaureates, technicians, graduate students, and post-doctorates. There are no capital costs, operating costs, and/or maintenance costs to report.

The annual reporting burden is displayed in the following table:

ESTIMATES OF HOUR BURDEN

Program	Estimated number of respondents	Estimated number of responses annually per respondent	Average burden hours per response	Estimated total annual burden hours
Summer Internship Program in Biomedical Research (SIP)	8,500	1	0.75	6,375.0
Biomedical Engineering Summer Internship Program (BESIP)	100	1	0.75	75.0
Post-baccalaureate Intramural Research Training Award	2,300	1	0.75	1,725.0
NIH Academy	550	1	0.75	412.5
Community College Summer Enrichment Program (CCSEP)	125	1	0.75	93.8
Technical Intramural Research Training Award	140	1	0.75	105.0
Graduate Partnerships Program (GPP)	600	1	0.75	450.0
Post-Doctorate Fellowship Program	2,050	1	0.75	1,537.5
National Graduate Student Research Festival (NGSRF)	825	1	0.75	618.8
Undergraduate Scholarship Program (UGSP)	300	1	0.75	225.0

ESTIMATES OF HOUR BURDEN—Continued

Program	Estimated number of respondents	Estimated number of responses annually per respondent	Average burden hours per response	Estimated total annual burden hours
Alumni Database	1,900	1	0.75	1,425.0
Recommendations for All Programs	35,705	1	0.25	8,926.3
Supplemental Documents for Application	14,540	1	0.75	10,905.0
Feedback Questions	53,095	1	0.25	13,273.8
Totals	120,730			46,147.5

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Patricia Wagner, Director of Admissions & Registrar, Office of Intramural Training & Education, National Institutes of Health, 2 Center Drive: Building 2/2E06, Bethesda, Maryland 20892–0234, or call 240–476–3619 or E-mail your request, including your address to: *wagnerpa@od.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: January 24, 2011.

Michael M. Gottesman,

Deputy Director of Intramural Research, National Institutes of Health.

[FR Doc. 2011–1872 Filed 1–27–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR09–160,161,162: Cancer Health Disparities and Diversity in Basic Cancer Research.

Date: March 1, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Cathleen L. Cooper, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892. 301–443–4512. *cooperc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Brain Disorders and Related Neuroscience.

Date: March 1–2, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Hotel, 530 Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Yvonne Bennett, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7846, Bethesda, MD 20892. 301–435–1121. *bennetty@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–10–235: Climate Change and Health.

Date: March 1, 2011.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: Heidi B. Friedman, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892. 301–379–5632. *hfriedman@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–10–074: Technology Development for High-Throughput Structural Biology Research (P01) Review.

Date: March 1–2, 2011.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Raymond Jacobson, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5858, MSC 7849, Bethesda, MD 20892. 301–996–7702. *jacobsonrh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurological Disorders, Aging and Eye Disease.

Date: March 1–2, 2011.

Time: 10 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kevin Walton, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892. 301–435–1785. *kevin.walton@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PA09–064:

Seizure Mitigation Through Continuous EEG with Responsive Vagus Nerve Stimulation.

Date: March 1, 2011.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Hotel, 530 Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Keith Crutcher, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892. 301–435–1278. *crutcherka@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Collaboration with NCBCs.

Date: March 2–3, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ping Fan, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892. 301–408–9971. *fanp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR10–182: Assay Development for High Throughput Molecular Screening (R21).

Date: March 2–3, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications. Sheraton Delfina Hotel, 530 Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Joseph D. Mosca, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892. (301) 435–2344.*moscajos@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Diagnostics and Treatments (CDT) SBIR/STTR.

Date: March 2–3, 2011.

Time: 10 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Zhang-Zhi Hu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892. (301) 435–1710. *huzhuang@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship: Surgical Sciences, Biomedical Imaging and Bioengineering.

Date: March 2, 2011.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Eileen W. Bradley, DSC, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5100, MSC 7854, Bethesda, MD 20892. (301) 435–1179. *bradleye@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Biobehavioral and Behavioral Processes across the Lifespan.

Date: March 3–4, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Guest Suites Santa Monica Hotel, 1707 Fourth Street, Santa Monica, CA 90401.

Contact Person: Biao Tian, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892. (301) 402–4411. *tianbi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Risk Prevention and Intervention Addictions: Overflow.

Date: March 3–4, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gabriel B. Fosu, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892. (301) 435–3562. *fosug@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Fellowship: F07 Immunology Fellowship AREA.

Date: March 3–4, 2011.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Calbert A. Laing, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health,6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892. 301–435–1221. *laingc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Behavioral Neuroscience.

Date: March 3–4, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Hotel, 530 Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Kristin Kramer, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892. (301) 437–0911. *kramerkm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Non-HIV Microbial Vaccine Development.

Date: March 4, 2011.

Time: 8 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: George Washington University Inn, 824 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Scott Jakes, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892. 301–495–1506. *jakesse@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Molecular, Cellular, and Developmental Neurobiology.

Date: March 4, 2011.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Hotel, 530 Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Paek-Gyu Lee, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892. (301) 435–1277. *leepg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Immune Mechanism.

Date: March 4, 2011.

Time: 6:30 p.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: George Washington University Inn, 824 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Scott Jakes, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892. 301–495–1506. *jakesse@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 24, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–1874 Filed 1–27–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIDCR Special Grants Review Committee; NIDCR Special Grants Review Committee: Review of F, K, and R03 Applications.

Date: February 24–25, 2011.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Raj K. Krishnaraju, PhD, MS, Scientific Review Officer, Scientific Review Branch, National Inst. of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr. Rm 4AN 32J, Bethesda, MD 20892, 301–594–4864, *kkrishna@nidcr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 24, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–1877 Filed 1–27–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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 Dental and Craniofacial Research Special Emphasis Panel.

Date: March 1, 2011.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marilyn Moore-Hoon, PhD, Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, 301–594–4861, *mooremar@nidcr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, NIDCR T32, T90/R90 Review.

Date: March 3, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Rebecca Wagenaar Miller, PhD, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, National Institutes of Health, 6701 Democracy, Rm 666, Bethesda, MD 20892, 301–594–0652, *rwagenaa@mail.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, GWAS Statistical Methods R03.

Date: March 7, 2011.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIDCR/NIH, Democracy 1, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marilyn Moore-Hoon, PhD, Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, 301–594–4861, *mooremar@nidcr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS).

Dated: January 24, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–1882 Filed 1–27–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel, March 14, 2011, 6 p.m. to March 16, 2011, 12 p.m., Sheraton Los Angeles Downtown Hotel, 711 South Hope Street, Los Angeles, CA, 90017 which was published in the **Federal Register** on January 5, 2011, 76 FR 572.

This **Federal Register** Notice has been amended to change the meeting location. The meeting will be held at the Sheraton Los Angeles Downtown Hotel. The meeting is closed to the public.

Dated: January 24, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–1875 Filed 1–27–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Outstanding New Environmental Scientist Award.

Date: February 24, 2011.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Teresa Nesbitt, PhD, DVM, Chief, Scientific Review Branch, Division of Extramural Research and Training, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–7571, *nesbittt@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 24, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–1873 Filed 1–27–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences (NIEHS); Request for Information (NOT–ES–11–006): Interagency Breast Cancer and Environmental Research Coordinating Committee

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Request for information.

SUMMARY: The Interagency Breast Cancer and Environmental Research Coordinating Committee is a congressionally mandated body established by the National Institute of Environmental Health Sciences (NIEHS), in collaboration with the National Cancer Institute (NCI). This Committee is comprised of 19 voting members, including representatives of Federal agencies; non-federal scientists, physicians, and other health professionals from clinical, basic, and public health sciences; and advocates for individuals with breast cancer.

The IBCERCC is charged with reviewing all research efforts within the U.S. Department of Health and Human Services (HHS) concerning the environmental and genomic factors related to the etiology of breast cancer, and developing a comprehensive summary of advances and recommendations regarding research gaps and needs for the Secretary of HHS.

This Request for Information (RFI) is directed toward addressing questions relevant to the Committee's mandate. The RFI was announced in the NIH Guide on January 13, 2011, and is available at *http://grants.nih.gov/grants/guide/notice-files/NOT-ES-11-006.html.*

DATES: A response is requested by February 16, 2011. Responses received after February 16, 2011 will be considered to the extent possible.

Responses: Please send responses to the IBCERCC (*ibcercc@niehs.nih.gov*) by February 16, 2011. The following are acceptable ways to submit your responses:

1. Copy and paste the questions into the body of an e-mail message and send your responses to *ibcercc@niehs.nih.gov;* or

2. Mail or fax your responses in a letter to the attention of the contact person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

FOR FURTHER INFORMATION CONTACT: Jennifer B. Collins, Division of Extramural Research and Training, NIEHS, P.O. Box 12233, MD K3–12, RTP, NC 27709; Telephone: 919–541–0117, FAX: 919–541–2860, E-mail: *collins6@niehs.nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Committee's primary mission is to facilitate the efficient and effective exchange of information on breast cancer research activities among the member agencies, and to advise the NIH and other Federal agencies in the solicitation of proposals for collaborative, multidisciplinary research, including proposals to further evaluate environmental and genomic factors that may be related to the etiology of breast cancer. The Committee serves as a forum and assists in increasing public understanding of the member agencies' activities, programs, policies, and research, and in bringing important matters of interest forward for discussion.

Definition of Environment: For the purpose of this RFI, "environment" is broadly defined as any factors that are non-genetic in nature. This can include environmental chemicals, radiation, biological agents, pharmaceuticals, nutritional factors, and psychosocial and behavioral stressors.

Definition of Systems Biology: For the purpose of this RFI, "systems biology" refers to a holistic approach to the study of breast cancer etiology with the objective of simultaneously monitoring all biological processes and environmental exposures operating as an integrated system.

Information Requested

Input is invited on the items listed below and will be used as a resource by the IBCERCC members during the development of the comprehensive summary of advances and recommendations regarding research gaps and needs for the Secretary of HHS. Comment on each item is optional.

(1) How susceptibility to the effects of environmental exposures in sub-groups of the population (resulting from factors such as genetic or epigenetic variability, or timing of exposure during development or other stages) impacts breast cancer risk.

(2) Differences in the type and extent of environmental exposures which help explain the differential distribution of breast cancer subtypes in the U.S. population.

(3) How windows of susceptibility during the life-course can be integrated into a complex systems biology approach to better understand the role of the environment and breast cancer.

(4) How additional insight into normal mammary gland development through research using cell lines and animal models can enhance our understanding of environmental exposures and mammary carcinogenesis.

(5) The technologies and analytic capacity needed to accurately measure environmental exposures (including biological dose) and to develop markers of early damage relevant to breast cancer risk.

(6) The translation of research findings to the public about the environment and breast cancer risk considering the timing, and the strength of evidence, and the roles of community and advocacy groups.

(7) Engagement of advocacy organizations to ensure that environmental exposures of greatest interest and concern are studied and the role of media, data access, and publication access in this process.

(8) Approaches and effective models for coordination and collaboration among research agencies of the Federal Government to identify emerging opportunities in and programs to study environmental causes of breast cancer, such as in peer review, collaborative program development, and models for supporting cross-agency opportunities.

This Request for Information (RFI) is for information and planning purposes only and should not be construed as a solicitation or as an obligation on the part of the Federal Government, the National Institutes of Health (NIH), National Institute of Environmental Health Sciences (NIEHS) and or the National Cancer Institute (NCI). The NIH does not intend to award a grant or contract to pay for the preparation of any information submitted or for the NIH's use of such information. Respondents will not be notified of the NIH evaluation of the information received. No basis for claims against the NIH shall arise as a result of a response to this request for information or the NIH's use of such information as either part of our evaluation process or in developing specifications for any subsequent announcement. Responses

will be held confidential. Proprietary information should not be sent.

Dated: January 19, 2011.

Linda S. Birnbaum,

Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. 2011–1871 Filed 1–27–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2010–0084]

National Protection and Programs Directorate; Agency Information Collection Activities; Office of Infrastructure Protection; Infrastructure Protection Stakeholder Input Project—Generic Clearance

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 30-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 Infrastructure Protection (IP), will submit the following information collection request (ICR) 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). IP is soliciting comments concerning this New Information Collection Request, Infrastructure Protection Stakeholder Input Project—Generic Clearance. DHS previously published this information collection request (ICR) in the **Federal Register** on November 4, 2010, at 75 FR 67989, for a 60-day public comment period. No comments were received by DHS. The purpose of this notice is to allow additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until February 28, 2011. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to the OMB Desk Officer, Department of Homeland Security, Office of Civil Rights and Civil Liberties. Comments must be identified by DHS–2010–0084 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* .
- *E-mail: oira_submission@omb.eop.gov*. Include the docket number in the subject line of the message.
- *Fax:* (202) 395–5806.

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.

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.

FOR FURTHER INFORMATION CONTACT: If additional information is required, contact DHS/NPPD/IP, Michael Beland, (703) 235–3696, *Michael.Beland@hq.dhs.gov*.

SUPPLEMENTARY INFORMATION: The Homeland Security Act of 2002 and Homeland Security Presidential Directive 7 (HSPD–7) call for DHS to coordinate the overall effort to enhance the protection of the Nation's critical infrastructure and key resources. Specifically, HSPD–7 states that DHS "shall establish appropriate systems, mechanisms, and procedures to share homeland security information relevant to threats and vulnerabilities in national critical infrastructure and key resources with other Federal departments and agencies, State and local governments, and the private sector in a timely manner." DHS designated IP to lead these efforts.

Given that the vast majority of the Nation's critical infrastructure and key resources in most sectors are privately owned or controlled, IP's success in achieving the homeland security mission for critical infrastructure protection and resilience is dependent upon how well critical infrastructure owners and operators and members of the general public understand the key concepts, are aware of their contribution to achieve a shared national goal, participate in public-private partnerships, and are motivated to take action. However, IP has never conducted a comprehensive feedback assessment with the full range of its stakeholders to identify, measure, and improve the effectiveness of its efforts. IP desires to collect information from its stakeholders in order to:

- Provide a baseline for the effectiveness of efforts to improve the security of the nation's infrastructure;
- Assist in validating and achieving IP's strategic and mission area objectives;
- Obtain a better understanding of the evolving infrastructure protection and resiliency requirements of IP's stakeholders;
- Increase the visibility and awareness of the critical infrastructure protection and resilience mission;
- Initiate the coordination and uniformity of outreach efforts by IP, sector-specific agencies, and other partners engaged in the infrastructure protection mission; and
- Collect feedback regarding event, threat or service-specific activities in a timely fashion.

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate.

Title: Infrastructure Protection Stakeholder Input Project—Generic Clearance.

OMB Number: 1670–NEW.

IP Stakeholder Input Project—Surveys

Frequency: On occasion.

Affected Public: Private sector and non-Federal infrastructure protection community.

Number of Respondents: 5,980.

Estimated Time per Respondent: 40 minutes.

Total Burden Hours: 3,056 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

IP Stakeholder Input Project—Focus Groups

Frequency: On occasion.

Affected Public: Private sector and non-Federal infrastructure protection community.

Number of Respondents: 260.

Estimated Time per Respondent: 2 hours.

Total Burden Hours: 520 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

IP Stakeholder Input Project—Interviews

Frequency: On occasion.

Affected Public: Private sector and non-federal infrastructure protection community.

Number of Respondents: 60.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 60 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Dated: January 21, 2011.

David Epperson,

Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2011–1897 Filed 1–27–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5484–N–01]

Notice of Proposed Information Collection: Comment Request; Emergency Homeowners' Loan Program Data Elements

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of proposed information collection.

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: February 28, 2011.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; *e-mail: Ross.A.Rutledge@omb.eop.gov; fax:* (202) 395–3086.

FOR FURTHER INFORMATION CONTACT: Reports Management Officer, QDAM, Department of Housing and Urban Devlopment, 451 7th Street, SW., Washington, DC 20410, e-mail *Colette.Pollard@HUD.gov;* telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to implementing the Emergency Homeowners' Loan Program targeted to borrowers facing foreclosure.

The Dodd-Frank Wall Street Reform and Consumer Protection Act, 2010 (Pub. L. 111–203, approved July 21, 2010, Sec 1496) appropriated $1billion to HUD to establish an Emergency Homeowner's Relief Fund, pursuant to section 107 of the Emergency Housing Act of 1975, that will provide emergency mortgage assistance to homeowners that are at risk of foreclosure due to involuntary unemployment or underemployment due to an adverse economic or medical condition. Accordingly, HUD will implement the Emergency Homeowners Loan Program (EHLP) that is designed to offer a declining balance, deferred payment "bridge loan" (non-recourse, subordinate loan with zero interest) for up to $50,000 to assist eligible homeowners with payments of arrearages, including delinquent taxes and insurance plus up to 24 months of monthly payments on their mortgage principal, interest, mortgage insurance premiums, taxes, and hazard insurance.

The Emergency Homeowners Loan Program is designed by HUD to meet the statutory directive and provides funding to support mortgage relief assistance.

HUD will use two approaches to implement EHLP: (1) Provide allocations to States that currently have substantially similar programs to administer their mortgage relief funds directly; and (2) delegate key administrative functions to third party entities that will assist HUD with program implementation. The third party entities will be primarily responsible for application intake, eligibility screening, funds control, payment distribution, and note processing.

Homeowners' (borrowers') participation in the program is voluntary. However, to help determine eligibility for assistance borrowers must submit the required application information and loan documentation to demonstrate that they meet program eligibility guidelines to receive mortgage relief assistance through EHLP.

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Emergency Homeowners' Loan Program Data Elements.

Description of the need for the information and proposed use: This information collection is necessary to determine applicant eligibility to receive mortgage relief assistance under the Emergency Homeowners' Loan Program.

OMB Control Number, if applicable: 2502–XXXX (New).

Agency form numbers, if applicable: None.

Member of Affected Public: Emergency Homeowners' Loan Program Data Elements.

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 total number of respondents are estimated to be 36,264; the frequency of response (one time) for initial intake and an on-occasion response to re-certify changes in required eligibility data, the estimated time needed to prepare the response averages 3 hours ; and the total estimated annual burden hours are 108,792.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: January 24, 2011.

Ronald Y. Spraker,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 2011–1896 Filed 1–27–11; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5484–N–02]

Notice of Proposed Information Collection: Comment Request; Application for Multifamily Project Mortgage Insurance

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:* March 29, 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 Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–3000 (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: Application for Multifamily Project Mortgage Insurance.

OMB Control Number, if applicable: 2502–0029.

Description of the need for the information and proposed use: HUD reviews the information collection to determine the acceptability of the mortgagor, sponsor, and other key principals for an application for mortgage insurance. The Owner and Architect represent that they are familiar with HUD's architectural requirements and will comply with all rules and regulations as prescribed by HUD.

Agency form numbers, if applicable: HUD–92013,HUD–92013–Supp, HUD–92013– E, HUD–92264, HUD–92264–A, HUD–92273, HUD–92274, HUD–92326, HUD–92329, HUD–92331, HUD–92452, HUD–92485, HUD–92415, HUD–92447, HUD–92010, HUD–91708, HUD–92408M,FM–1006 are covered under OMB 2502–0029.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total number of hours needed to prepare the information collection is 2. The estimated number of respondents is 3432. The estimated total number of annual burden hours is 350,486. The forms are submitted only once during the application for FHA mortgage insurance.

Status of the proposed information collection: Revision, with change, of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: January 24, 2011.

Ronald Y. Spraker,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 2011–1895 Filed 1–27–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5477–N–04]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 20, 2011.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2011–1548 Filed 1–27–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5415–N–33]

Notice of Availability: Notice of Funding Availability (NOFA) for HUD's Fiscal Year (FY) 2010 Assisted Living Conversion Program (ALCP) for Eligible Multifamily Housing Projects

AGENCY: Office of the Chief of the Human Capital Officer, HUD.

ACTION: Notice.

SUMMARY: HUD announces the availability on its Web site of the applicant information, submission deadlines, funding criteria, and other requirements for HUD's Fiscal Year (FY) 2010 Assisted Living Conversion Program (ALCP) for Eligible Multifamily Housing Projects NOFA. This NOFA announces the availability of $30 million in Fiscal Year (FY) 2010 funding to carry out the eligible activities for the physical conversion of eligible multifamily assisted housing projects or portions of projects to assisted living facilities (ALFs).

The notice providing information regarding the application process,

funding criteria and eligibility requirements can be found using the Department of Housing and Urban Development agency link on the Grants.gov/Find Web site at *http://www.grants.gov/search/agency.do.* A link to Grants.gov is also available on the HUD Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* The Catalogue of Federal Domestic Assistance (CFDA) number for this program is 14.314. Applications must be submitted electronically through *Grants.gov.*

FOR FURTHER INFORMATION CONTACT: Questions regarding specific program requirements should be directed to the agency contact identified in the program NOFA. Program staff will not be available to provide guidance on how to prepare the application. Questions regarding the 2010 General Section should be directed to the Office of Grants Management and Oversight at (202) 708–0667 or the NOFA Information Center at 800–HUD–8929 (toll free). Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at 800–877–8339.

Dated: January 24, 2011.

Barbara S. Dorf,

Director, Office of Departmental Grants Management and Oversight, Office of the Chief of the Human Capital Officer.

[FR Doc. 2011–1899 Filed 1–27–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

[Docket ID No. BOEM–2010–0069]

BOEMRE Information Collection Activities: 1010–0081, Operations in the Outer Continental Shelf for Minerals Other Than Oil, Gas, and Sulphur, Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice of a renewal of an information collection (1010–0081).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR 282, Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by February 28, 2011.

ADDRESSES: Submit comments by either fax (202) 395–5806 or e-mail (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, *Attention:* Desk Officer for the Department of the Interior (1010–0081). Please also submit a copy of your comments to BOEMRE by any of the means below.

- *Electronically:* Go to *http://www.regulations.gov*. In the entry titled, "Enter Keyword or ID," enter BOEM–2010–0069 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this collection. BOEMRE will post all comments.
- *E-mail: cheryl.blundon@boemre.gov*. Mail or hand-carry comments to: Department of the Interior; Bureau of Ocean Energy Management, Regulation and Enforcement; *Attention:* Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ICR 1010–0081 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch, (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 282, Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur.

OMB Control Number: 1010–0081.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1334 and 43 U.S.C. 1337(k)), authorizes the Secretary of the Interior (Secretary) to implement regulations to grant leases of any mineral other than oil, gas, and sulphur to qualified parties. This regulation governs mining operations within the OCS and establishes a comprehensive leasing and regulatory program for such minerals. This regulation has been designed to (1) recognize the differences between the OCS activities associated with oil, gas, and sulphur discovery and development, and those associated with the discovery and development of other minerals; (2) facilitate participation by States directly affected by OCS mining activities; (3) provide opportunities for consultation and coordination with other OCS users and uses; (4) balance development with environmental protection; (5) insure a fair return to the public; (6) preserve and maintain free enterprise competition; and (7) encourage the development of new technology.

The authorities and responsibilities described above are among those delegated to BOEMRE. This ICR addresses the regulations at 30 CFR 282, Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur. Note that there has been no activity in the OCS for minerals other than oil, gas and sulphur for many years and no information collected. However, because these are regulatory requirements, the potential exists for information to be collected; therefore, we are requesting a renewal of this collection of information.

Assuming one lease to this ICR is mandatory. No questions of a sensitive nature are asked. We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2), 30 CFR 282.5, 282.6, 282.7, and applicable sections of 30 CFR parts 280 and 281.

BOEMRE will use the information required by 30 CFR 282 to determine if lessees are complying with the regulations that implement the mining operations program for minerals other than oil, gas, and sulphur. Specifically, BOEMRE will use the information:

- To ensure that operations for the production of minerals other than oil, gas, and sulphur in the OCS are conducted in a manner that will result in orderly resource recovery, development, and the protection of the human, marine, and coastal environments.
- To ensure that adequate measures will be taken during operations to prevent waste, conserve the natural resources of the OCS, and to protect the environment, human life, and correlative rights.
- To determine if suspensions of activities are in the national interest, to facilitate proper development of a lease including reasonable time to develop a mine and construct its supporting facilities, or to allow for the construction or negotiation for use of transportation facilities.
- To identify and evaluate the cause(s) of a hazard(s) generating a suspension, the potential damage from a hazard(s) and the measures available to mitigate the potential for damage.
- For technical and environmental evaluations which provide a basis for BOEMRE to make informed decisions to

approve, disapprove, or require modification of the proposed activities.

Frequency: Monthly, and as a result of situations encountered.

Estimated Number and Description of Respondents: There are no active respondents; therefore, we estimated the potential annual number of respondents to be one.

Estimated Reporting and Recordkeeping "Hour" Burden: The estimated annual hour burden for this ICR is a total of 201 hours. The following table details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 282	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burden		
Subpart A—General				
4(b); 12(b)Subpar(2)(ii); 12(f)(l), (2); 13(d), (e)(2); 21; 22; 25; 26; 28.	Submit delineation plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications.	40	1	40
4(c); 12(c)(2)(ii); 12(f)(l), (2); 13(d), (e)(2); 21; 23; 25; 26; 28.	Submit testing delineation plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications.	40	1	40
4(d); 12(d)(2)(ii); 12(f)(1), (2); 13(d), (e)(2); 21; 24; 25; 26; 28.	Submit mining delineation plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications.	40	1	40
5	Request non-disclosure of G&G info	10	1	10
Subtotal			4 Responses	130 hours
Subpart B—Jurisdiction and Responsibilities of Director				
11(c); 12(c)	Apply for right-of-use and easement	30	1	30
11(d); 12(d)	Request consolidation of two or more OCS mineral leases or portions.	1	1	1
12(f)(1), (h); 20(g), (h)	Request approval of operations or departure from operating requirements.	Burden included with applicable operation.	0.	
13(b), (f)(2); 31	Request suspension or temporary prohibition or production or operations.	2	1	2
13(e)(1)	Submit site-specific study plan and results; request payment.	8	1	8
		1 study x $100,000 = $100,000		
14	Submit "green" response copy of Form MMS–1832 indicating date violations (INCs) corrected.	2	1	2
Subtotal			5 responses	43 hours
		$100,000 non-hour cost burden		
Subpart C—Obligations and Responsibilities of Lessees				
20(a), (g); 29(i)	Make available all mineral resource or environmental data and information; submit reports and maintain records.	Burden included with applicable operation..	0.	
20(b) thru (e)	Submit designation of payor, operator, or local representative; submit changes.	1	1	1
21(d)	Notify BOEMRE of preliminary activities	1	1	1
27(b)	Request use of new or alternative technologies, techniques, etc.	1	1	1

Citation 30 CFR 282	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burden		
27(c)	Notify BOEMRE of death or serious injury; fire, exploration, or other hazardous event; submit report.	1	1	1
27(d)(2)	Request reimbursement for furnishing food, quarters, and transportation for BOEMRE representatives (no requests received in many years; minimal burden).	2	1	2
27(e)	Identify vessels, platforms, structures, etc. with signs.	1	1	1
27(f)(2)	Log all drill holes susceptible to logging; submit copies of logs to BOEMRE.	3	1	3
27(h)(3), (4)	Mark equipment; record items lost overboard; notify BOEMRE.	1	1	1
29(a)	Submit monthly report of minerals produced	1	1	1
29(b), (c)	Submit quarterly status and final report on exploration and/or testing activities.	5	1	5
29(d)	Submit results of environmental monitoring activities.	5	1	5
29(e)	Submit marked and certified maps annually or as required.	1	1	1
29(f)	Maintain rock, minerals, and core samples for 5 years and make available upon request.	1	1	1
29(g)	Maintain original data and information and navigation tapes as long as lease is in effect and make available upon request.	1	1	1
29(h)	Maintain hard mineral records and make available upon request.	1	1	1
Subtotal			15 responses	26 hours
Subpart D—Payments				
40	Submit surety or personal bond	2	1 response	2 hours
Subpart E—Appeals				
50; 15	File an appeal	Burden exempt under 5 CFR 1320.4(a)(2), (c)..	0.	
TOTAL BURDEN			25 Responses	201 Hours
		$100,000 Non-Hour Cost Burden		

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified one cost burden; § 282.13(e)(1), would require a site-specific study to determine and evaluate hazards that results in a suspension of operation. Since this has not been done to date, BOEMRE estimated that this study would cost approximately $100,000. There are no other non-hour cost burdens associated with the collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency " * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *". Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d)

minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on September 7, 2010, we published a **Federal Register** notice (75 FR 54372) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 282.0 provides the OMB control number for the information collection requirements imposed by the 30 CFR 282 regulations. The PRA (5 U.S.C. 1320) informs the public that they may comment at any time on the collection of information and BOEMRE provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by February 28, 2011.

Public Availability of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment–including your personal identifying information–may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

BOEMRE Information Collection Clearance Officer: Arlene Bajusz (703) 787–1025.

Dated: December 16, 2010.

Doug Slitor,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2011–1853 Filed 1–27–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

[Docket ID No. BOEM–2011–0001]

BOEMRE Information Collection Activity: 1010–0170—Coastal Impact Assistance Program (CIAP), Extension of a Collection; Comment Request

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice of an extension of an information collection (1010–0170).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), BOEMRE is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the Coastal Impact Assistance Program (CIAP) State Plan Guidelines. The Energy Policy Act of 2005 gave responsibility to BOEMRE for CIAP by amending Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a; Appendix A).

DATES: Submit written comments by March 29, 2011.

ADDRESSES: You may submit comments by either of the following methods listed.

- *Electronically:* Go to *http://www.regulations.gov*. In the entry titled "Enter Keyword or ID," enter BOEM–2011–0001 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this collection. BOEMRE will post all comments.
- *E-mail: cheryl.blundon@boemre.gov*. Mail or hand-carry comments to the Department of the Interior; Bureau of Ocean Energy Management, Regulation and Enforcement; *Attention:* Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ICR 1010–0170 in your comment and include your name and return address.

SUPPLEMENTARY INFORMATION: *Title:* Coastal Impact Assistance Program (CIAP).

OMB Control Number: 1010–0170.

Abstract: With the passage of the Energy Policy Act of 2005 (EPAct), the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) was given responsibility for the Coastal Impact Assistance Program (CIAP) through the amendment of Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a Appendix A).

CIAP recognizes that impacts from Outer Continental Shelf (OCS) oil and gas activities fall disproportionately on the coastal states and localities nearest to where the activities occur, and where associated facilities are located. CIAP legislation appropriates money for eligible states and coastal political subdivisions for coastal restoration/improvement projects. BOEMRE shall disburse $250 million to eligible producing states and coastal political subdivisions (CPSs) through a grant program. The funds allocated to each state are based on the proportion of qualified OCS revenues offshore the individual state to total qualified OCS revenues from all states. In order to receive funds, the states submit their CIAP plans detailing how the funds will be expended. Alabama, Alaska, California, Louisiana, Mississippi, and Texas are the only eligible states under EPAct. Counties, parishes or equivalent units of government within those states lying all or in part within the coastal zone, as defined by section 304(1) of the Coastal Zone Management Act (CZMA) 1972, as amended, are the Coastal Political Subdivisions (CPSs) eligible for CIAP funding, a total of 67 local jurisdictions. All funds will be disbursed through a grant process.

In September 2006, CIAP draft guidelines were written and later revised in May 2007. Information was needed from the government jurisdictions to meet all the requirements of the CIAP State Plan Guidelines as well as requirements on the procurement contracts. To approve a plan, legislation requires that the Secretary of the Interior must be able to determine that the funds will be used in accordance with EPAct criteria and that projects will use the funds according to the EPAct. To confirm appropriate use of funds, BOEMRE requires affirmation of grantees meeting Federal, state, and local laws and adequate project descriptions.

This ICR is required to fulfill the requirements of the BOEMRE CIAP grant program.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2). No items of a sensitive nature are collected. Responses are required to obtain or retain benefits.

Frequency: On occasion.

Estimated Number and Description of Respondents: Approximately 6 states and 67 CPSs.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual reporting

burden for this collection is 13,339 hours. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

CIAP reporting and/or recordkeeping requirement	Hour burden
Submit Project Narrative	42
Submit annual Performance Reports	8
Submit bi-annual performance reports	8
Notify BOEMRE in case of delays, adverse conditions, etc., which impair ability to meet objectives of the award including statement of action taken or contemplated or assistance required (included non-construction and construction grants)	8
Request termination and supporting information *	6
Retain all records/documentation for 3 years *	.5
Retain records longer than 3 years if they relate to claim, audit, litigation, etc. Exempt under 5 CFR 1320.4(a)(2), (c).	0
Telephone follow-up discussion on Financial Capabilities	8
Develop language and individual signage at CIAP Sites—Estimated 30 construction projects with temp signs initially—permanent signs 2–4years *	8
Submission of photographs/cds of projects for tracking purposes *	4
Voluntarily submit draft Coastal Impact Assistance Plan with appropriate supporting documentation	1
Submit final Coastal Impact Assistance Plan and all supporting documentation (i.e., Governor's certification of public participation; Appendices C, D, and E)	1
Request delay by states for submitting final plan, with relevant data	1
Request minor changes and/or amendments to a plan	8

* Initially determined that this will be minimal burden, for the first 3 years, until more respondents are actively involved in a CIAP project.

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: We have identified no non-hour cost burdens for this collection.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency " * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *". Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the non-hour cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

BOEMRE Information Collection Clearance Officer: Arlene Bajusz (703) 787–1025.

Dated: January 20, 2011.

Doug Slitor,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2011–1854 Filed 1–27–11; 8:45 am]

BILLING CODE 4310–MR– P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2010–N161; 40136–1265–0000–S3]

Felsenthal/Overflow National Wildlife Refuges, Ashley, Desha, Union, and Bradley Counties, AR; Final Comprehensive Conservation Plan and Finding of No Significant Impact for Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of our final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment for Felsenthal/Overflow National Wildlife Refuges (NWRs). In the final CCP, we describe how we will manage these refuges for the next 15 years.

ADDRESSES: You may obtain a copy of the CCP by writing to: Mr. Bernie Petersen, Project Leader, South Arkansas National Wildlife Refuge Complex, 5531 Highway 82 West, Crossett, AR 71635. The CCP may also be accessed and downloaded from the Service's Web site: *http://southeast.fws.gov/planning/* under "Final Documents."

FOR FURTHER INFORMATION CONTACT: Mr. Mike Dawson, Refuge Planner, Jackson, MS; telephone: 601/965–4903, ext. 20; fax: 601/965–4010; e-mail: *mike_dawson@fws.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for Felsenthal/Overflow NWRs. We started this process through a notice in the **Federal Register** on April 2, 2008 (73 FR 17992).

Felsenthal NWR was established in 1975 as mitigation for the creation of the U.S. Army Corps of Engineers' Ouachita

and Black Rivers' Navigation Project and Felsenthal Lock and Dam. The refuge is located in southeast Arkansas, approximately 8 miles west of the town of Crossett. This 65,000-acre refuge is named for the small Felsenthal community located at its southwest corner, and contains an abundance of water resources dominated by the Ouachita and Saline Rivers and the Felsenthal Pool.

Overflow NWR was established in 1980 and encompasses 13,973 fee-title acres in Ashley County in southeast Arkansas, about 5 miles west of the town of Wilmot. The refuge was established to protect one of the remaining bottomland hardwood forests considered vital for maintaining mallard, wood duck, and other waterfowl populations in the Mississippi Flyway. In addition, the Oakwood Unit, an area of 2,263 acres in Desha County that was transferred from the Farm Service Agency in 1990, is administered by Overflow NWR.

We announce our decision and the availability of the final CCP and FONSI for Felsenthal/Overflow NWRs in accordance with the National Environmental Policy Act (NEPA) [40 CFR 1506.6(b)] requirements. We completed a thorough analysis of impacts on the human environment, which we included in the Draft Comprehensive Conservation Plan and Environmental Assessment (Draft CCP/EA). The CCP will guide us in managing and administering Felsenthal/Overflow NWRs for the next 15 years. Alternative B is the foundation for the CCP.

The compatibility determinations for (1) Hunting; (2) fishing; (3) wildlife observation and photography; (4) environmental education and interpretation; (5) power boating; (6) all-terrain vehicle use; (7) bee keeping; (8) berry picking; (9) camping; (10) commercial fishing; (11) dog field trials; (12) firewood cutting; (13) forest management; (14) furbearer trapping; (15) horseback riding; and (16) bicycling, boating (non-motorized), swimming, beach use, and hiking/backpacking are available in the final CCP.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Comments

We made copies of the Draft CCP/EA available for a 30-day public review period as announced in the **Federal Register** on June 7, 2010 (75 FR 32205). We received five comments on the Draft CCP/EA.

Selected Alternative

The Draft CCP/EA identified and evaluated three alternatives for managing the refuges. After considering the comments we received and based on the professional judgment of the planning team, we selected Alternative B for implementation. We believe this alternative is the most effective management action for meeting the vision, goals, and purposes of the refuges by optimizing habitat management and visitor services. This alternative will also allow the refuges to provide law enforcement protection that adequately meets the needs of both refuges.

This alternative will focus on augmenting wildlife and habitat management to identify, conserve, and restore populations of native fish and wildlife species, with an emphasis on migratory birds and threatened and endangered species. This will partially be accomplished by increased monitoring of waterfowl, other migratory birds, and endemic species in order to assess and adapt management strategies and actions. The restoration of the Felsenthal Pool will be a vital part of this management action and will be crucial to ensuring healthy and viable ecological communities. This restoration will require increased water management, invasive aquatic vegetation control, and reestablishment of water quality standards and possibly populations of game fish species. Nuisance wildlife populations and invasive plant species will be more aggressively managed by implementing a control plan.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: September 3, 2010.

Mark J. Musaus,

Acting Regional Director.

Editorial Note: This document was received in the Office of the Federal Register Tuesday, January 25, 2011.

[FR Doc. 2011–1868 Filed 1–27–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2010–N172; 40136–1265–0000–S3]

Tennessee National Wildlife Refuge, Henry, Benton, Decatur, and Humphreys Counties, TN; Final Comprehensive Conservation Plan and Finding of No Significant Impact for Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of our final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment for Tennessee National Wildlife Refuge (NWR). In the final CCP, we describe how we will manage this refuge for the next 15 years.

ADDRESSES: You may obtain a copy of the CCP by writing to: Mr. Troy Littrell, Tennessee National Wildlife Refuge, 3006 Dinkins Lane, Paris, Tennessee 38242. The CCP may also be accessed and downloaded from the Service's Web site: *http://southeast.fws.gov/planning/,* under "Final Documents."

FOR FURTHER INFORMATION CONTACT: Mr. Troy Littrell; telephone: 731/642–2091; fax: 731/644–3351; e-mail: *troy_littrell@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for Tennessee NWR. We started this process through a notice in the **Federal Register** on April 2, 2008 (73 FR 17994).

On December 28, 1945, President Harry S. Truman signed Executive Order No. 9670, establishing the Tennessee NWR. The following day, the Department of the Interior and the Tennessee Valley Authority (TVA) entered into an agreement that the lands would henceforth be reserved for use as a wildlife refuge. Tennessee NWR runs

along 65 miles of the Tennessee River in Henry, Benton, Decatur, and Humphreys Counties, Tennessee. The refuge is comprised of three units: the Duck River Unit (26,738 acres), Big Sandy Unit (21,348 acres), and Busseltown Unit (3,272 acres), for a total of 51,358 acres.

The establishing and acquisition authorities for Tennessee NWR include the Migratory Bird Conservation Act (16 U.S.C. 715–715r) and Fish and Wildlife Coordination Act (16 U.S.C. 661–667). In addition, Public Land Order 4560 identified the purposes of the refuge to be "to build, operate and maintain sub-impoundment structures; produce food crops or cover for wildlife; to regulate and restrict hunting, trapping and fishing and to otherwise manage said lands and impoundment areas for the protection and production of wildlife and fish populations" (Public Land Order, 1962).

The refuge provides valuable wintering habitat for migrating waterfowl. It provides habitat and protection for threatened and endangered species such as the gray bat, Indiana bat, least tern, piping plover, pink mucket pearlymussel, ring pink mussel, orangefoot pimpleback pearlymussel, and rough pigtoe and pigmy madtom mussels. The refuge also supports an abundance of wildlife, including over 650 species of plants, 303 species of birds, and 280 species of mammals, fish, reptiles, and amphibians.

We announce our decision and the availability of the final CCP and FONSI for Tennessee NWR in accordance with the National Environmental Policy Act (NEPA) [40 CFR 1506.6(b)] requirements. We completed a thorough analysis of impacts on the human environment, which we included in the Draft Comprehensive Conservation Plan and Environmental Assessment (Draft CCP/EA) for Tennessee NWR. The CCP will guide us in managing and administering Tennessee NWR for the next 15 years.

The compatibility determinations for (1) Wildlife observation and photography, (2) environmental education and interpretation, (3) fishing, (4) hunting, (5) cooperative farming, (6) scientific research, (7) commercial fishing to remove rough fish from impounded waters, (8) horseback riding and horse-drawn conveyance, and (9) bicycling are also available within the CCP. The compatibility determination for marina concessions was removed from the CCP for further environmental analysis and public comment.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Comments

We made copies of the Draft CCP/EA available for a 30-day public review and comment period via **Federal Register** notice on June 7, 2010 (75 FR 32201). We received 43 comments on the Draft CCP/EA.

Selected Alternative

The Draft CCP/EA identified and evaluated four alternatives for managing the refuge. After considering the comments we received, and based on the professional judgment of the planning team, we selected Alternative D for implementation.

Under Alternative D, we will enhance both wildlife management and public use at Tennessee NWR. We will provide adequate habitats to meet the foraging needs of 121,000–182,000 ducks for 110 days and other habitats that are needed for loafing, roosting, molting, etc. Under this alternative, we will create and enhance existing habitat for secretive marshbirds, sufficient to support 15–25 nesting territories for king rail pairs. Within 10 years of CCP approval, we will provide at least 100 acres of foraging sites in multiple impoundments for both northbound and southbound shorebirds during migration. We will conduct population and habitat surveys to evaluate shorebird use and invertebrate densities within managed and unmanaged habitat. To benefit long-legged wading birds, we will continue to provide for both secure nesting sites and ample foraging habitat. We will develop and implement baseline inventories for non-game mammals, reptiles, amphibians, fish, and invertebrates. We will also consider providing 50–100 acres in 1–3 tracts for the Henslow's sparrow and other grassland species on the Big Sandy Unit.

Under Alternative D, we will intensify existing habitat management programs, practices, and actions. We will improve the moist-soil management program on about 1,600 acres by expanding the invasive exotic plant control program, water management capabilities, and the use of management techniques that set back plant succession. In cooperation with partners, we will reactivate the forest management program on the refuge for the benefit of priority forest interior migratory birds and resident game species. Alternative D will incorporate a comprehensive fire management program into forest habitat.

Over the life of the CCP, Alternative D will redirect management actions to sustain the acreage of unharvested cropland to meet foraging needs of waterfowl and habitat for other native species. It will also increase acreage of hard mast producing bottomland hardwood forest species. We will improve water management capabilities by subdividing existing impoundments, creating new impoundments, and increasing water supply (i.e., pumps, wells, and structures) for migratory birds.

We will aim to increase wildlife observation/photography opportunities with the construction of new public use facilities, and within 2 years of CCP approval, will open a seasonal wildlife drive in the Duck River Bottoms. We will continue to provide environmental education services to the public, including limited visits to schools, environmental education workshops, and on-site and off-site environmental education programs, as well as work with partners to expand environmental education facilities and opportunities on and near the refuge. The existing interpretive program will be expanded.

We will work to construct a combined headquarters and visitor center, incorporating "green" technology on the Big Sandy Unit. Within 15 years of CCP approval, we will build a visitor contact station at the Duck River Unit. We will expand the current staff by twelve, including a forester, a forestry technician, two engineering equipment operators, a tractor operator, two refuge rangers, a law enforcement officer, an assistant manager, two biological technicians, and an office assistant. We will strengthen our volunteer programs, friend's group, and partnerships by

investing an increased portion of staff time into nurturing these promising relationships.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: September 14, 2010.

Mark J. Musaus,

Acting Regional Director.

[FR Doc. 2011–1867 Filed 1–27–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–R–2010–N208; 20131–1265–2CCP–S3]

Aransas National Wildlife Refuge Complex, Aransas, Calhoun, and Refugio Counties, TX; Final Comprehensive Conservation Plan and Finding of No Significant Impact for Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment (EA) for the Aransas National Wildlife Refuge Complex (NWRC). In this final CCP, we describe how we will manage this refuge for the next 15 years.

ADDRESSES: You may view or obtain copies of the final CCP and FONSI/EA by any of the following methods. You may request a hard copy or CD–ROM.

Agency Web Site: Download a copy of the document(s) at *http://www.fws.gov/southwest/refuges/Plan/index.html.*

E-mail: roxanne_turley@fws.gov. Include "Aransas final CCP" in the subject line of the message.

Mail: Roxanne Turley, Natural Resource Planner, U.S. Fish & Wildlife Service, Division of Planning, P.O. Box 1306, Albuquerque, NM 87103–1306.

In-Person Viewing or Pickup: Call 505–248–6636 to make an appointment during regular business hours at 500 Gold Avenue SW., Albuquerque, NM 87102.

FOR FURTHER INFORMATION CONTACT: Dan Alonso, Refuge Manager, Aransas NWRC, P.O. Box 100, Austwell, TX 77050; by phone, 361–286–3559; or by *e-mail, dan_alonso@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for the Aransas NWRC. We started this process through a notice in the **Federal Register** August 30, 2002 (67 FR 55862).

Aransas NWRC is located in Aransas, Calhoun, and Refugio Counties, Texas, and encompasses 115,931 acres of coastal prairie, oak woodland and savannah, barrier island, and salt and freshwater marshes. Management efforts focus on protecting, enhancing, and restoring Refuge habitats and water management for the benefit of important fish and wildlife resources. The Refuge is world renowned for hosting the largest wild flock of endangered whooping cranes each winter. Other native species on the Refuge include the American alligator, javelina, roseate spoonbill, armadillo, and wildflowers.

Aransas NWRC was established "as a refuge and breeding grounds for birds", by Executive Order No. 7784 on December 31, 1937. The authority of the Migratory Bird Conservation Act (16 U.S.C. 712d) establishes that each refuge in the system is "for use as an inviolate sanctuary, or any other management purpose, for migratory birds." The Refuge Recreation Act (16 U.S.C. 460–1) states that each refuge in the system is "suitable for incidental fish and wildlife-oriented recreational development, the protection of natural resources, and the conservation of endangered or threatened species." Additionally, Aransas NWRC contains critical habitat for the whooping crane (43 FR 20938, May 15, 1978).

We announce our decision and the availability of the FONSI for the final CCP for the Aransas NWRC in accordance with National Environmental Policy Act (NEPA) (40 CFR 1506.6(b)) requirements. We completed a thorough analysis of impacts on the human environment, which we included in the EA that accompanied the draft CCP.

The CCP will guide us in managing and administering the Aransas National Wildlife Refuge Complex for the next 15 years. Alternative B, with modifications as described in Appendix J (Response to Public Comments), is selected as the management direction for the Final Plan.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

CCP Alternatives, Including Selected Alternative

Our draft CCP and our EA (75 FR 6872) addressed several issues. To address these, we developed and evaluated the following alternatives.

	A: No-action alternative	B: Optimal habitat management and public use (proposed action) alternative	C: Maximal habitat management and public-use alternative
Issue 1: Habitat Management Activities.	Biological program and habitat management would continue under existing plans, with the emphasis remaining primarily on migratory birds, waterfowl, and Federally listed species; the status quo would prevail without the benefit of holistic, long-term, and comprehensive guidance.	Ecosystem-level management actions to better protect and preserve the natural diversity of unique habitats and sensitive wildlife, through a holistic, partnered, and publically involved approach, would be implemented; current and future long-term benefits for migratory and resident birds, wildlife and their habitats, and the recovery of threatened and endangered species would be provided.	Intensive management to achieve a predetermined amount of woodlands, wetlands, croplands, grasslands, shrublands, and water impoundments to benefit the highest variety of plants and wildlife would be implemented.
Issue 2: Improvements to Public Use Opportunities.	Current public use under existing plans would continue; any expansions would occur opportunistically.	An optimal, quality experience for the public. Priority wildlife-dependent uses would be emphasized, and other existing public uses would be allowed where appropriate.	All priority public uses (hunting, fishing, wildlife observation, photography, and environmental education and interpretation) would be expanded above current levels. Visitor facilities and interpretive and environmental education programs would be improved or developed.
Issue 3: Refuge Land and Boundary Protection.	Currently, there is no active land acquisition or land protection plan. However, any future acquisitions would be based on an approved land protection plan, developed as a step-down plan of the CCP. Any additional lands added to the Refuge would be purchased from willing sellers as opportunities and funding arise.	Same as Alternative A; however, additional land protection to address whooping crane flock expansion in the vicinity of the Refuge would be considered. The emphasis would remain on protecting whooping cranes and available acres of existing wetland or restorable wetland habitat and adjacent uplands in portions of Aransas, Calhoun, and Refugio Counties.	Same as Alternative A.

Comments

We solicited comments on the draft CCP and the EA for the Aransas NWRC from February 12, 2010, to April 13, 2010 (75 FR 7862). Subsequently, the Draft Plan/EA was made available for public review starting on February 12, 2010, at the Refuge, online, and at the Regional Office in Albuquerque, New Mexico. Two open house meetings were held in communities near the Refuge in March 2010. In all, approximately 30 individuals attended the open house meetings and a total of 73 comments were submitted in writing or phoned in to the Refuge/Regional Office. Additionally, one State agency, two Federal agencies, and four nongovernmental organizations responded prior to the end of the 60-day public comment period.

Based on the comments received, the Draft Plan/EA was changed to include an improved assessment of effects to air and water resources, inclusion of wildlife observed at the refuge, added strategies for wildlife-dependent recreation, and updates or added supplemental information throughout the document.

Selected Alternative

After considering the comments we received, we have selected Alternative B for implementation. This alternative describes how habitat objectives will be accomplished through a combination of management activities to encourage ecological integrity, promote restoration of coastal prairie habitats, control invasive plant species, and provide long-term benefits for migratory and resident birds and the recovery of threatened and endangered species. This alternative was selected because it best meets refuge purposes and goals of the Aransas National Wildlife Refuge Complex. This action will not adversely impact threatened or endangered species or their habitat. Opportunities for wildlife-dependent recreation activities, such as hunting, fishing, wildlife observation, photography, environmental education, and interpretation, will be enhanced. Future management actions will have a neutral or positive impact on the local economy, and the recommendations in the Plan will ensure that Refuge management is consistent with the mission of the National Wildlife Refuge System.

Public Availability of Documents

In addition to the methods in **ADDRESSES**, you can view or obtain documents at the following locations:

- Our Web site: *http://www.fws.gov/southwest/refuges/texas/STRC/laguna/Index_Laguna.html.*
- At the following libraries:

Library	Address	Phone number
Victoria Public Library	302 N Main St., Victoria, TX 77901	361–572–2701
Parkdale Branch Library	1230 Carmel Pkwy., Corpus Christi, TX 78411	361–853–9961
Calhoun County Public Library	200 West Mahan St., Port Lavaca, TX 77979	361–552–7323
Aransas County Public Library	701 E Mimosa St., Rockport, TX 78382	361–790–0153

Dated: January 19, 2011.

Joy Nicholopoulor.

Regional Director, U.S. Fish and Wildlife, Region 2.

[FR Doc. 2011–1299 Filed 1–27–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVC0100000 L91310000.EJ0000.LXSIGEOT0000 241A; MO#4500018986; NVN 087795; 11–08807; TAS:14X5575]

Notice of Availability of the Draft Environmental Impact Statement for the Salt Wells Energy Projects, Churchill County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with of the National Environmental Policy Act of 1969, as amended (NEPA), the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for the Salt Wells Energy Projects 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 Salt Wells Energy Projects Draft EIS within 60 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 Salt Wells Energy Projects by any of the following methods:

- *Web site: http://www.blm.gov/nv/st/en/fo/carson_city_field.html.*
- *E-mail: saltwells_eis@blm.gov.*
- *Fax:* 775–885–6147.
- *Mail or other delivery service:* BLM Carson City District, Stillwater Field Office, Attn: Salt Wells Energy Projects, 5665 Morgan Mill Road, Carson City, Nevada 89701.

Copies of the Salt Wells Energy Projects Draft EIS are available in the BLM Carson City District, Stillwater Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: Colleen Sievers, (775) 885–6000, or e-mail: *saltwells_eis@blm.gov.*

SUPPLEMENTARY INFORMATION: The BLM Stillwater Field Office received separate proposed geothermal utilization plans and applications for facilities construction permits from Vulcan Power Company (Vulcan) and Ormat Technologies, Inc. (Ormat), and an electric transmission right-of-way (ROW) application from Sierra Pacific Power Company (SPPC), for proposed geothermal energy projects covering a combined area of approximately 24,152 acres in the Salt Wells area about 15 miles east of Fallon, Nevada. Vulcan proposes the development of as many as four geothermal power plants and associated facilities. Ormat proposes the development of one geothermal power plant and associated facilities. SPPC proposes 22 miles of above-ground electrical transmission lines, electrical substations, and switching stations. Due to similar timing, geographic area, and type of action, the BLM is analyzing the proposals in one EIS. The BLM will issue a separate Record of Decision for each proposed project.

The proposed facilities would be sited on a combination of private property and public land; the public land is managed by the BLM and the U.S. Bureau of Reclamation (Reclamation).

The Vulcan project proposal is to construct as many as four 30- to 60-megawatt (MW) binary or dual-flash geothermal power plants and associated facilities at five possible locations for a total net output of 120 MW. Each site includes production and injection wells, pipelines, a substation, interconnection lines to the proposed substation, and access roads. The Vulcan project could require an estimated 46 geothermal production and injection wells. Twenty of these wells have been analyzed in two previous environmental assessments (EA): Salt Wells Geothermal Drilling EA for Ten Drilling Wells, EA–NV–030–07–05 (February 6, 2007), and Salt Wells Geothermal Exploratory Drilling Program EA for Ten Wells, DOI– BLM–NV–C010–2009–0006–EA (April 24, 2009).

The Ormat project proposal includes the construction and operation of a 40–MW binary combination wet- and air-cooled geothermal power plant, a substation, a switching station, and an associated transmission line between the power plant and switching station. These facilities would be developed on an 80-acre private parcel. While Ormat has not yet determined the total number of production and injection wells needed, up to 13 well pads would be constructed in addition to the 12 well pads previously analyzed in the Carson Lake Geothermal Exploration Project EA–NV–030–07–006 and DOI–BLM–NV–C010–2010–0012—Determination of NEPA Adequacy, and authorized by the BLM on July 25, 2008, and July 22, 2010, respectively up to five wells might be drilled from each pad location. Associated pipelines and roads would also be permitted and constructed.

The SPPC proposal includes construction of a new substation, 22 miles of single circuit 230-kilovolt (kV) transmission line, two 230-kV switching stations, and two 60-kV electric lines.

The BLM's purpose for this EIS is to direct and control the use of public lands for the orderly development of commercial-scale geothermal power generation facilities, associated infrastructure, and a transmission line in a manner that will protect natural resources and prevent unnecessary or undue degradation to the public lands following the NEPA regulations [40 CFR 2801.2]. In accordance with 43 CFR part 2800 and 43 CFR part 3200, the BLM needs to process the applications to construct, operate, and maintain the proposed Salt Wells Energy Projects. Title V of the Federal Land Policy and Management Act (FLPMA) authorizes the Secretary of the Interior (through the BLM) to grant ROWs over, upon, under, or through public lands for the purposes of generating and transmitting electric energy. These projects are consistent with the BLM Carson City District Office Consolidated Resource Management Plan (2001).

In addition to the proposed actions, the BLM is analyzing the following action alternatives. For the Vulcan project, an alternative switching station and interconnection 230-kV transmission line is proposed should SPCC elect not to build its project. For the Ormat project, the BLM developed an alternative to relocate specific well sites and a portion of a pipeline to maintain consistency with lease stipulations and land use plan decisions to protect riparian vegetation and surface waters within canals. For the SPPC project, two alternative routes for the proposed 230-kV transmission line and an alternative examining the construction of an additional fiber optic line to connect communications from Highway 50 are being considered to minimize impacts to the nearby Fallon Naval Air Station (NAS) airspace. As required under NEPA, the Draft EIS analyzes a no-action alternative for each of the proposed projects.

The BLM took into consideration the provisions of the Energy Policy Act of 2005, and Secretarial Orders 3283, *Enhancing Renewable Energy Development on the Public Lands,* and 3285A1, *Renewable Energy Development by the Department of the Interior,* in responding to the applications.

The Draft EIS analyzes site-specific impacts of the proposed projects on

land use authorizations, airspace, and access; air quality; minerals/geology and soils; farm lands (prime or unique); water quality and quantity; floodplains, wetlands, and riparian zones; vegetation (including invasive, nonnative species); wildlife; migratory birds; BLM-designated sensitive animal and plant species; cultural resources; Native American religious concerns; paleontological resources; visual resources; livestock grazing; recreation; special designations (including areas of critical environmental concern and wilderness); national scenic and historic trails; noise; public health and safety and fire management; hazardous or solid wastes; social and economic values; and environmental justice. Pursuant to Section 201[a] of FLPMA, the 1979 wilderness characteristic inventory was updated for all lands that could be impacted by the proposed action and alternatives. No changes have occurred that would warrant a change of the 1979 finding that wilderness characteristics were not present in the area. Therefore, wilderness characteristics are not analyzed in the EIS. A Notice of Intent to Prepare an EIS for the Salt Wells Energy Projects, Churchill County, Nevada, was published in the **Federal Register** on September 11, 2009 (74 FR 46787). The BLM held one public scoping meeting in Fallon, Nevada, on October 21, 2009. The formal scoping period ended November 10, 2009. Several issues were raised during scoping including the proximity to Fallon NAS, the need to monitor potential impacts to ground and surface water, impacts to wildlife habitat and wildlife (migratory birds and golden eagles), and effects of lighting on Dark Sky attributes of the area.

Please note that public comments and information submitted, including names, street addresses, and e-mail addresses of persons who submit comments, will be available for public review and disclosure Bureau of Land Management Carson City District Office, 5665 Morgan Mill Road, Carson City, 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.

Teresa J. Knutson,

Manager, Stillwater Field Office, BLM Carson City District.

Authority: 43 CFR part 2800 and 43 CFR part 3200.

[FR Doc. 2011–1831 Filed 1–27–11; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS00000 L19200000.PH0000 LRSNCI530800 241A; 10–08807; MO#4500012623; TAS: 14X1109]

Notice of Intent To Prepare a Recreation Area Management Plan, a Comprehensive Transportation and Travel Management Plan for the Las Vegas Field Office, Nevada and Associated Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Las Vegas Field Office, Las Vegas, Nevada, intends to prepare a Recreation Area Management Plan (RAMP), Comprehensive Transportation and Travel Management (CTTM) Plan with an associated Environmental Impact Statement (EIS) for the Las Vegas Field Office and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the RAMP/CTTM with associated EIS. Comments on issues may be submitted in writing until March 29, 2011. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media and the BLM Web site at: *http://www.blm.gov/nv/st/en/fo/lvfo.html.* In order to be included in the Draft EIS, all comments must be received prior to the close of the 30-day scoping period or 30 days after the last public meeting, whichever is later. We will provide additional opportunities for public participation upon publication of the Draft RAMP/CTTM/EIS.

ADDRESSES: You may submit comments on issues and planning criteria related to the Las Vegas RAMP/CTTM/EIS using any of the following methods:

- *Web site: http://www.blm.gov/nv/st/en/fo/lvfo.html*;
- *Fax:* 702–515–5023;
- *Mail:* BLM Las Vegas Field Office, RAMP/CTTA/EIS, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130–2301; and
- *E-mail: LVFO_RAMPS@blm.gov.*

Documents pertinent to this proposal may be examined at the Southern Nevada District, Las Vegas Field Office.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to the mailing list, contact Marilyn Peterson, Project Manager, telephone 702–515–5054, or e-mail *LVFO_RAMPS@blm.gov.*

SUPPLEMENTARY INFORMATION: The Las Vegas Resource Management Plan recommended the completion of the RAMP to provide more specific management direction. The CTTM will address transportation and travel issues in the Las Vegas Field Office. The RAMP will direct implementation of recreation and CTTM decisions. The planning area is located in Clark County, Nevada, and encompasses approximately 3,374,519 acres of public land. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. Preliminary issues for the planning area have been identified by BLM personnel; Federal, State, and local agencies; and other stakeholders. These issues include:

- How will cultural and natural resources be preserved for current and future generations?
- How to manage recreation in a manner that is compatible with the plans and needs of Native American tribes and other local, State, and Federal agencies?
- How will the RAMP/CTTM be responsive to continually changing conditions, stemming primarily from an increasing urban interface?
- How will visitors' activities be managed in a manner that protects the cultural and natural resources while providing reasonable access?
- What facilities and infrastructure will be needed to provide visitor services, information/interpretation, and administration of recreation opportunities?
- How will the RAMPS/CTTM integrate with other Federal, regional and local plans?
- How will CTTM designations be incorporated into long-term goals for recreation and other resource needs?
- What effect will rights-of-way authorizations and land sales have on recreation opportunities?

- Where can urban trails connect to Federal lands; and
- How should the Las Vegas Perimeter Open Space and Trail concept, located primarily on BLM lands, be considered?

You may submit comments on issues and planning criteria in writing to the BLM at public scoping meetings or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section of this notice. To be most helpful, you should submit comments within the 60-day public comment period. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that the entire comment—including 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. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed. The BLM will evaluate the identified issues, to be addressed in the plan, and will place them into one of three categories:

1. Issues to be resolved in the plan;
2. Issues to be resolved through policy or administrative action; or
3. Issues beyond the scope of this plan.

The BLM will provide an explanation in the Draft RAMP/CTTM/EIS as to why an issue is placed in category 2 or 3. The public is also encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

The BLM will use an interdisciplinary approach to develop the plan in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: Renewable energy, lands and realty, minerals management, outdoor recreation, air resources, visual resources, vegetation, cultural resources, paleontology, botany, special status species, wildlife and fisheries, hydrology, sociology and economics.

Authority: 40 CFR 1501.7; 43 CFR 1610.2 and 8342.1–2.

Robert B. Ross, Jr.,

Manager, Las Vegas Field Office.

[FR Doc. 2011–1902 Filed 1–27–11; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD–0800–1430–ER; CACA 4318]

Notice of Realty Action; Recreation and Public Purposes Act Classification; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification and conveyance under Section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, and the provisions of the Recreation and Public Purposes (R&PP) Act, as amended, 50.15 acres of public land in County of Inyo, California. The County of Inyo has filed an R&PP application to purchase the 50.15-acre parcel of public land that contains a closed solid waste landfill facility.

DATES: Comments of interested persons must be received in the BLM Barstow Field Office at the address below on or before March 14, 2011. Only written comments will be accepted.

ADDRESSES: Bureau of Land Management, Barstow Field Office, 2601 Barstow Road, Barstow, California 92311.

FOR FURTHER INFORMATION CONTACT: Birgit Hoover, Realty Specialist, BLM Barstow Field Office, (760) 252–6035. Detailed information concerning this action, including but not limited to documentation related to compliance with applicable environmental and cultural resource laws, is available for review at the BLM Barstow Field Office at the address above.

SUPPLEMENTARY INFORMATION: The following described public land in Inyo County, California has been examined and found suitable for classification and conveyance under Section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, and the provisions of the R&PP Act as amended, 43 U.S.C. 869 *et seq.,* and is hereby classified accordingly:

San Bernardino Meridian

T. 22N., R. 7E.,
sec. 29, SE¼SW¼SE¼ and SW¼SE¼SE¼;
sec. 32, NW¼NE¼NE¼ and E ½NW¼NE¼.

The area described contains 50.15 acres in Inyo County.

The land is not needed for any Federal purpose. The County of Inyo has leased the described property from BLM since May of 1983. The described property will be conveyed to the County of Inyo without possibility of reverter to the United States pursuant to 43 CFR 2743.3–1(c). The conveyance is consistent with current Bureau land use planning and would be in the public interest. The patent, if issued, will be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, in particular, but not limited to 43 CFR 2743.3–1, and will contain the following additional reservations, terms, and conditions:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890, 43 U.S.C. 945.
2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals under applicable laws and such regulations as the Secretary of the Interior may prescribe, including all necessary access and exit rights.
3. The patent, if issued, will be subject to all valid existing rights.
4. The patentee, by accepting a patent, covenants and agrees to indemnify, defend, and hold the United States and its officers, agents, representatives, and employees (hereinafter referred to in this clause as the "United States") harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentees or their employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the patentees' use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentees and their employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (a) Violations of Federal, State, and local laws and regulations that are now or may in the future become, applicable to the real property; (b) Judgments, claims, or demands of any kind assessed against the United States; (c) Costs, expenses, or damages of any kind incurred by the United States; (d) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous

substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property and other interests of the United States; (e) Activities by which solids or hazardous substances or wastes, as defined by Federal and State environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (f) Natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the above described parcel of land patented or otherwise conveyed by the United States, and may be enforced by the United States in a court of competent jurisdiction.

5. Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C 9620(h) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1988, 100 Stat. 1670, notice is hereby given that the above-described parcel has been examined and no evidence was found to indicate that any hazardous substances have been stored for 1 year or more, nor had any hazardous substances been disposed of or released on the subject property.

6. Upon publication of this notice in the **Federal Register**, the public land described above is segregated from all forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the R&PP Act. Interested parties may submit comments regarding the proposed conveyance classification of the lands for a period of 45 days from the date of publication of this notice in the **Federal Register**.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a closed solid waste facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs. The classification of the land described in this Notice will become effective March 29, 2011. The land will not be offered for conveyance until after the classification becomes effective.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a closed solid waste facility. Any adverse comments will be reviewed by the BLM California State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

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. In the absence of any adverse comments, the classification of the land described in this notice will become effective March 29, 2011. The land will not be available for conveyance until after the classification becomes effective.

(Authority: 43 CFR 2741.5)

Karla D. Norris,

Associate Deputy State Director.

[FR Doc. 2011–1837 Filed 1–27–11; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA930000 L58790000 EU0000; CACA 50168 17 and 18]

Notice of Realty Action: Competitive Sale of Public Lands in Monterey County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM), Hollister Field Office, proposes to sell two separate parcels of public land totaling 80 acres in Monterey County, California. The sale will be conducted as competitive bid auctions in which interested bidders must submit written sealed bids equal to, or greater than, the appraised fair market value of the lands.

DATES: Written comments regarding the proposed sales must be received by the BLM on or before March 14, 2011. Sealed bids must be received no later than 3 p.m., Pacific Time on June 13, 2011, at the address specified below. Other deadline dates for payments, arranging payments, and payment by electronic transfers, are specified in the terms and conditions of sale described herein. Sealed bids will be opened on June 14, 2011, which will be the sale date.

ADDRESSES: Written comments concerning the proposed sale should be sent to the Field Manager, BLM Hollister Field Office, 20 Hamilton Court, Hollister, CA 95023. Sealed bids must also be submitted to this address. More detailed information regarding the proposed sale and the land involved, including maps and current appraisal may be reviewed during normal business hours between 7:30 a.m. and 4 p.m. at the Hollister Field Office.

FOR FURTHER INFORMATION CONTACT: Christine Sloand, Realty Specialist, BLM, Hollister Field Office, 20 Hamilton Court, Hollister, CA 95023, or phone (831) 630–5022.

SUPPLEMENTARY INFORMATION: The following two parcels of public land are proposed for competitive sale, in accordance with Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended (43 U.S.C. 1713 and 1719).

Mount Diablo Meridian

Parcel One

T. 24S., R. 8E.,
Sec. 11, SW¼SW¼.

The area described contains 40 acres, more or less, in Monterey County.

Parcel one is proposed for sale at the appraised fair market value of $68,200.

Parcel Two

T. 24S., R. 8E.,
Sec 12, SW¼SW¼.

The area described contains 40 acres, more or less, in Monterey County. Parcel two is proposed for sale at the appraised fair market value of $68,200. The public lands were first identified as suitable for disposal in the 1984 BLM Hollister Resource Management Plan (RMP) and remain available for sale under the 2007 Hollister RMP revision, and are not needed for any other Federal purpose. Disposal of the lands would be in the public interest. The lands are difficult and uneconomic to manage as part of the public lands because they lack legal access, and are small parcels isolated from other public lands. The BLM has completed a mineral potential report which concluded there are no known mineral values in the lands proposed for sale. The BLM proposes that conveyance of the Federal mineral interests would occur simultaneously with the sale of the lands.

On January 28, 2011, the above described lands will be segregated from

appropriation under the public land laws, including the mining laws, except for the sale provisions of the FLPMA. Until completion of the sale, the BLM will no longer accept land use applications affecting the identified public lands, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2802.15 and 2886.15. The segregation terminates upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or on January 28, 2013, unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date. The land would not be sold until at least March 29, 2011. Any conveyance document issued would contain the following terms, conditions, and reservations:

1. A reservation of a right-of-way to the United States for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C 945);

2. A condition that the conveyance be subject to all valid existing rights of record;

3. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operations on the patented lands; and

4. Additional terms and conditions that the authorized officer deems appropriate. Interested bidders are advised to obtain an Invitation For Bids (IFB) from the BLM Hollister Field Office at the address above or by calling (831) 630–5022. Interested bidders must follow the instructions in the IFB to participate in the bidding process.

Sealed bids must be for not less than the federally approved fair market value. Sealed bids must be received at the BLM Hollister Field Office no later than 3 p.m., Pacific Time on June 13, 2011. Each sealed bid must include a certified check, money order, bank draft, or cashier's check made payable in U.S. dollars to the order of the Bureau of Land Management, for 10 percent of the amount of the bid. The highest qualifying bidder among the qualified bids received for the sale will be declared the high bid and the high bidder will receive written notice. Bidders submitting matching high bid amounts will be provided an opportunity to submit supplemental bids. The BLM Hollister Field Office Manager will determine the method of supplemental bidding, which may be by oral auction or additional sealed bids. The successful bidder must submit the remainder of the full bid price in the form of a certified check, money order, bank draft, or cashier's check made payable in U.S. dollars to the Bureau of Land Management prior to the expiration of 180 days from the date of the sale. Personal checks will not be accepted.

Failure to submit the full bid price prior to, but not including, the 180th day following the day of the sale, will result in the forfeiture of the 10 percent bid deposit to the BLM in accordance with 43 CFR 2711.3–1(d). No exceptions will be made. The BLM will return checks submitted by unsuccessful bidders by U.S. mail. The BLM may accept or reject any or all offers, or withdraw any parcel of land or interest therein from sale, if, in the opinion of the BLM authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law or is determined to not be in the public interest. Under Federal law, the public lands may only be conveyed to U.S. citizens 18 years of age or older; a corporation subject to the laws of any State or of the United States; a State, State instrumentality, or political subdivision authorized to hold property, or an entity legally capable of conveying and holding lands under the laws of the State of California. Certification of qualifications, including citizenship or corporation or partnership, must accompany the sealed bid. A bid to purchase the land will constitute an application for conveyance of the mineral interests of no known value, and in conjunction with the final payment, the high bidder will be required to pay a $50 non-refundable filing fee for processing the conveyance of the mineral interests.

If not sold, the lands described in this Notice may be identified for sale later without further legal notice and may be offered for sale by sealed bid, Internet auction, or oral auction. In order to determine the value, through appraisal, of the lands proposed to be sold, certain extraordinary assumptions may have been made of the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this Notice, the BLM gives notice that these assumptions may not be endorsed or approved by units of local government. It is the buyer's responsibility to be aware of all applicable local government policies, laws, and regulations that would affect the lands, including any required dedication of lands for public uses. It is also the buyer's responsibility to be aware of existing or projected uses of nearby properties. When conveyed out of Federal ownership, the lands will be subject to any applicable reviews and approvals by the respective unit of local government for proposed future uses, and any such reviews and approvals will be the responsibility of the buyer. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer. Detailed information concerning the proposed land sale including the reservations, sale procedures and conditions, appraisal, planning and environmental documents, and a mineral report are available for review at the location identified in **ADDRESSES** above.

Public Comments regarding the proposed sale may be submitted in writing to the attention of the BLM Hollister Field Manager (*see* **ADDRESSES** above) on or before March 14, 2011. Comments received in electronic form, such as e-mail or facsimile, will not be considered. Any adverse comments regarding the proposed sale will be reviewed by the BLM State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 2711.1–2(a) and (c).

Karla Norris,

Associate Deputy State Director, Natural Resources.

[FR Doc. 2011–1828 Filed 1–27–11; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCACO8000.L19200000.DA0000. LRORBX003800]

Notice of Temporary Restriction of Discharge of Firearms on Public Lands at Kanaka Valley, El Dorado County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary use restriction.

SUMMARY: Notice is hereby given that a temporary restriction of use (prohibition of firearms use) is in effect on public lands in the Kanaka Valley administered by the Mother Lode Field Office, Bureau of Land Management.

DATES: This use restriction is effective as of September 24, 2010 and will remain in effect until published supplementary rules supersede this temporary use restriction order or September 23, 2012, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: William Haigh, Field Manager, 5152 Hillsdale Circle, El Dorado Hills, California 95762, (916) 941–3101. 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, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This temporary use restriction affects public lands at Kanaka Valley in El Dorado County, California. The legal description of the affected public lands is:

NE ¼, SW ¼, NW ¼ of Section 7, excepting all that portion described in the boundary line adjustment grant deed recorded May 14, 2002 document no. 2002–35195. S ½ of the SW ¼ of the SW ¼ of Section 6. N ½ of SW ¼, of the SW ¼ of Section 5. W ½ of the NW ¼ and the NW ¼ of the SW ¼ of Section. 5. NE Fractional ¼ s (Lots 1 and 2) S ½ of the N ½ of Lot 1 of the SW ¼ of Section 6. N ½ of the SE ¼ of Section 6, excepting all that portion described in the boundary line adjustment grant deed recorded November 6, 2002 document no. 2002–85903. Township 10 North, Range 9 East, Mount Diablo Meridian. W ½ of the SE ¼, SE ¼ of the SW ¼ of Section 31, Township 11 North, Range 9 East, Mount Diablo Meridian, excepting all that portion described in the boundary line adjustment grant deed recorded May 14, 2002 document no. 2002–35196. NW ¼ of the NW ¼ of Section 8, Township. 10 North, Range 9 East. Mount Diablo Meridian.

The temporary use restriction is necessary to protect persons, property and public lands. Specifically, this use restriction temporarily prohibits the discharge of firearms to protect persons, property and resources from stray bullets. Discharge of firearms is prohibited as of September 24, 2010 until the completion of the Kanaka Valley management planning process and the publication of final supplementary rules in the **Federal Register** or until September 23, 2012, whichever occurs first. The recent acquisition of this area by the Bureau of Land Management (BLM) and subsequent increase of use at Kanaka Valley has led to significant safety concerns primarily because of the lack of appropriate visitor management infrastructure (signage, fencing, parking, trails etc) and an activity plan to guide visitor use for Kanaka Valley.

The BLM has posted temporary use restriction signs at main entry points to Kanaka Valley. This restriction order will be posted in the Mother Lode BLM Field Office. Maps of the affected area and other documents associated with this restriction order will be available at *cafokvp@blm.gov;* 5152 Hillsdale Circle, El Dorado Hills, California 95762, and (916) 941–3101. Under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), 43 CFR 8360.0–7, and 43 CFR 8364.1, the Bureau of Land Management will enforce the following temporary use restrictions within Kanaka Valley: No discharge of firearms.

The following persons are exempt from this order: Federal, state and local officers and employees in the performance of their official duties and persons with written authorization from the BLM.

Any person who violates the above restriction may be tried before a United States Magistrate and fined no more than $1,000, imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Authority: 43 U.S.C. 1733(a), 43 CFR 8360.0–7 and 8364.1.

William Haigh,

Field Manager, Mother Lode BLM Field Office.

[FR Doc. 2011–1835 Filed 1–27–11; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[9475–0764–422]

Draft Environmental Impact Statement, Stehekin River Corridor Implementation Plan, North Cascades National Park Service Complex; Chelan, Skagit, and Whatcom Counties, WA

AGENCY: National Park Service, Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: The National Park Service, in cooperation with the Federal Highway Administration, has prepared a combined Stehekin River Corridor Implementation Plan, Lake Chelan National Recreation Area Land Protection Plan, and Draft Environmental Impact Statement (Plan/DEIS). The Plan/DEIS evaluates four alternatives for sustainable management of NPS facilities (*e.g.* roads, maintenance yard, trails, bridges) in response to flooding and erosion issues on the lower Stehekin River between High Bridge and Lake Chelan, outside of the Stephen Mather Wilderness. The original Notice of Availability (published in the **Federal Register** on September 7, 2010) announced a 90-day public comment period. In deference to requests from the public and interested organizations, the comment period has been extended for an additional thirty days.

SUPPLEMENTARY INFORMATION: It will not be necessary for individuals, organizations, and agencies that have already commented to do so again. All other comments must now be postmarked or transmitted no later than February 11, 2011. Respondents wishing to comment electronically may do so online (*http://www.nps.gov/noca/parkmgmt/srcip.htm*), or letters may be submitted via regular mail to: Superintendent, *Attn:* Stehekin River Corridor Implementation Plan/DEIS, North Cascades National Park Service Complex, 810 State Route 20, Sedro Woolley, WA 98284.

Electronic copies of the Plan/DEIS may be downloaded from the online address noted above; to obtain a printed copy of the document please contact the park at the address noted above, or request via telephone at (360) 854–7201.

Two additional public meetings regarding the Plan/DEIS have been scheduled during the extended comment period. These will be held in Stehekin, Washington on January 10, 2011 (5 p.m.–7 p.m., Golden West Visitor Center); and on January 12, 2011 in Sedro—Woolley, Washington (6 p.m.–8 p.m., North Cascades National Park Complex Headquarters).

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.

Dated: November 29, 2010.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 2011–1966 Filed 1–27–11; 8:45 am]

BILLING CODE 4312–GX–P

DEPARTMENT OF THE INTERIOR

National Park Service

[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 January 1, 2011. Pursuant to §§ 60.13 or 60.15 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 February 14, 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.

FLORIDA

De Soto County

Ralls, William Oswell, House, 640 W. Whidden St., Arcadia, 11000001

Orange County

Woman's Club of Ocoee, (Clubhouses of Florida's Woman's Clubs MPS) 10 N. Lakewood Ave., Ocoee, 11000002

IOWA

Dubuque County

Upper Main Street Historic District (Boundary Increase), (Dubuque, Iowa MPS) 909, 951, 955, 965 Main St., Dubuque, 11000003

KENTUCKY

Henderson County

Hart, J. Hawkins, House, 630 St., Henderson, 11000005

Jefferson County

McBride's Harrods Creek Landing, 5913 River Rd., Harrods Creek, 11000006

Miller Paper Company Buildings, 118–122 E. Main St., Louisville, 11000007

Most Blessed Sacrament School, 1128 Berry Blvd., Louisville, 11000008

Letcher County

Jenkins School, 75 Pane St., Jenkins, 11000004

LOUISIANA

Lincoln Parish

Ruston USO, 212 N. Trenton St., Suite #1, Ruston, 11000009

MISSOURI

Jackson County

Bellefontaine Avenue Historic District, 500–24 Bellefontaine Ave., Kansas City, 11000010

Imperial Brewing Company Brewery, (Railroad Related Historic Commercial and Industrial Resources in Kansas City, Missouri MPS) 2825 Southwest Blvd., Kansas City, 11000011

St. Louis Independent City

Cass Bank and Trust Company, 1450 N. 13th St., St. Louis (Independent City), 11000012

MONTANA

Carbon County

Bearcreek Cemetery, 1 mi. W. of Bearcreek, Bearcreek, 11000017

NEBRASKA

Otoe County

Mayhew Cabin, 2012 4th Corso, Nebraska City, 11000013

NEW YORK

Suffolk County

Plum Island Light Station, (Light Stations of the United States MPS) N.W. corner of Plum Island, Orient Point, 11000014

PUERTO RICO

Anasco Municipality

Puente de Anasco, (Historic Bridges of Puerto Rico MPS) PR 2 at kilometer 146.1, Anasco, 11000018

SOUTH CAROLINA

Union County

Gist, Nathaniel, House, 162 Fant Acres Rd., Union, 11000015

WASHINGTON

Whatcom County

Skagit River and Newhalem Creek Hydroelectric Projects (Boundary Increase), WA 20 Corridor, Newhalem, 11000016

[FR Doc. 2011–1848 Filed 1–27–11; 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 Set-Top Boxes, and Hardware and Software Components Thereof,* DN 2782; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: Marilyn R. Abbott, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Microsoft Corporation on January 24, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain set-top boxes, and hardware, and software components thereof. The complaint names as respondent TiVo Inc. of Alviso, CA.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this

investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number ("Docket No. 2782") in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

Issued: January 24, 2011.

By order of the Commission.

Marilyn R. Abbott.

Secretary to the Commission.

[FR Doc. 2011–1878 Filed 1–27–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–308–310 and 520–521 (Third Review)]

Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand

AGENCY: United States International Trade Commission.

ACTION: Scheduling of expedited five-year reviews concerning the antidumping duty orders on carbon steel butt-weld pipe fittings from Brazil, China, Japan, Taiwan, and Thailand.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty orders on carbon steel butt-weld pipe fittings from Brazil, China, Japan, Taiwan, and Thailand would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* January 4, 2011.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On January 4, 2011, the Commission determined that the domestic interested party group response to its notice of institution (75 FR 60814, October 1, 2010) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.

Staff report. A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on March 2, 2011, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before March 7, 2011 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by March 7, 2011. However, should the Department of Commerce extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found the responses submitted by Hackney Ladish, Inc.; Mills Iron Works, Inc.; Tube Forgings of America, Inc.; and Weldbend Corp. to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: January 24, 2011.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2011–1880 Filed 1–27–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–757]

In the Matter of Certain Game Devices, Components Thereof, and Products Containing the Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 23, 2010, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Microsoft Corporation of Redmond, Washington. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain game devices, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent No. 7,787,411 ("the '411 patent"). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2571.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2010).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 24, 2011, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain game devices, components thereof, and products containing the same that infringe one or more of claims 1 and 7 of the '411 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Microsoft Corporation, One Microsoft Way, Redmond, WA 98052.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Datel Design and Development Inc., 33 N. Garden Avenue, Suite 900, Clearwater, FL 33755.

Datel Design and Development Ltd., Stafford Road, Stone, Staffordshire, ST15 0DG, United Kingdom.

Datel Direct Ltd., Stafford Road, Stone, Staffordshire, ST15 0DG, United Kingdom.

Datel Holdings Ltd., Stafford Road, Stone, Staffordshire, ST15 0DG, United Kingdom.

Datel Electronics Ltd., Stafford Road, Stone, Staffordshire, ST15 0DG, United Kingdom.

(c) The Commission investigative attorney, party to this investigation, is Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice

and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Issued: January 24, 2011.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2011–1879 Filed 1–27–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–0105]

Office of Community Oriented Policing Services; Agency Information Collection Activities: Revision to a Currently Approved Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Community Policing Self-Assessment (CP–SAT).

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies.

The purpose of this notice is to allow for 60 days for public comment until March 29, 2011. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Ashley Hoornstra, Department of Justice Office of Community Oriented Policing Services, 145 N Street, NE., Washington, DC 20530.

To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: DOJ Desk Officer, Fax: 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number [1103–0105]. Also include the DOJ docket number found in brackets in the heading of this document.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection; comments requested.

(2) *Title of the Form/Collection:* Community Policing Self-Assessment (CP–SAT).

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Law Enforcement Agencies and community partners. The purpose of this project is to improve the practice of community policing throughout the United States by supporting the development of a series of tools that will allow law enforcement agencies to gain better insight into the depth and breadth of their community policing activities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that approximately 29,235 respondents will respond with an average of 17 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated burden is 10,847 hours across 1,213 agencies.

If Additional Information Is Required Contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Washington, DC 20530.

Dated: January 25, 2011.

Lynn Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2011–1957 Filed 1–27–11; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number: 1121–0260]

Agency Information Collection Activities: Reinstatement With Change of a Previously Approved Collection; Proposed Collection: Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Police Public Contact Survey.

The Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Statistics (BJS), will be submitting the following information collection request to the Office of Management Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until March 29, 2011. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Christine Eith, (202) 305–4559, Bureau of Justice Statistics, 810 7th Street, NW., Washington, DC 20531.

To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: DOJ Desk Officer, Fax: 202 395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number [1121–0260]. Also include the DOJ docket number found in brackets in the heading of this document.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of

information should address one or more of the following four points: —Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Police Public Contact Survey.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* PPCS–1. Bureau of Justice Statistics, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Eligible individuals must be age 16 or older. *Other:* None.

The Police Public Contact Supplement fulfills the mandate set forth by the Violent Crime Control and Law Enforcement Act of 1994 to collect, evaluate, and publish data on the use of excessive force by law enforcement personnel. The survey will be conducted as a supplement to the National Crime Victimization Survey in all sample households for a six (6) month period.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* Approximately 15,117 respondents will be eligible for the PPCS each month from July to December 2011. Of the eligible 90,700 persons, we expect approximately 80 percent or 72,600 of the eligible persons will complete a PPCS interview. Of those persons interviewed for the PPCS, we estimate approximately 81.5 percent or 59,100 will complete only the first two (contact screener questions) survey questions. The estimated time to complete the control information on the PPCS form, read the introductory statement, and administer the first two contact screener questions to the respondents is approximately 2 minute per person. Furthermore, we estimate that the remaining 18.5 percent of the interviewed persons or 13,400 persons will report a face-to-face contact with the police during the 12 month reference period prior to the date of interview. The time to ask the detailed questions regarding the nature of the contact is estimated to take an average of 10 minutes. Respondents will be asked to respond to this survey only once during the six month period.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual burden hours are 4,193 hours.

If additional information is required contact: Mrs. Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, Suite 2E–502, Washington, DC 20530.

Dated: January 25, 2011.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2011–1953 Filed 1–27–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number: 1121–0319]

Agency Information Collection Activities: Extension of a Currently Approved Collection

ACTION: 60-Day Notice of Information Collection Under Review: National Survey of Youth in Custody, 2011–2012.

The Department of Justice (DOJ), Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until March 29, 2011. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Allen J. Beck, Ph.D., Bureau of Justice Statistics, 810 Seventh Street, NW., Washington, DC 20531 (phone 202–616–3277).

To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, *Attn:* DOJ Desk Officer, Fax: 202 395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number [1121–0319]. Also include the DOJ docket number found in brackets in the heading of this document.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New data collection.

(2) *Title of the Form/Collection:* National Survey of Youth in Custody, 2011–2012.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form numbers not available at this time. The Bureau of Justice Statistics, Office of Justice Programs, Department of Justice is the sponsor for the collection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, Local, or Tribal Government. *Other:* Federal Government, Business or other for-profit, Not-for-profit institutions. The work under this clearance will be used to develop and implement surveys to

produce estimates for the incidence and prevalence of sexual assault within juvenile correctional facilities as required under the Prison Rape Elimination Act of 2003 (Pub. L. 108–79). Juvenile facility points of contact will be asked to fill out an online survey gathering facility-level characteristics. Sampled youth in custody will be asked to complete an audio computer-assisted self-interview about their experiences inside the facility.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 362 facility points of contact will spend approximately one hour filling out the facility characteristics questionnaire. It is estimated that 13,289 respondents will spend approximately 30 minutes on average responding to the survey.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 14,587 total burden hours associated with this collection (including gathering facility-level information, obtaining parental consent, administrative records, and roster processing).

If additional information is required, contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: January 25, 2011.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2011–1959 Filed 1–27–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

Notice of Availability of the Environmental Assessment for New Low Security Beds

AGENCY: U.S. Department of Justice, Federal Bureau of Prisons.

ACTION: Public comment on environmental assessment.

SUMMARY: The U.S. Department of Justice, Federal Bureau of Prisons (BOP) announces the availability of the Environmental Assessment (EA) prepared for the proposed contract to secure additional inmate bed space for the BOP's growing inmate population.

As part of an initiative (known as the Criminal Alien Requirement), the BOP has identified a specific requirement to confine a population of approximately 1,000 low-security adult male inmates that are primarily criminal aliens. The BOP is seeking to reduce prison overcrowding by requesting additional contract beds for low-security male criminal aliens.

In accordance with the National Environmental Policy Act (NEPA) of 1969, the Council of Environmental Quality Regulations (40 CFR parts 1500–1508), and the Department of Justice procedures for implementing NEPA (28 CFR part 61), the BOP has prepared an EA to evaluate the proposed action of contracting with one private contractor to house approximately 1,000 Federal, low-security, adult male, non-U.S. citizen, criminal aliens at a contractor-owned, contractor-operated correctional facility.

The BOP's EA evaluates the potential environmental consequences of five action alternatives and the No Action Alternative. Natural, cultural, and socioeconomic resource impacts associated with the implementation of the proposed action at each of the proposed alternative locations were analyzed to determine how these resources may be affected by contracting for an existing correctional facility to house BOP inmates.

The alternatives considered for this proposed action include: Lee Adjustment Center, Beattyville, Kentucky; Limestone County Detention Center, Groesbeck, Texas; Jackson Parish Correctional Center, Jonesboro, Louisiana; Pine Prairie Correctional Center, Pine Prairie, Louisiana; or the Jack Harwell Detention Facility, Waco, Texas. Inmates housed in these facilities would be aliens from any number of countries who have committed crimes within the U.S. and are being held for trial, or who have been convicted and sentenced to serve time within the Federal prison system. Upon completion of their sentences, these inmates would be deported to their country of origin.

Request for Comments: The BOP invites your participation and is soliciting comments on the EA. The EA will be the subject of a 30-day comment period which begins January 28 and ends February 28, 2011. Comments concerning the EA and the proposed action must be received during this time to be assured consideration. All written comments received during this review period will be taken into consideration by the BOP. Copies of the EA are available for public viewing at:

- County of Lee Public Library, 123 Center Street, Beattyville, KY.
- Groesbeck Public Library (Maffet Memorial Library), 601 W. Yeagua Street, Groesbeck, TX.
- Jackson Parish Library, 614 S Polk Avenue, Jonesboro, LA.
- Evangeline Parish Library: Pine Prairie Branch, 1111 Walnut Street, Pine Prairie, LA.
- South Waco Library, 2737 S 18th Street, Waco, TX.
- East Waco Library, 901 Elm Avenue, Waco, TX.

The EA is available upon request. To request a copy of the EA, please contact: Richard A. Cohn, Chief, or Issac J. Gaston, Site Selection Specialist, Capacity Planning and Site Selection Branch, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534 Tel: 202–514–6470, Fax: 202–616–6024/E-mail: *rcohn@bop.gov* or *igaston@bop.gov.*

FOR FURTHER INFORMATION CONTACT: Richard A. Cohn, or Issac J. Gaston, Federal Bureau of Prisons.

Dated: January 19, 2011.

Issac Gaston,

Site Specialist, Capacity Planning and Site Selection Branch.

[FR Doc. 2011–1371 Filed 1–27–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Information Collections Pertaining to Special Employment Under the Fair Labor Standards Act

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) hereby announces the submission of the Wage and Hour Division (WHD) sponsored information collection request (ICR) titled, "Information Collections Pertaining to Special Employment Under the Fair Labor Standards Act," to the Office of Management and Budget (OMB) for review and approval for use, as revised, in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

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

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/*

public/do/PRAMain or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Wage and Hour Division (WHD), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This information collection pertains to the Fair Labor Standards Act (FLSA), 29 U.S.C. 201, *et seq.,* special employment provisions. These provisions relate to restrictions on industrial homework and to the use of special certificates that allow for the employment of categories of workers who may be paid less than the statutory minimum wage to the extent necessary to prevent curtailment of their employment opportunities. The DOL, in order to better manage its information collections, proposes to merge a number of related information collections cleared under various OMB Control Numbers into a single collection. Control Number 1235–0001 will be the survivor.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is currently approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL currently has obtained OMB approval for these information collections under OMB Control Numbers 1235–0001, 1235–0019, 1235–0020, and 1235–0022. The current OMB approval for one Control Number affected by this request, 1235–0020, is scheduled to expire on January 31, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on June 2, 2010 (75 FR 30861).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference ICR Reference Number 201004–1235–003. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Wage and Hour Division (WHD).

Title of Collection: Information Collections Pertaining to Special Employment Under the Fair Labor Standards Act.

OMB Control Number: 1235–0001 (as merged with 1235–0019, 1235–0020, 1235–0022).

Affected Public: Private sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 307,610

Total Estimated Number of Responses: 1,225,725.

Total Estimated Annual Burden Hours: 626,984.

Total Estimated Annual Costs Burden: $2,587.

Dated: January 24, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–1943 Filed 1–27–11; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; National Compensation Survey

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) hereby announces the submission of the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, "National Compensation Survey," as proposed to be revised, to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

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

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Bureau of Labor Statistics, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Under the National Compensation Survey (NCS), the BLS conducts ongoing surveys of compensation (earnings and benefits) and job characteristics. The NCS produces data on local, regional, and national levels by sampling establishments various localities in all 50 states and the District of Columbia. The NCS samples 152 areas, of which 117 are metropolitan areas. Data from the 48 contiguous States is used to provide data to the President's Pay Agent to meet the BLS obligation under the Federal Employees Pay Comparability Act. NCS data also produces the Employment Cost Index,

which is designated a principal Federal Economic Indicator under OMB Statistical Policy Directive No. 3.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is currently approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1220–0164. The current OMB approval is scheduled to expire on January 31, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on October 4, 2010 (75 FR 61178).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference OMB Control Number 1220–0164. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Bureau of Labor Statistics (BLS).

Title of Collection: National Compensation Survey.

OMB Control Number: 1220–0164.

Affected Public: Private sector—businesses and other for profits and not for profit institutions; State, local, and tribal governments.

Total Estimated Number of Respondents: 14,433.

Total Estimated Number of Responses: 46,201.

Total Estimated Annual Burden Hours: 37,120.

Total Estimated Annual Costs Burden: $0.

Dated: January 24, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–1843 Filed 1–27–11; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Grantee Quarterly Progress Report

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) hereby announces the submission of the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, "Grantee Quarterly Progress Report," to the Office of Management and Budget (OMB) for review and approval, as revised, for use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

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

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–4816/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The OSHA uses the Grantee Quarterly Progress Report, Form OSHA–171, to collect information concerning activities conducted during the quarter by grantees under OSHA's Susan Harwood training grants. This information is used to monitor progress to determine if the organization is using Federal grant funds as specified in its grant application.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is currently approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1218–0100. The current OMB approval is scheduled to expire on January 31, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on August 24, 2010 (75 FR 52035).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference OMB Control Number 1218–0100. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Title of Collection: Grantee Quarterly Progress Report.

OMB Control Number: 1218–0100.

Affected Public: Private sector—not-for-profit institutions.

Total Estimated Number of Respondents: 103.

Total Estimated Number of Responses: 412.

Total Estimated Annual Burden Hours: 4944.

Total Estimated Annual Costs Burden: $0.

Dated: January 25, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–1893 Filed 1–27–11; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Report of Construction Contractor's Wage Rates

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) hereby announces the submission of the Wage Hour Division (WHD) sponsored information collection request (ICR) titled, "Report of Construction Contractor's Wage Rates," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

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

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Wage Hour Division (WHD), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Form WD–10 is used by the DOL to elicit construction project data from contractor associations, contractors and unions. The wage data determines locally prevailing wages under the Davis-Bacon and Related Acts.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is currently approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1235–0015. The current OMB approval is scheduled to expire on January 11, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on June 25, 2010 (75 FR 36444).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference OMB Control Number 1235–0015. The OMB is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Wage Hour Division (WHD).

Title of Collection: Report of Construction Contractor's Wage Rates.

OMB Control Number: 1235–0015.

Affected Public: Private sector—businesses or other for-profits.

Total Estimated Number of Respondents: 22,000.

Total Estimated Number of Responses: 66,000.

Total Estimated Annual Burden Hours: 22,000.

Total Estimated Annual Costs Burden: $0.

Dated: January 24, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–1855 Filed 1–27–11; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Internal Fraud and Overpayment Detection and Recovery Activities (OMB Control No. 1205–0187): Extension With Revisions

AGENCY: Employment and Training Administration (ETA), Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired

format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the Office of Unemployment Insurance's collection of data on a revised form ETA 9000 that provides information about Internal Fraud and Overpayment Detection and Recovery Activities, the approval for which currently expires May 31, 2011.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before March 29, 2011.

ADDRESSES: Send comments to Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue, NW., Frances Perkins Bldg. Room S–4231, Washington, DC 20210, telephone number (202) 693–3008 (this is not a toll-free number) or by e-mail: *gibbons.scott@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The ETA 9000 is the only data source available on: (1) Instances of internal fraud activities within the Unemployment Insurance (UI) program; and (2) the results of safeguards that have been implemented to deter and detect instances of internal fraud. It categorizes the major areas susceptible to internal (employee) fraud and provides actual and "estimated" workload. The information is used to review Internal Security (IS) operations and obtain information on composite shifting patterns of nationwide activity and effectiveness in the area of internal fraud identification and prevention. It is also used to assess the overall adequacy of Internal Security procedures in states' UI programs.

To streamline UI program reporting in general, ETA proposes to merge a few cells from ETA 9000 into ETA 227. The reason ETA proposes consolidating these two information collections is that the underlying data collected is similar and this revision will reduce state reporting burden.

The ETA 227 contains data on the number of occurrences and amounts of fraud and non-fraud overpayments established, the methods by which overpayments were detected, the amounts and methods by which overpayments were collected, the amounts of overpayments waived and written off, the accounts receivable for overpayments outstanding, and data on criminal/civil actions.

These data are gathered by 53 State Workforce Agencies (SWAs) and reported to the Department of Labor following the end of each calendar quarter. The overall effectiveness of SWAs' UI integrity efforts can be determined by examining and analyzing the data. These data are also used by SWAs as a management tool for effective UI program administration.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond.

III. Current Actions

Type of Review: Extension with revisions.

Title: Internal Fraud and Overpayment Detection and Recovery Activities.

OMB Number: 1205–0187.

Form Number: ETA 227 (name reflects consolidation of cells from ETA 9000 into ETA 227).

Affected Public: State Workforce Agencies.

Total Respondents: 53.

Frequency: Quarterly.

Total Responses: 4 per year per respondent.

Average Estimated Response Time: 15 hours.

Estimated Annual Burden Hours: 3180 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 24, 2011.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2011–1850 Filed 1–27–11; 8:45 am]

BILLING CODE 4510–FW–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2011–1]

Cable Compulsory License: Specialty Station List

AGENCY: Copyright Office, Library of Congress.

ACTION: Request for information.

SUMMARY: The Copyright Office is compiling a new specialty station list to identify commercial television broadcast stations which, according to their owners, qualified as specialty stations under the former distant signal carriage rules of the Federal Communications Commission (FCC). The list has been periodically updated to reflect an accurate listing of specialty stations. The Copyright Office is again requesting all interested owners of television broadcast stations that qualify as specialty stations, including those that previously filed affidavits, to submit sworn affidavits to the Copyright Office stating that the programming of their stations meets the requirements specified under the FCC regulations in effect on June 24, 1981.

DATES: Affidavits should be received on or before March 29, 2011.

ADDRESSES: If hand delivered by a private party, an original and five copies of a comment or reply comment should be brought to the Library of Congress, U.S. Copyright Office, Room 401, James Madison Building, 101 Independence Ave., SE., Washington, DC 20559, between 8:30 a.m. and 5 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office.

If delivered by a commercial courier, an original and five copies of a comment or reply comment must be delivered to the Congressional Courier Acceptance Site ("CCAS") located at 2nd and D Streets, NE., Washington, DC between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, LM 403, James Madison Building, 101 Independence Avenue, SE., Washington, DC 20559. Please note that CCAS will not accept delivery by

means of overnight delivery services such as Federal Express, United Parcel Service or DHL.

If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of a comment or reply comment should be addressed to U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ben Golant, Assistant General Counsel, and Tanya M. Sandros, Deputy General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. *Telephone:* (202) 707–8380. *Telefax:* (202) 707–8366.

SUPPLEMENTARY INFORMATION:

What is a specialty station?

The FCC regulations in effect on June 24, 1981, defined a specialty station as "a commercial television broadcast station that generally carries foreign-language, religious, and/or automated programming in one-third of the hours of an average broadcast week and one-third of the weekly prime-time hours." 47 CFR 76.5(kk) (1981).

How is a station deemed to be a specialty station? [1]

Under a procedure adopted by the Copyright Office in 1989, *see* 54 FR 38461 (September 18, 1989), an owner or licensee of a broadcast station files a sworn affidavit attesting that the station's programming comports with the 1981 FCC definition, and hence, qualifies as a specialty station. A list of the stations filing affidavits is then published in the **Federal Register** in order to allow any interested party to file an objection to an owner's claim of specialty station status for the listed station. Once the period to file objections closes, the Office publishes a final list which includes references to the specific objections filed against a particular station owner's claim. In addition, affidavits that are submitted after the close of the filing period are accepted and kept on file at the Copyright Office.

The staff of the Copyright Office, however, does not verify the specialty station status of any station listed in an affidavit.

[1] Originally, the FCC identified whether a station qualified as a specialty station, but after it deleted its distant signal carriage rules, it discontinued this practice. *See Malrite T.V. of New York* v. *FCC,* 652 F2d 1140 (2d Cir. 1981), *cert. denied,* 454 U.S. 1143 (1982).

Why would a broadcast station seek specialty station status?

Specialty station status is significant in the administration of the cable statutory license. 17 U.S.C. 111. A cable operator may carry the signal of a television station classified as a specialty station at the base rate for "permitted" signals. *See* 49 FR 14944 (April 16, 1984); 37 CFR 256.2(c).

How does the staff of the Copyright Office use the list?

Copyright Office licensing examiners refer to the final annotated list in examining a statement of account in the case where a cable system operator claims that a particular station is a specialty station. If a cable system operator claims specialty station status for a station not on the final list, its classification as a specialty station will be questioned unless the examiner determines that the owner of the station has filed an affidavit since publication of the list.

How often has the Copyright Office published specialty station lists?

The Copyright Office compiled and published its first specialty station list in 1990, together with an announcement of its intention to update the list approximately every three years in order to maintain as current a list as possible. 55 FR 40021 (October 1, 1990). Its second list was published in 1995. 60 FR 34303 (June 30, 1995). Its third list was published in 1998. 63 FR 67703 (December 8, 1998). Its fourth list was published in 2007. 72 FR 60029 (October 23, 2007). With this notice, the Copyright Office is initiating the procedure for the compilation and publication of the fifth specialty station list.

Does this notice require action on the part of an owner of a television broadcast station?

Yes. We are requesting that the owner, or a valid agent of the owner, of any eligible television broadcast station submit an affidavit to the Copyright Office stating that he or she believes that the station qualifies as a specialty station under 47 CFR 76.5(kk) (1981), the FCC's former rule defining "specialty station." The affidavit must be certified by the owner or an official representing the owner.

Affidavits are due within 60 days of the publication of this notice in the **Federal Register**. There is no specific format for the affidavit; however, the affidavit must confirm that the station owner believes that the station qualifies as a specialty station under the 1981 FCC rule.

Notwithstanding the above, any affidavit submitted to the Copyright Office within the 45-day period prior to publication of this notice need not be resubmitted to the Office. Any affidavit filed during this 45-day period shall be considered timely filed for purposes of this notice.

What happens after the affidavits are filed with the Copyright Office?

Once the period for filing the affidavits closes, the Office will compile and publish in the **Federal Register** a list of the stations identified in the affidavits. At the same time, it will solicit comment from any interested party as to whether or not particular stations on the list qualify as specialty stations. Thereafter, a final list of the specialty stations that includes references to any objections filed to a station's claim will be published in the **Federal Register**.

In addition, affidavits that, for good cause shown, are submitted after the close of the filing period will be accepted and kept on file at the Copyright Office. Affidavits received in this manner will be accepted with the understanding that the owners of those stations will resubmit affidavits when the Office next formally updates the specialty station list. Any interested party may file an objection to any late-filed affidavit. Such objections shall be kept on file in the Copyright Office together with the corresponding affidavit.

Dated: January 24, 2011.

Maria Pallante,

Acting Register of Copyrights.

[FR Doc. 2011–1883 Filed 1–27–11; 8:45 am]

BILLING CODE 1410–30–P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee #13883; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following Astronomy and Astrophysics Advisory Committee (#13883) meeting:

Date and Time: February 22–23, 2011, 9 a.m.–5 p.m. Teleconference.

Place: National Science Foundation, Room 1235, Stafford I Building, 4201 Wilson Blvd., Arlington, VA, 22230.

Type of Meeting: Open.

Contact Person: Dr. James S. Ulvestad, Division Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–8820.

Purpose of Meeting: To provide advice and recommendations to the National Science

Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

Agenda: To hear presentations of current programming by representatives from NSF, NASA, DOE and other agencies relevant to astronomy and astrophysics; to discuss current and potential areas of cooperation between the agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: January 25, 2011.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 2011–1881 Filed 1–27–11; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0025]

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Draft Regulatory Guide, DG–7007, "Administrative Guide for Verifying Compliance with Packaging Requirements for Shipment and Receipt of Radioactive Material."

FOR FURTHER INFORMATION CONTACT: Bernard White, Office of Nuclear Material Safety and Safeguards, Division of Spent Fuel Storage and Transportation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 1–301–492–3303 or e-mail: *Bernard.White@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), entitled "Administrative Guide for Verifying Compliance with Packaging Requirements for Shipment and Receipt of Radioactive Material," is temporarily identified by its task number, DG–7007, which should be mentioned in all related correspondence. DG–7007 is proposed Revision 1 of Regulatory Guide 7.7, dated August 1977.

This guide describes an approach that the staff of the NRC considers acceptable for meeting the administrative requirements in Title 10, of the Code of Federal Regulations, Part 71, "Packaging and Transportation of Radioactive Material" (10 CFR Part 71). The regulations in 10 CFR Part 71 apply to NRC licensees that package, transport, or receive licensed material.

The initial version of Regulatory Guide 7.7 endorsed the guidance in the American National Standards Institute (ANSI) Standard N14.10.3–1975, "Administrative Guide for Verifying Compliance with Packaging Requirements for Shipments of Radioactive Materials," as an acceptable process for complying with the requirements of 10 CFR 71.5, "Transportation of Licensed Material."

The ANSI standard was withdrawn without replacement; hence, this proposed revision to Regulatory Guide 7.7 contains guidance on the administrative requirements for planning, packaging, transporting, receiving, reporting, and record keeping for shipments of radioactive materials. The staff developed and published this guidance to provide licensees with an acceptable method to satisfy the administrative requirements in 10 CFR part 71.

II. Further Information

The NRC staff is soliciting comments on DG–7007. Comments may be accompanied by relevant information or supporting data and should mention DG–7007 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2011–0025 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 website Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0025. Address questions about NRC dockets to Carol Gallagher, 301–492–3668; e-mail: *Carol.Gallagher@nrc.gov.*

Mail comments to: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RADB at 301–492–3446.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and copy for a fee publicly available documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* The Regulatory Analysis is available electronically under ADAMS Accession Number ML101390333.

Comments would be most helpful if received by March 30, 2011. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG–7007 are available through the NRC's public Web site under Draft Regulatory Guides in the "Regulatory Guides" collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/*. Electronic copies are also available in ADAMS (*http://*

www.nrc.gov/reading-rm/adams.html), under Accession No. ML101040727.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 21st day of January, 2011.

For the Nuclear Regulatory Commission.

Edward O'Donnell,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2011–1909 Filed 1–27–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2008–0339]

Notice of Availability of Final Supplemental Environmental Impact Statement for the Nichols Ranch In-situ Recovery Project in Campbell and Johnson Counties, WY; Supplement to the Generic Environmental Impact Statement for In-situ Leach Uranium Milling Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has published a final Supplemental Environmental Impact Statement (SEIS) to the Generic Environmental Impact Statement (GEIS), for *In-situ* Leach Uranium Milling Facilities (NUREG–1910, Supplement 2) for the Nichols Ranch *In-situ* Recovery Project in Campbell and Johnson Counties, Wyoming. By letter dated November 30, 2007, Uranerz Energy Corporation (Uranerz), submitted an application to the NRC for a new source material license for the proposed Nichols Ranch *In-situ* Uranium Recovery Project, located in the Pumpkin Buttes Uranium Mining District within the Powder River Basin. Uranerz is proposing to recover uranium from the site using an *in-situ* leach (also known as an *in-situ* recovery [ISR]) process. In this final SEIS, the NRC staff assessed the environmental impacts from the construction, operation, aquifer restoration, and decommissioning of the proposed Nichols Ranch ISR Project. The proposed Nichols Ranch ISR Project is comprised of two noncontiguous units, the Nichols Ranch Unit and the Hank Unit.

In addition to the proposed action, the NRC staff assessed two alternatives in the final SEIS: the No-Action alternative and an alternative where only the Nichols Ranch Unit would be developed for ISR operations. Under the No-Action alternative, NRC would deny Uranerz's request to construct, operate, conduct aquifer restoration, and decommission an ISR facility at Nichols Ranch. Alternatives that were considered, but were eliminated from detailed analysis, include conventional mining and conventional milling or heap leach processing. However, given the substantial environmental impact from implementing of these alternatives, they were not further considered. The NRC staff also evaluated alternative lixiviants, alternative wastewater disposal options, and an alternative where only the Hank Unit would be developed ISR operations. For reasons discussed in the SEIS, these alternatives were also eliminated from detailed analysis.

As discussed in Section 2.3 of the final SEIS, unless safety issues mandate otherwise, the NRC staff's recommendation to the Commission related to the environmental aspects of the proposed action is that the source material license be issued as requested. This recommendation is based upon: (1) The license application, including the environmental and technical report submitted by Uranerz and the applicant's supplemental letters and responses to the NRC staff's requests for additional information; (2) consultation with Federal, State, Tribal, and local agencies; (3) the NRC staff's independent review; (4) the NRC staff's consideration of comments received on the draft SEIS; and (5) the assessments summarized in this SEIS.

The final SEIS for the Nichols Ranch ISR Project may be accessed on the Internet at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1910/s2/*. Additionally, the NRC maintains an Agencywide Documents and Management System (ADAMS), which provides text and image files of the NRC's public documents. The SEIS may also be accessed through the NRC's Public Electronic Reading Room on the Internet at: *http://www.nrc.gov/reading-rm/adams.html*. The final "Environmental Impact Statement for the Nichols Ranch ISR Project in Campbell and Johnson Counties, Wyoming—Supplement to the Generic Environmental Impact Statement for *In-situ* Leach Uranium Milling Facilities" is available electronically under ADAMS Accession Number ML104330120. If you do not have access to ADAMS or if there is a problem accessing documents located in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by e-mail *pdr.resource@nrc.gov.* Information and documents associated with the final SEIS are also available for inspection at the NRC's PDR, NRC's Headquarters Building, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738. For those without access to the Internet, paper copies of any electronic documents may be obtained for a fee by contacting the NRC's PDR at 1–800–397–4209. The final SEIS and related documents may also be found at the following public libraries:

Campbell County Public Library, 2101 South 4J Road, Gillette, Wyoming 82718, 307–687–0009.

Johnson County Library, 171 North Adams Avenue, Buffalo, Wyoming 82834, 307–684–5546.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Swain, Project Manager, Environmental Review Branch-B, Division of Waste Management and Environmental Protection (DWMEP), Office of Federal and State Materials and Environmental Management Programs (FSME), Mail Stop T–8F5, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 1 (800) 368–5642, extension 5405; E-mail: *Patricia.Swain@nrc.gov*. For general or technical information associated with the safety and licensing of uranium milling facilities, please contact Stephen Cohen, Team Lead, Uranium Recovery Licensing Branch, DWMEP, FSME, Mail Stop T–8F5, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 1 (800) 368–5642, extension 7182; E-mail: *Stephen.Cohen@nrc.gov*.

Dated at Rockville, Maryland, this 20th day of January, 2011.

For the Nuclear Regulatory Commission.

Gregory Suber,

Acting Deputy Director, Environmental Protection and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2011–1813 Filed 1–27–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302; NRC–2011–0024]

Florida Power Corporation, Crystal River Unit 3 Nuclear Generating Plant; Exemption

1.0 Background

Florida Power Corporation (the licensee) is the holder of Facility Operating License No. DPR–72, which authorizes operation of the Crystal River

Unit 3 Nuclear Generating Plant (Crystal River). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of one pressurized-water reactor located in Citrus County, Florida.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 55, "Operators' Licenses," Section 55.59, "Requalification," requires that a facility's licensed operator requalification program be conducted for a continuous period not to exceed 2 years (24 months) and upon conclusion must be promptly followed, pursuant to a continuous schedule, by successive requalification programs. Each 2-year requalification program must include a biennial comprehensive written examination and annual operating tests.

By letter dated December 2, 2010, as superseded by letter dated December 13, 2010, the licensee requested a one-time exemption under 10 CFR 55.11 from the schedule requirements of 10 CFR 55.59. Specifically for Crystal River, the licensee has requested a one-time extension from February 28, 2011, to April 30, 2011, for completing the current licensed operator requalification program. The next requalification program period would begin May 1, 2011, and continue for 24 months to April 30, 2013, with successive periods running for 24 months. This requested exemption would allow an extension of 2 months beyond the 24-month requalification program schedule required by 10 CFR 55.59.

3.0 Discussion

Pursuant to 10 CFR 55.11, the Commission may, upon application by an interested person, or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 55 when the exemptions are authorized by law and will not endanger life or property and are otherwise in the public interest.

Authorized by Law

The exemption being requested for Crystal River would alleviate potential scheduling difficulties associated with administering requalification examinations and completing the requalification program at the end of an extended shutdown period. As stated above, 10 CFR 55.11 allows the NRC to grant exemptions from the requirements of 10 CFR Part 55. 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, or the Commission's regulations. Therefore, the exemption is authorized by law.

No Endangerment of Life or Property and Otherwise in the Public Interest

The underlying purposes of 10 CFR 55 are to establish procedures and criteria for the issuance of licenses to operators, provide for the terms and conditions upon which the Commission will issue or modify these licenses, and provide for the terms and conditions to maintain and renew these licenses. Specifically, 10 CFR 55.59 establishes the requirements for operator requalification programs and requires a 2-year (24-month) requalification schedule to include a biennial comprehensive written examination and annual operating tests.

Crystal River is in the final stages of an extended outage in which significant plant modifications have been completed. Crystal River has requested a 2-month extension to the requirements of 10 CFR 55.59 due to the reasonable probability of activities associated with plant startup overlapping the biennial comprehensive written examination and annual operating examination period.

Although the 24-month schedule requirement of 10 CFR 55.59 at Crystal River would be exceeded, Crystal River has trained the licensed operators on the plant modifications completed during the outage and examined operators on the modified plant configuration with positive results. During both the originally scheduled and extended periods of the outage, Crystal River has continued the requalification training cycle in accordance with the Institute of Nuclear Power Operations (INPO) accredited training program. All Crystal River licensed operators are actively enrolled in the accredited training program.

Moving the end of the requalification program, including the biennial comprehensive written examination and annual operating test, to April 30, 2011, would: (1) Allow operators to focus on preparing for and performing activities associated with plant startup after an extended maintenance period with significant plant modifications; (2) maximize the number of licensed operators available to perform licensed duties during startup; and (3) assist in managing operator fatigue during startup activities.

Licensed operator fatigue is of serious concern to the NRC, and the NRC staff has concluded that this exemption will allow the licensee to better manage licensed operator fatigue during a period of high workload. Further, the NRC staff has concluded that allowing operators to focus on startup activities will support safe plant operations during a series of infrequently performed evolutions. Based on the above, the NRC staff has determined that the exemption will not endanger life or property and is otherwise in the public interest.

4.0 Environmental Consideration

This exemption authorizes a one-time exemption from the requirements of 10 CFR 55.59(c)(1) for Crystal River. The NRC staff has determined that this exemption involves no significant hazards considerations:

(1) The proposed exemption is administrative in nature and is limited to extending the current licensed operator requalification program period for Crystal River from 24 to 26 months on a one-time only basis. The proposed exemption does not make any changes to the facility or operating procedures and does not alter the design, function or operation of any plant equipment. Therefore, issuance of this exemption does not increase the probability or consequences of an accident previously evaluated.

(2) The proposed exemption is administrative in nature and is limited to extending the current licensed operator requalification program period for Crystal River from 24 to 26 months on a one-time only basis. The proposed exemption does not make any changes to the facility or operating procedures and would not create any new accident initiators. The proposed exemption does not alter the design, function or operation of any plant equipment. Therefore, this exemption does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed exemption is administrative in nature and is limited to extending the current licensed operator requalification program period for Crystal River from 24 to 26 months on a one-time only basis. The proposed exemption does not alter the design, function or operation of any plant equipment. Therefore, this exemption does not involve a significant reduction in the margin of safety.

Based on the above, the NRC staff concludes that the proposed exemption does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of "no significant hazards consideration" is justified.

The NRC staff has also determined that the exemption involves no significant increase in the amounts, and no significant change in the types, of

any effluents that may be released offsite; that there is no significant increase in individual or cumulative occupational radiation exposure; that there is no significant construction impact; and there is no significant increase in the potential for or consequences from a radiological accident. Furthermore, the requirement from which the licensee will be exempted involves scheduling requirements. Accordingly, the exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the exemption.

5.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 55.11, granting an exemption to the licensee from the schedule requirements in 10 CFR 55.59, by allowing Crystal River a one-time extension in the allowed time for completing the current licensed operator requalification program, is authorized by law and will not endanger life or property and is otherwise in the public interest. Therefore, the Commission hereby grants Florida Power Corporation an exemption on a one-time only basis from the schedule requirement of 10 CFR 55.59, to allow the completion date for the current licensed operator requalification program for the Crystal River Unit 3 Nuclear Generating Plant to be extended from February 28, 2011, to April 30, 2011. The next requalification program period would begin May 1, 2011, and continue for 24 months to April 30, 2013, with successive periods running for 24 months.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of January 2011.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–1911 Filed 1–27–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Advanced Boiling Water Reactor (ABWR); Notice of Meeting

The ACRS Subcommittee on Advanced Boiling Water Reactor (ABWR) will hold a meeting on February 8, 2011, 11545 Rockville Pike, Rockville, MD T–2B3.

The entire meeting will be open to public attendance with the exception of a portion that may be closed to protect information that is proprietary to South Texas Project Nuclear Operating Company (STPNOC) and its contractors, pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Wednesday, February 8, 2011—1 p.m. until 5 p.m.

The purpose of the meeting is for the Subcommittee to review Chapter 7 of the Safety Evaluation Report (SER) with no open items associated with the Combined License Application (COLA) for South Texas Project, Units 3 and 4. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, STPNOC, and other interested persons. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Maitri Banerjee (Telephone 301–415–6973 or E-mail: *Maitri.Banerjee@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the Designated Federal Official 30 minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the Designated Federal Official 1 day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Designated Federal Official with a CD containing each presentation at least 30 minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 21, 2010 (75 FR 65038–65039).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs*. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

Dated: January 24, 2011.

Antonio Dias,

Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. 2011–1891 Filed 1–27–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on February 10–12, 2011, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Thursday, October 21, 2010 (74 FR 65038–65039).

Thursday, February 10, 2011, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.—8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.—10 a.m.: Final Safety Evaluation Report Associated with the License Renewal Application for the Palo Verde Nuclear Generating Station (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Arizona Public Service Company regarding the final Safety Evaluation Report associated with the License Renewal Application for the Palo Verde Nuclear Generating Station.

10:15 a.m.—12:45 p.m.: Final Safety Evaluation Report Associated with the Virgil C. Summer Units 2 and 3 Combined License Application (Open/

Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and South Carolina Electric & Gas regarding the final Safety Evaluation Report associated with the Virgil C. Summer Units 2 and 3 Combined License Application. **Note:** A portion of this session may be closed in order to protect information designated as proprietary by Westinghouse pursuant to 5 U.S.C. 552b (c)(4).

1:30 p.m.—3:15 p.m.: Comparison of Integrated Safety Analyses (ISAs) for Fuel Cycle Facilities and Probabilistic Risk Assessments (PRAs) for Reactors (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding a comparison of ISAs for fuel cycle facilities and PRAs for reactors including a critical evaluation of how ISAs differ from PRAs.

3:30 p.m.—6 p.m.: Current State of Licensee Efforts to Transition to National Fire Protection Association (NFPA)-805 (Open)—The Committee will hear presentations by and hold discussions with representatives of the Industry and the NRC staff regarding the current state of licensee efforts to transition to NFPA–805.

6:15 p.m.—7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting.

Friday, February 11, 2011, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.—8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.—10 a.m.: Draft Final Regulatory Guide (RG) 1.34, "*Control of Electroslag Weld Properties;*" *RG 1.43,* "*Control of Stainless Steel Weld Cladding of Low-Alloy Steel Components;*" *RG 1.44,* "*Control of the Processing and Use of Stainless Steel;*" *and RG 1.50,* "*Control of the Preheat Temperature for Welding of Low-Alloy Steel*" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding draft final RGs 1.34, 1.43, 1.44, 1.50, and the staff's resolution of public comments.

10:15 a.m.—11:45 a.m.: Commission Paper on the Use of Containment Accident Pressure in Analyzing Emergency Core Cooling System and Containment Heat Removal System Pump Performance in Postulated Accidents (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the Commission Paper on the use of containment accident pressure in analyzing emergency core cooling system and containment heat removal system pump performance in postulated accidents.

12:45 p.m.—2:15 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. **Note:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

2:15 p.m.—2:30 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

2:30 p.m.—7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting.

Saturday, February 12, 2011, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.—1 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

1 p.m.—1:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and specific issues that were not completed during previous meetings.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 21, 2010, (75 FR 65038–65039). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Ms. Ilka Berrios, Cognizant ACRS Staff (Telephone: 301–415–3179, E-mail: *Ilka.Berrios@nrc.gov*), five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) Public Law 92–463, and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/*.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service.

Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: January 24, 2011.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2011–1914 Filed 1–27–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Future Plant Designs

The ACRS Subcommittee on Future Plant Designs will hold a meeting on February 9, 2011, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, February 9, 2011, 8:30 a.m. until 12 p.m.

The purpose of this meeting is for the Subcommittee to review the staff's proposed policy paper that addresses the development of a strategy to more fully integrate risk insights into the review activities of small modular reactor applications. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Maitri Banerjee (Telephone 301–415–6973 or E-mail *Maitri.Banerjee@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 21, 2010, (75 FR 65038–65039).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs*. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

Dated: January 24, 2011.

Antonio Dias,

Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. 2011–1912 Filed 1–27–11; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Multiemployer Plan Regulations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of collections of information under its regulations on multiemployer plans under the Employee Retirement Income Security Act of 1974 (ERISA). This notice informs the public of PBGC's request and solicits public comment on the collections of information.

DATES: Comments should be submitted by February 28, 2011.

ADDRESSES: Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_DOCKET@omb.eop.gov* or by fax to 202–395–6974. A copy of PBGC's request may be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel, 1200 K St., NW., Washington, DC 20005–4026, or by visiting that office or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The request is also available at *http://www.reginfo.gov.*

FOR FURTHER INFORMATION CONTACT: Donald F. McCabe, Attorney, or Catherine B. Klion, Manager, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: 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 approved and issued control numbers for the collections of information, described below, in PBGC's regulations relating to multiemployer plans (OMB approvals expire March 31, 2011 and April 30, 2011, as specified below). The collections of information for which PBGC is requesting extension of OMB approval are as follows:

1. Termination of Multiemployer Plans (29 CFR Part 4041A) (OMB control number 1212–0020)(expires April 30, 2011)

Section 4041A(f)(2) of ERISA authorizes PBGC to prescribe reporting requirements for and other "rules and standards for the administration of" terminated multiemployer plans. Section 4041A(c) and (f)(1) of ERISA prohibit the payment by a mass-withdrawal-terminated plan of lump sums greater than $1,750 or of nonvested plan benefits unless authorized by PBGC.

The regulation requires the plan sponsor of a terminated plan to submit a notice of termination to PBGC. It also requires the plan sponsor of a mass-withdrawal-terminated plan that is closing out to give notices to participants regarding the election of alternative forms of benefit distribution and, if the plan is not closing out, to obtain PBGC approval to pay lump sums greater than $1,750 or to pay nonvested plan benefits.

PBGC uses the information in a notice of termination to assess the likelihood that PBGC financial assistance will be needed. Plan participants and beneficiaries use the information on alternative forms of benefit to make personal financial decisions. PBGC uses the information in an application for approval to pay lump sums greater than $1,750 or to pay nonvested plan benefits to determine whether such payments should be permitted.

PBGC estimates that plan sponsors each year (1) submit notices of termination for 10 plans, (2) distribute election notices to participants in 5 of those plans, and (3) submit requests to pay benefits or benefit forms not otherwise permitted for 1 of those plans. The estimated annual burden of the

collection of information is 19.2 hours and $16,393.

2. Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) (OMB control number 1212–0023)(expires April 30, 2011)

Sections 4203(f) and 4208(e)(3) of ERISA allow PBGC to permit a multiemployer plan to adopt special rules for determining whether a withdrawal from the plan has occurred, subject to PBGC approval.

The regulation specifies the information that a plan that adopts special rules must submit to PBGC about the rules, the plan, and the industry in which the plan operates. PBGC uses the information to determine whether the rules are appropriate for the industry in which the plan functions and do not pose a significant risk to the insurance system.

PBGC estimates that at most 1 plan sponsor submits a request each year under this regulation. The estimated annual burden of the collection of information is 1 hour and $5,600.

3. Variances for Sale of Assets (29 CFR Part 4204) (OMB control number 1212–0021) (expires April 30, 2011)

If an employer's covered operations or contribution obligation under a plan ceases, the employer must generally pay withdrawal liability to the plan. Section 4204 of ERISA provides an exception, under certain conditions, where the cessation results from a sale of assets. Among other things, the buyer must furnish a bond or escrow, and the sale contract must provide for secondary liability of the seller.

The regulation establishes general variances (rules for avoiding the bond/escrow and sale-contract requirements) and authorizes plans to determine whether the variances apply in particular cases. It also allows buyers and sellers to request individual variances from PBGC. Plans and PBGC use the information to determine whether employers qualify for variances.

PBGC estimates that each year, 11 employers submit, and 11 plans respond to, variance requests under the regulation, and 1 employer submits a variance request to PBGC. The estimated annual burden of the collection of information is 2.75 hours and $5,513.

4. Reduction or Waiver of Complete Withdrawal Liability (29 CFR Part 4207) (OMB control number 1212–0044)(expires March 31, 2011)

Section 4207 of ERISA allows PBGC to provide for abatement of an employer's complete withdrawal liability, and for plan adoption of alternative abatement rules, where appropriate.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year, 100 employers submit, and 100 plans respond to, applications for abatement of complete withdrawal liability, and 1 plan sponsor requests approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 25.5 hours and $35,000.

5. Reduction or Waiver of Partial Withdrawal Liability (29 CFR Part 4208) (OMB control number 1212–0039) (expires April 30, 2011)

Section 4208 of ERISA provides for abatement, in certain circumstances, of an employer's partial withdrawal liability and authorizes PBGC to issue additional partial withdrawal liability abatement rules.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year, 1,000 employers submit, and 1,000 plans respond to, applications for abatement of partial withdrawal liability and 1 plan sponsor requests approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 250.5 hours and $350,000.

6. Allocating Unfunded Vested Benefits to Withdrawing Employers (29 CFR Part 4211) (OMB control number 1212–0035) (expires April 30, 2011)

Section 4211(c)(5)(A) of ERISA requires PBGC to prescribe how plans can, with PBGC approval, change the way they allocate unfunded vested benefits to withdrawing employers for purposes of calculating withdrawal liability.

The regulation prescribes the information that must be submitted to PBGC by a plan seeking such approval. PBGC uses the information to determine how the amendment changes the way the plan allocates unfunded vested benefits and how it will affect the risk of loss to plan participants and PBGC.

PBGC estimates that 10 plan sponsors submit approval requests each year under this regulation. The estimated annual burden of the collection of information is 20 hours and $0.

7. Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR Part 4219) (OMB control number 1212–0034) (expires April 30, 2011)

Section 4219(c)(1)(D) of ERISA requires that PBGC prescribe regulations for the allocation of a plan's total unfunded vested benefits in the event of a "mass withdrawal." ERISA section 4209(c) deals with an employer's liability for de minimis amounts if the employer withdraws in a "substantial withdrawal."

The reporting requirements in the regulation give employers notice of a mass withdrawal or substantial withdrawal and advise them of their rights and liabilities. They also provide notice to PBGC so that it can monitor the plan, and they help PBGC assess the possible impact of a withdrawal event on participants and the multiemployer plan insurance program.

PBGC estimates that there are 3 mass withdrawals and 3 substantial withdrawals per year. The plan sponsor of a plan subject to a withdrawal covered by the regulation provides notices of the withdrawal to PBGC and to employers covered by the plan, liability assessments to the employers, and a certification to PBGC that assessments have been made. (For a mass withdrawal, there are 2 assessments and 2 certifications that deal with 2 different types of liability. For a substantial withdrawal, there is 1 assessment and 1 certification (combined with the withdrawal notice to PBGC).) The estimated annual burden

of the collection of information is 12 hours and $27,300.

8. Procedures for PBGC Approval of Plan Amendments (29 CFR Part 4220) (OMB control number 1212–0031) (expires April 30, 2011)

Under section 4220 of ERISA, a plan may within certain limits adopt special plan rules regarding when a withdrawal from the plan occurs and how the withdrawing employer's withdrawal liability is determined. Any such special rule is effective only if, within 90 days after receiving notice and a copy of the rule, PBGC either approves or fails to disapprove the rule.

The regulation provides rules for requesting PBGC's approval of an amendment. PBGC needs the required information to identify the plan, evaluate the risk of loss, if any, posed by the plan amendment, and determine whether to approve or disapprove the amendment.

PBGC estimates that at most 1 plan sponsor submits an approval request per year under this regulation. The estimated annual burden of the collection of information is 0.5 hours and $0.

9. Mergers and Transfers Between Multiemployer Plans (29 CFR Part 4231) (OMB control number 1212–0022) (expires April 30, 2011)

Section 4231(a) and (b) of ERISA requires plans that are involved in a merger or transfer to give PBGC 120 days' notice of the transaction and provides that if PBGC determines that specified requirements are satisfied, the transaction will be deemed not to be in violation of ERISA section 406(a) or (b)(2) (dealing with prohibited transactions).

This regulation sets forth the procedures for giving notice of a merger or transfer under section 4231 and for requesting a determination that a transaction complies with section 4231.

PBGC uses information submitted by plan sponsors under the regulation to determine whether mergers and transfers conform to the requirements of ERISA section 4231 and the regulation.

PBGC estimates that there are 20 transactions each year for which plan sponsors submit notices and approval requests under this regulation. The estimated annual burden of the collection of information is 5 hours and $6,700.

10. Notice of Insolvency (29 CFR Part 4245) (OMB control number 1212–0033) (expires April 30, 2011)

If the plan sponsor of a plan in reorganization under ERISA section 4241 determines that the plan may become insolvent, ERISA section 4245(e) requires the plan sponsor to give a "notice of insolvency" to PBGC, contributing employers, and plan participants and their unions in accordance with PBGC rules.

For each insolvency year under ERISA section 4245(b)(4), ERISA section 4245(e) also requires the plan sponsor to give a "notice of insolvency benefit level" to the same parties.

This regulation establishes the procedure for giving these notices. PBGC uses the information submitted to estimate cash needs for financial assistance to troubled plans. Employers and unions use the information to decide whether additional plan contributions will be made to avoid the insolvency and consequent benefit suspensions. Plan participants and beneficiaries use the information in personal financial decisions.

PBGC estimates that at most 1 plan sponsor of an ongoing plan gives notices each year under this regulation. The estimated annual burden of the collection of information is 1 hour and $2,734.

11. Duties of Plan Sponsor Following Mass Withdrawal (29 CFR Part 4281) (OMB control number 1212–0032) (expires April 30, 2011)

Section 4281 of ERISA provides rules for plans that have terminated by mass withdrawal. Under section 4281, if nonforfeitable benefits exceed plan assets, the plan sponsor must amend the plan to reduce benefits. If the plan nevertheless becomes insolvent, the plan sponsor must suspend certain benefits that cannot be paid. If available resources are inadequate to pay guaranteed benefits, the plan sponsor must request financial assistance from PBGC.

The regulation requires a plan sponsor to give notices of benefit reduction, notices of insolvency and annual updates, and notices of insolvency benefit level to PBGC and to participants and beneficiaries and, if necessary, to apply to PBGC for financial assistance.

PBGC uses the information it receives to make determinations required by ERISA, to identify and estimate the cash needed for financial assistance to terminated plans, and to verify the appropriateness of financial assistance payments. Plan participants and beneficiaries use the information to make personal financial decisions.

PBGC estimates that plan sponsors of terminated plans each year give benefit reduction notices for 3 plans and give notices of insolvency benefit level and annual updates, and submit requests for financial assistance, for 54 plans. Of those 54 plans, PBGC estimates that plan sponsors each year will submit 255 requests (ranging from monthly to annual) for financial assistance. PBGC estimates that plan sponsors each year give notices of insolvency for 7 plans. The estimated annual burden of the collection of information is 1 hour and $681,500.

Issued in Washington, DC, this 24th day of January, 2011.

John H. Hanley,

Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation.

[FR Doc. 2011–1822 Filed 1–27–11; 8:45 am]

BILLING CODE 7709–01–P

OFFICE OF PERSONNEL MANAGEMENT

Notice of Federal Long Term Care Insurance Program Open Season

AGENCY: Office of Personnel Management.

ACTION: Notice of Federal Long Term Care Insurance Open Season.

SUMMARY: The Office of Personnel Management (OPM) is announcing an Open Season for the Federal Long Term Care Insurance Program (FLTCIP). All eligible individuals who are not currently enrolled in FLTCIP may apply for coverage, including employees, annuitants, and other members of the Federal family. Active workforce members, their spouses, and same-sex domestic partners of civilian active workforce members will be subject to abbreviated underwriting. The addition of same-sex domestic partners of civilian active workforce members as a new type of qualified relative eligible to apply for FLTCIP coverage is pursuant to the President's Memorandum of June 17, 2009 on Federal Benefits and Non-Discrimination which requested that OPM, in consultation with the Department of Justice, extend certain benefits that can be provided to same-sex domestic partners of Federal employees consistent with Federal law. All other qualified relatives will be subject to the Program's standard requirements for full underwriting of applications.

DATES: The Open Season will run from April 4 through May 27, 2011.

FOR FURTHER INFORMATION CONTACT: For further information, please call 1–800–LTC–FEDS (1–800–582–3337) (TTY: 1–800–843–3557) or visit *http://www.ltcfeds.com.*

For purposes of this **Federal Register** notice, the contact at OPM is John Cutler, at *john.cutler@opm.gov* or (202) 606–0004.

SUPPLEMENTARY INFORMATION: The Long-Term Care Security Act (Pub. L. 106–265) permits OPM to provide for periodic opportunities for eligible individuals to apply for coverage in the FLTCIP. OPM has issued regulations (5 CFR Part 875, sections 402–404) which set forth procedures for FLTCIP open seasons. This notice is issued under section 875.402(b). Under that provision, OPM will specify beginning and ending dates, as well as the requirements for applicants during this period, in **Federal Register** Notices. OPM may provide for abbreviated underwriting requirements for specified eligible groups when OPM determines it is in the best interest of the FLTCIP.

Eligible Individuals: Active civilian workforce members and their spouses or same-sex domestic partners who are not currently enrolled in FLTCIP are eligible to apply during this Open Season with abbreviated underwriting. Active civilian workforce members include Federal civilian or U.S. Postal Service employees whose current position conveys eligibility for Federal Employees Health Benefits coverage, subject to the exceptions contained in section 875.201. Members of the uniformed services—those who are on active duty or full-time National Guard duty for more than a 30-day period or are active members of the selected reserve—and their spouses who are not currently enrolled in FLTCIP are eligible to apply during this Open Season with abbreviated underwriting. Non-enrolled annuitants as described in sections 875.202 and 875.203, retired members of the uniformed services as described in section 875.205, and qualified relatives other than spouses of active workforce members and same-sex domestic partners of active civilian workforce members can apply for coverage with a full underwriting application.

Underwriting requirements: Eligible applicants who are active workforce members, their spouses and same-sex domestic partners of active civilian workforce members, who are not currently enrolled in FLTCIP, are able to apply during the Open Season subject to the abbreviated underwriting standards in effect for the FLTCIP as of April 4, 2011. Eligible applicants other than active workforce members, their spouses, and same-sex domestic partners of active civilian workforce members, are subject to the full underwriting standards in effect for the FLTCIP as of April 4, 2011.

Billing age: Premiums are based on the enrollee's age upon receipt of his or her application by the program administrator, Long Term Care Partners, and the options selected.

Effective date: The effective date of coverage will be the first day of the month after an application is approved. However, in accordance with § 875.404(b)(2), workforce members who apply for coverage under abbreviated underwriting must be actively at work in order for coverage to become effective.

Authority: 5 U.S.C. 9008; 5 CFR 875.402.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–1852 Filed 1–27–11; 8:45 am]

BILLING CODE 6325–63–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 15Ba2–6T, OMB Control No. 3235–0659, SEC File No. S7–19–10.

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 existing collection of information provided for in the following rule: Rule 15Ba2–6T—Temporary Registration as a Municipal Advisor; Required Amendments; and Withdrawal from Temporary Registration (17 CFR 240.15Ba2–6T) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act"). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Paragraph (a) of Rule 15Ba2–6T requires municipal advisors, as defined in Section 15B(e)(4) of the Exchange Act (15 U.S.C. 78*o*–4(e)(4)), to electronically file with the Commission on the Commission's Web site at the following link, *Municipal Advisor Registration*, the information set forth in Form MA–T (17 CFR 249.1300T) to temporarily register or withdraw from temporary registration.

Paragraph (b)(1) of Rule 15Ba2–6T requires municipal advisors to promptly amend their temporary registration whenever information concerning Items 1 (Identifying Information) or 3 (Disciplinary Information) of Form MA–T becomes inaccurate in anyway.

Paragraph (b)(2) of Rule 15Ba2–6T requires municipal advisors to promptly amend their temporary registration whenever they wish to withdraw from registration.

Paragraph (c) of Rule 15Ba2–6T provides that every initial registration, amendment to registration, or withdrawal from registration filed pursuant to this rule constitutes a "report" within the meaning of applicable provisions of the Exchange Act.

Paragraph (d) of Rule 15Ba2–6T provides that every Form MA–T, including every amendment to or withdrawal from registration, is considered filed with the Commission when the electronic form on the Commission's Web site is completed and the Commission has sent confirmation to the municipal advisor that the form was filed.

Paragraph (e) of Rule 15Ba2–6T provides that all temporary registrations of municipal advisors will expire on the earlier of: (1) The date that the registration is approved or disapproved by the Commission pursuant to a final rule adopted by the Commission establishing another manner of registration and prescribing a form for the registration; (2) the date on which the municipal advisor's temporary registration is rescinded by the Commission; or (3) December 31, 2011.

Paragraph (f) of Rule 15Ba2–6T provides that Rule 15Ba2–6T will expire on December 31, 2011.

The primary purpose of Rule 15Ba2–6T is to provide information about municipal advisors to investors and issuers, as well as the Commission pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Commission staff estimates that approximately 1,000 municipal advisors will file Form MA–T. Commission staff estimates that each of the approximately 1,000 municipal advisors will spend an average of 2.5 hours preparing each Form MA–T. Therefore, the estimated total reporting burden associated with completing Form MA–T is 2,500 hours. Additionally, Commission staff estimates that approximately 1,000 municipal advisors will amend their Form MA–T once during the period of September 1, 2010 through December 31, 2011 and that it will take approximately 30 minutes to amend their form, which means the total

burden associated with amending Form MA–T is 500 hours. Therefore, the total annual burden associated with completing and amending Form MA–T is 3,000 hours.

The Commission believes that some municipal advisors will seek outside counsel to help them comply with the requirements of Rule 15Ba2–6T and Form MA–T, and assumes that each of the 1,000 municipal advisors will consult outside counsel for one hour for this purpose. The hourly rate for an attorney is $400, according to the Securities Industry and Financial Markets Association's publication titled *Management & Professional Earnings in the Securities Industry 2009,* as modified by Commission staff to account for an 1,800 hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. The Commission estimates the total cost for all 1,000 municipal advisors to hire outside counsel to review their compliance with the requirements of Rule 15Ba2–6T and Form MA–T to be approximately $400,000.

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.

The public may view the background documentation for this information collection at the following Web site, *http://www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Thomas Bayer, 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*. Comments must be submitted to OMB within 30 days of this notice.

Dated: January 18, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1820 Filed 1–27–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63756; File No. S7–24–89]

Joint Industry Plan; Notice of Filing of Amendment No. 25 to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis Submitted by the BATS Exchange, Inc., BATS Y–Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE Amex, Inc., and NYSE Arca, Inc.

January 21, 2011.

Pursuant to Rule 608 of the Securities Exchange Act of 1934 (the "Act") [1] notice is hereby given that on December 23, 2010, the operating committee ("Operating Committee" or "Committee") [2] of the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis ("Nasdaq/UTP Plan" or "Plan") filed with the Securities and Exchange Commission ("Commission") an amendment to the Plan.[3] This amendment represents Amendment No. 25 to the Plan and proposes to permit ministerial amendments to the Plans under the signature of the Chairman of the Nasdaq/UTP Plan Operating Committee. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment.

I. Rule 608(a)

A. Purpose of the Amendments

Currently, Section XVI of the Nasdaq/UTP Plan requires each Participant to execute most amendments to the Plan before they can submit Plan amendments to the Commission. This can result in delays and unwarranted administrative functioning in the context of certain amendments that are of a purely ministerial nature. For that reason, the Participants propose to amend the Plan to permit the submission of Plan amendments to the Commission under the signature of the Chairman of the Nasdaq/UTP Plan Operating Committee, in lieu of signatures from each Participant.

The categories of ministerial Plan amendments that the Participants may submit under the signature of the Chairman include amendments to the Plan that pertain solely to any one or more of the following:

(1) Admitting a new Participant into the Plan;

(2) Changing the name or address of a Participant;

(3) Incorporating a change that the Commission has implemented by rule and that requires no conforming language to the text of the Plan (e.g., the Commission rule establishing the Advisory Committee);

(4) Incorporating a change (i) That the Commission has implemented by rule, (ii) that requires conforming language to the text of the Plan (*e.g.,* the Commission rule amending the revenue allocation formula), and (iii) that a majority of all Participants has voted to approve; and

(5) Incorporating a purely technical change, such as correcting an error or an inaccurate reference to a statutory provision, or removing language that has become obsolete (*e.g.,* language regarding ITS).

The Participants believe that submission of these categories of ministerial amendments will improve the efficiency of the administration of the Plan and that the signature of each Participant provides no safeguards that are necessary or appropriate in the context of these categories of ministerial amendments.

[1] 17 CFR 242.608.

[2] The Plan Participants (collectively, "Participants") are the: BATS Exchange, Inc. ("BATS"); BATS Y–Exchange, Inc. ("BATS Y"); Chicago Board Options Exchange, Incorporated ("CBOE"); Chicago Stock Exchange, Inc. ("CHX"); EDGA Exchange, Inc. ("EDGA"); EDGX Exchange, Inc. ("EDGX"); Financial Industry Regulatory Authority, Inc. ("FINRA"); International Securities Exchange LLC ("ISE"); NASDAQ OMX BX, Inc. ("BX"); NASDAQ OMX PHLX, Inc. ("PHLX"); Nasdaq Stock Market LLC ("Nasdaq"); National Stock Exchange, Inc. ("NSX"); New York Stock Exchange LLC ("NYSE"); NYSE Amex, Inc. ("NYSEAmex"); and NYSE Arca, Inc. ("NYSEArca").

[3] The Plan governs the collection, processing, and dissemination on a consolidated basis of quotation information and transaction reports in Eligible Securities for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of Nasdaq securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the required transaction reporting plan for its Participants, which is a prerequisite for their trading Eligible Securities. *See* Securities Exchange Act Release No. 55647 (April 19, 2007) 72 FR 20891 (April 26, 2007).

B. Governing or Constituent Documents

Not applicable.

C. Implementation of Amendment

The Participants propose to implement the change upon Commission approval of the Amendment.

D. Development and Implementation Phases

See Item I(C) above.

E. Analysis of Impact on Competition

The proposed amendment does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Participants do not believe that the proposed plan amendment introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Exchange Act.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

The Participants have no written understandings or agreements relating to interpretation of the Plans as a result of the amendment.

G. Approval by Sponsors in Accordance With Plan

Each of the Plan's Participants has executed a written amendment to the Plan.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

Not applicable.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a)

A. Reporting Requirements

Not applicable.

B. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

C. Manner of Consolidation

Not applicable.

D. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

E. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

F. Terms of Access to Transaction Reports

Not applicable.

G. Identification of Marketplace of Execution

Not Applicable.

III. Solicitation of Comments

The Commission seeks general comments on Amendment No. 25. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–24–89 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 S7–24–89. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all written statements with respect to the proposed Plan amendment that are filed with the Commission, and all written communications relating to the proposed Plan amendment 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 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for Web site viewing and printing at the Office of the Secretary of the Committee, currently located at the CBOE, 400 S. LaSalle Street, Chicago, IL 60605. 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 S7–24–89 and should be submitted on or before February 18, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1859 Filed 1–27–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63758; File No. SR–ISE–2011–05]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Relating to the Purchase of Equity Interests by International Securities Exchange Holdings, Inc. in Ballista Holdings LLC

January 24, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 14, 2011, the International Securities Exchange, LLC (the "Exchange" or "ISE") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is submitting this proposed rule change (the "Proposed Rule Change") to the Commission to amend ISE Rule 312 (Limitation on Affiliation between the Exchange and Members) in connection with the capital contribution by its parent company, International Securities Exchange Holdings, Inc. ("ISE Holdings"), in Ballista Holdings LLC (formerly Optifreeeze [sic] LLC), a Delaware Limited Liability Company ("Ballista

[4] 17 CFR 200.30–3(a)(27).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Holdings"). The text of the proposed rule change is available on the Exchange's Web site *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 5, 2009, ISE Holdings entered into a Membership Purchase Agreement ("Purchase Agreement") with Ballista Holdings. Pursuant to the Purchase Agreement, ISE Holdings contributed cash to the capital of Ballista Holdings in exchange for membership interests representing on the date of such issuance 8.57% of the aggregate membership interests in Ballista Holdings ("Purchased Interests"). ISE Holdings and its subsidiaries and affiliates do not have any voting or other "control" arrangements with any of the other members of Ballista Holdings relating to its investment in Ballista Holdings. The purchase by ISE Holdings of the Purchased Interests was consummated on June 5, 2009 (the "Transaction"). As a result of such purchase, ISE Holdings became a member of Ballista Holdings pursuant to the Third Amended and Restated Operating Agreement of Ballista Holdings dated June 5, 2009, and has one representative on the Ballista Holdings Board of Directors. Ballista Securities LLC ("Ballista Securities"), a wholly-owned subsidiary of Ballista Holdings, is an electronic access member of the Exchange.

The Exchange, through ISE Holdings, maintains an ownership interest in an ISE member, Ballista Securities, which, without Commission approval, would be prohibited by ISE Rule 312.[3] In 2009, recognizing that the Commission has previously expressed concern regarding (1) the potential for conflicts of interest in instances where an exchange is affiliated with one of its members, and (2) the potential for informational advantages that could place an affiliated member of an exchange at a competitive advantage vis-à-vis the other non-affiliated members, the ISE submitted a proposed rule change to amend ISE Rule 312 to permit the proposed affiliation subject to several limitations and obligations. Specifically, the limitations and obligations of ISE Rule 312 provide that for so long as (i) ISE Holdings maintains an ownership interest in Ballista Securities; and (ii) Ballista Securities remains a member of the Exchange: (1) Financial Industry Regulatory Authority ("FINRA"), a self-regulatory organization unaffiliated with the Exchange or any of its affiliates, will carry out oversight and enforcement responsibilities as the designated examining authority designated by the Commission pursuant to Rule 17d–1 of the Exchange Act with the responsibility for examining Ballista Securities for compliance with applicable financial responsibility rules; (2) the Exchange shall (a) enter into a plan pursuant to Rule 17d–2 under the Exchange Act with a non-affiliated self-regulatory organization ("SRO") to relieve the Exchange of regulatory responsibilities for Ballista Securities with respect to rules that are common rules between the Exchange and the SRO, and (b) enter into a regulatory services contract with a non-affiliated SRO to perform certain regulatory responsibilities for Ballista Securities for unique Exchange rules;[4] (3) the regulatory services contract shall require the Exchange to provide the non-affiliated SRO with information, in an easily accessible manner, regarding all exception reports, alerts, complaints, trading errors, cancellations, investigations, and enforcement matters (collectively, "Exceptions") in which Ballista Securities is identified as a participant that has potentially violated Exchange or SEC rules, and shall require that the nonaffiliated SRO provide a report to the Exchange quantifying Exceptions on not less than a quarterly basis; (4) the Exchange shall establish and maintain procedures and internal controls reasonably designed to ensure that Ballista Securities and its affiliates do not have access to nonpublic information obtained as a result of ISE Holdings' ownership interest in Ballista Securities, until such information is available generally to similarly situated members of the Exchange; and (5) the ownership interest of ISE Holdings, Inc. in Ballista Securities is subject to the conditions set forth above and is granted on a temporary basis, for not longer than one year from the date of Commission approval of the filing.

On September 1, 2009, the Commission approved the amendments to ISE Rule 312 (Limitation on Affiliation between the Exchange and Members) to reflect ISE Holdings' ownership interest in Ballista Securities and to set forth such limitations and obligations relating to the relationship, and an exemption from ISE Rule 312 of the Exchange with respect to the investment by ISE Holdings in Ballista Holdings for a one (1) year pilot period which ended on September 1, 2010.[5] The Exchange now proposes that there be an exemption from Rule 312 of the Exchange with respect to the investment by ISE Holdings in Ballista Holdings for a second one (1) year pilot period subject to the same limitations and obligations as were previously approved by the Commission, and to make certain technical changes to Rule 312 to reflect that the 17d–2 Plan[6] and the Regulatory Services Agreement with a non-affiliated self-regulatory organization are currently in place, and also to reflect that the Exchange has established and maintains procedures and internal controls reasonably designed to ensure that Ballista Securities and its affiliates do not have access to nonpublic information obtained as a result of ISE Holdings' ownership interest in Ballista Securities, until such information is available generally to similarly situated members of the Exchange.

In addition, the Exchange notes that ISE Holdings continues to own less than 9% of the equity in Ballista Holdings and therefore does not own a controlling interest or otherwise have any veto or other special voting rights with respect to the management or operation of Ballista Holdings. The Exchange acknowledges that if the Exchange or

[3] In relevant part, ISE Rule 312 provides that, without prior SEC approval, the Exchange, or any entity with which the Exchange is affiliated shall not, directly or indirectly, acquire or maintain an ownership interest in a member or non-member owner. In addition, ISE Rule 312 provides that nothing in that rule shall prohibit a member or non-member owner from being or becoming an affiliate of the Exchange, or an affiliate of an affiliate of the Exchange solely by reason of any officer, director or partner of such member becoming an Exchange Director (as defined in the Amended and Restated Constitution of the ISE).

[4] The non-affiliated SRO will perform certain regulatory responsibilities for Ballista Securities other than market surveillance, including, but not limited to, investigative and disciplinary services.

[5] *See* Securities and Exchange Act Release No. 34–60598 (September 1, 2009), 74 FR 38068 (July 30, 2009) [sic] (SR–ISE–2009–45).

[6] *See* Securities and Exchange Act Release No. 34–61853 (April 6, 2010), 75 FR 18925 (April 13, 2010).

any of its affiliates were to directly or indirectly increase the equity ownership of Ballista Holdings, such increase would require prior Commission approval. The Exchange believes that the foregoing measures and factors minimize the concerns identified by the Commission regarding potential conflicts of interest.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Exchange Act,[7] in general, and with Sections 6(b)(1) and (b)(5) of the Exchange Act,[8] in particular, in that the proposal enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply with and enforce compliance by members and persons associated with members with provisions of the Exchange Act, the rules and regulations thereunder, and SRO rules, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, this rule change will provide for a second one (1) year pilot program designed to prevent any potential regulatory issues that could arise with ISE Holdings' investment in Ballista Holdings.[9]

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 Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members, participants or others.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2011–05 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–ISE–2011–05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–ISE–2011–05 and should be submitted on or before February 18, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1860 Filed 1–27–11; 8:45 am]

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[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(3), (5).

[9] *See* e-mail from Tracy Tang, Assistant General Counsel, ISE, to Michael Gaw, Assistant Director, Division of Trading and Markets, Commission, dated January 20, 2011 (correcting text of the Statutory Basis at the Exchange's request).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63755; File No. S7–24–89]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment No. 24 to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis Submitted by the BATS Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE Amex, Inc., and NYSE Arca, Inc.

January 21, 2011.

Pursuant to Rule 608 of the Securities Exchange Act of 1934 (the "Act") [1] notice is hereby given that on December 20, 2010, the operating committee ("Operating Committee" or "Committee") [2] of the Joint Self-

[1] 17 CFR 242.608.

[2] The Plan Participants (collectively, "Participants") are the: BATS Exchange, Inc. ("BATS"); Chicago Board Options Exchange, Incorporated ("CBOE"); Chicago Stock Exchange, Inc. ("CHX"); EDGA Exchange, Inc. ("EDGA"); EDGX Exchange, Inc. ("EDGX"); Financial Industry Regulatory Authority, Inc. ("FINRA"); International Securities Exchange LLC ("ISE"); NASDAQ OMX

Continued

Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis ("Nasdaq/UTP Plan" or "Plan") filed with the Securities and Exchange Commission ("Commission") an amendment to the Plan.[3] This amendment represents Amendment No. 24 to the Plan and proposes to add BATS Y–Exchange, Inc. to the Plan. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment.

I. Rule 608(a)

A. Purpose of the Amendments

The amendment proposes to add BATS Y–Exchange, Inc. as a new Participant to the Plan.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of Amendment

Because the Participants designate the amendment as concerned solely with the administration of the Plan, the amendment becomes effective upon filing with the Commission.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

The proposed amendment does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Participants do not believe that the proposed plan amendment introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Exchange Act.

F. Written Understanding or Agreements relating To Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Sponsors in Accordance With Plan

Each of the Plan's Participants has executed a written amendment to the Plan.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

See Item I(A) above.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

See Item I(A) above.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a)

A. Reporting Requirements

Not applicable.

B. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

C. Manner of Consolidation

Not applicable.

D. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

E. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

F. Terms of Access to Transaction Reports

Not applicable.

G. Identification of Marketplace of Execution

Not Applicable.

III. Solicitation of Comments

The Commission seeks general comments on Amendment No. 24. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to rule-comments@sec.gov. Please include File Number S7–24–89 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 S7–24–89. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all written statements with respect to the proposed Plan amendment that are filed with the Commission, and all written communications relating to the proposed Plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for Web site viewing and printing at the Office of the Secretary of the Committee, currently located at the CBOE, 400 S. LaSalle Street, Chicago, IL 60605. 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 S7–24–89 and should be submitted on or before February 18, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1858 Filed 1–27–11; 8:45 am]

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BX, Inc. ("BX"); NASDAQ OMX PHLX, Inc. ("PHLX"); Nasdaq Stock Market LLC ("Nasdaq"); National Stock Exchange, Inc. ("NSX"); New York Stock Exchange LLC ("NYSE"); NYSE Amex, Inc. ("NYSEAmex"); and NYSE Arca, Inc. ("NYSEArca").

[3] The Plan governs the collection, processing, and dissemination on a consolidated basis of quotation information and transaction reports in Eligible Securities for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of Nasdaq securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the required transaction reporting plan for its Participants, which is a prerequisite for their trading Eligible Securities. *See* Securities Exchange Act Release No. 55647 (April 19, 2007) 72 FR 20891 (April 26, 2007).

[4] 17 CFR 200.30–3(a)(27).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63752; File No. SR–NYSEAMEX–2011–04]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Criteria for Listing Special Purpose Acquisition Companies (SPACs) To Provide an Option To Hold a Tender Offer in Lieu of a Shareholder Vote on a Proposed Acquisition

January 21, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 12, 2011, NYSE Amex LLC ("Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 119 of the NYSE Amex LLC Company Guide (the "Guide") to amend the criteria for listing companies that have indicated that their business plan is to engage in a merger or acquisition with an unidentified company or companies (an "acquisition vehicle"). 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In November 2010, the Exchange adopted a new Section 119 of the Guide setting forth standards for listing companies whose business plan was to complete an initial public offering and engage in a merger or acquisition with an acquisition vehicle.[3] These listing requirements included additional protections designed to protect investors from certain risks unique to this type of company, including that the acquisition vehicle obtain a vote of shareholders prior to consummating any acquisition and offer shareholders voting against the acquisition the ability to redeem their shares in exchange for a pro rata share of the cash held by the acquisition vehicle.[4] Similar protections have been voluntarily adopted by other acquisition vehicles that have not listed on the Exchange.

The Exchange understands that in a number of cases, hedge funds and other activist investors may have acquired an interest in an acquisition vehicle and used their ability to vote against a proposed acquisition as leverage to obtain additional consideration not available to other shareholders. For example, they may negotiate the sale of their stake to an affiliate of the acquisition vehicle's management for a price higher than their pro rata share of the deposit account. In other cases, the withheld votes may have caused the proposed acquisition to fail altogether. In order to prevent this type of "greenmail," recent acquisition vehicles, which went public and did not list on an exchange, adopted a modified structure under which they would not seek a vote on the acquisition, unless otherwise required by law. Instead, these acquisition vehicles would conduct a redemption offer pursuant to Rule 13e–4 and Regulation 14E under the Securities Exchange Act of 1934 (the "Act") after the public announcement and prior to the completion of the business combination, enabling shareholders who are opposed to the transaction to tender their shares in exchange for a pro rata share of the cash held by the acquisition vehicle. This is the same outcome available to public shareholders who vote against the acquisition pursuant to the Exchange's existing rule.

Under this new alternative, shareholders would still maintain the ability to "vote with their feet" if they oppose a proposed transaction and would, as just noted, also obtain their pro rata share of the acquisition vehicle's cash through the tender offer pursuant to Rule 13e–4 and Regulation 14E under the Act. As such, the Exchange believes that the protections provided by the existing rule would continue to be available. Further, this tender offer alternative would help prevent shareholders who support the acquisition and elect to retain their shares from being denied the benefits of the transaction by the actions of the activist investors. Accordingly, the Exchange proposes to modify Section 119 of the Guide [5] to allow an acquisition vehicle to conduct a tender offer for all shares of all shareholders in exchange for a pro rata share of the cash held in trust by the acquisition vehicle in compliance with Rule 13e-4 and Regulation 14E under the Act instead of soliciting a shareholder vote.

In addition, the proposed rule change would require an acquisition vehicle that is not subject to the Commission's proxy rules to conduct a tender offer for shares in exchange for a pro rata share of the cash held in trust by the acquisition vehicle in compliance with Rule 13e–4 and Regulation 14E under the Act and provide information similar to that required by the Commission's proxy rules, even if the acquisition vehicle seeks a shareholder vote. This change will assure that investors, in all cases, get comparable information about the proposed transaction.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

[3] *See* Securities Exchange Act Release No. 63366 (November 23, 2010), 75 FR 74119 (November 30, 2010) (SR–NYSEAmex–2010–103). Prior to adopting new Section 119 of the Guide, the Exchange had permitted certain of such companies to list on the Exchange under Initial Listing Standards 3 or 4, which do not require prior operating history, as long as certain protections were provided to investors in such companies, such as requiring a shareholder vote prior to any acquisition. The Exchange adopted Section 119 to provide greater transparency to the listing criteria applicable to such companies. *See id.*

[4] Section 119 of the Guide also requires that at least 90% of the gross proceeds from the acquisition vehicle's initial public offering and any concurrent sale of equity securities must be deposited in a trust account; that within 36 months of the effectiveness of the acquisition vehicle's initial public offering registration statement, the acquisition vehicle must complete one or more business combinations having an aggregate fair market value of at least 80% of the value of the deposit account; and that each business combination must be approved by a majority of the acquisition vehicle's independent directors.

[5] The amended Section 119 standards are the same as the amended standards adopted by Nasdaq in IM–5101–2 in December 2010. *See* Securities Exchange Act Release No. 63607 (December 23, 2010), 75 FR 82420 (December 30, 2010) (SR–NASDAQ–2010–137).

of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is 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 a national market system, and, in general, to protect investors and the public interest. The Exchange believes the proposed rule change is consistent with these requirements in that it imposes additional requirements on acquisition vehicles, which are designed to protect investors and the public interest and prevent fraudulent and manipulative acts and practices on the part of acquisition vehicles and their promoters.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)[9] thereunder because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period. The Commission hereby grants the request. The Commission notes that the Exchange's proposal is nearly identical to the rules of another exchange, which were subject to notice and comment and approved by the Commission.[12] Therefore, the Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay and designates the proposal as operative upon filing.[13]

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.[14]

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–NYSEAmex–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–NYSEAmex–2011–04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2011–04 and should be submitted on or before February 18, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1856 Filed 1–27–11; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] *See* Nasdaq IM–5101–2 and *supra* note 5.

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(3)(C).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63754; File No. S7–24–89]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment No. 23 to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis Submitted by the BATS Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE Amex, Inc., and NYSE Arca, Inc.

January 21, 2011.

Pursuant to Rule 608 of the Securities Exchange Act of 1934 (the "Act") [1] notice is hereby given that on December 15, 2010, the operating committee ("Operating Committee" or "Committee") [2] of the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis ("Nasdaq/UTP Plan" or "Plan") filed with the Securities and Exchange Commission ("Commission") an amendment to the Plan.[3] This amendment represents Amendment No. 23 to the Plan and proposes to establish a broker-dealer enterprise maximum (the "Enterprise Maximum") in respect of fees that the broker-dealer is required to pay for distribution of UTP Level 1 Service to nonprofessional subscribers that are brokerage account customers of the broker/dealer. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment.

I. Rule 608(a)

A. Purpose of the Amendments

The Participants propose to establish the Enterprise Maximum mentioned above. The proposed Enterprise Maximum would apply in respect of each entitlement system of an entity that is registered as a broker/dealer under the Securities Exchange Act of 1934.

For each entitlement system, it would limit the monthly maximum amount of fees that such a broker/dealer would be required to pay for distribution of UTP Level 1 Service to nonprofessional subscribers that are brokerage account customers of the broker/dealer.

Exhibit 2 to the Plan defines "nonprofessional subscriber" as a natural person who is neither:

(A) registered or qualified in any capacity with the Commission, the Commodities [sic] Futures Trading Commission, any state securities agency, any securities exchange or association or any commodities or futures contract market or association;

(B) engaged as an "investment adviser" as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); nor

(C) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.

For calendar year 2010, the Participants propose to set the monthly Enterprise Maximum at $600,000 per entitlement system. For each subsequent calendar year, the Enterprise Maximum would increase by the percentage increase in the annual composite share volume for the preceding calendar year, subject to a maximum annual increase of five percent. However, the amendment would allow the Participants to determine to waive the increase for any calendar year.

The Enterprise Maximum would enable broker/dealers with significant numbers of nonprofessional subscribers to limit their costs in respect of their provision of Plan data to nonprofessional subscribers and would facilitate their ability to budget their market data expenditures.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of Amendment

The Participants propose to apply the monthly Enterprise Maximum to qualifying broker/dealers commencing with the month of January 2011.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

The proposed amendment does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Participants do not believe that the proposed plan amendment introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Exchange Act.

F. Written Understanding or Agreements relating to Interpretation of, or Participation in, Plan

The Participants have no written understandings or agreements relating to interpretation of the Plan as a result of the amendment.

G. Approval by Sponsors in Accordance with Plan

Each of the Plan's Participants has executed a written amendment to the Plan.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

See Item I(A) above.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

The Participants believe that the level of the fee allows broker/dealers to contribute an appropriate amount for the market data services that they provide to nonprofessional subscribers. By capping the monthly amount payable in respect of nonprofessional subscribers, the Enterprise Maximum would both reduce the fees otherwise payable by broker/dealers with significant numbers of nonprofessional subscribers and enable those broker/dealers to forecast their market data expenditures more efficiently.

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[1] 17 CFR 242.608.

[2] The Plan Participants (collectively, "Participants") are the: BATS Exchange, Inc. ("BATS"); Chicago Board Options Exchange, Incorporated ("CBOE"); Chicago Stock Exchange, Inc. ("CHX"); EDGA Exchange, Inc. ("EDGA"); EDGX Exchange, Inc. ("EDGX"); Financial Industry Regulatory Authority, Inc. ("FINRA"); International Securities Exchange LLC ("ISE"); NASDAQ OMX BX, Inc. ("BX"); NASDAQ OMX PHLX, Inc. ("PHLX"); Nasdaq Stock Market LLC ("Nasdaq"); National Stock Exchange, Inc. ("NSX"); New York Stock Exchange LLC ("NYSE"); NYSE Amex, Inc. ("NYSEAmex"); and NYSE Arca, Inc. ("NYSEArca").

[3] The Plan governs the collection, processing, and dissemination on a consolidated basis of quotation information and transaction reports in Eligible Securities for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of Nasdaq securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the required transaction reporting plan for its Participants, which is a prerequisite for their trading Eligible Securities. *See* Securities Exchange Act Release No. 55647 (April 19, 2007) 72 FR 20891 (April 26, 2007).

The Participants believe that the proposed Enterprise Maximum is fair and reasonable and provides for an equitable allocation of dues, fees, and other charges among vendors, data recipients and other persons using the Participants' facilities.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a)

A. Reporting Requirements

Not applicable.

B. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

C. Manner of Consolidation

Not applicable.

D. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

E. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

F. Terms of Access to Transaction Reports

Not applicable.

G. Identification of Marketplace of Execution

Not Applicable.

III. Solicitation of Comments

The Commission seeks general comments on Amendment No. 23. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–24–89 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 S7–24–89. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all written statements with respect to the proposed Plan amendment that are filed with the Commission, and all written communications relating to the proposed Plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for website viewing and printing at the Office of the Secretary of the Committee, currently located at the CBOE, 400 S. LaSalle Street, Chicago, IL 60605. 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 S7–24–89 and should be submitted on or before February 18, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–1857 Filed 1–27–11; 8:45 am]

BILLING CODE 8011–01–P

[4] 17 CFR 200.30–3(a)(27).

SMALL BUSINESS ADMINISTRATION

Small Business Information Security Task Force

AGENCY: U.S. Small Business Administration.

ACTION: Notice of meeting minutes.

SUMMARY: The SBA is issuing this notice to publish meeting minutes for the Small Business Information Security Task Force Meeting.

DATES: 1 p.m., Wednesday, December 8, 2010.

ADDRESSES: The meeting was held via teleconference.

SUPPLEMENTARY INFORMATION: Pursuant to section 507(i)(4)(A) of the Credit Card Accountability Responsibility and Disclosure Act of 2009, SBA submits the meeting minutes for the third meeting of the Small Business Information Security Task Force. Chairman, Rusty Pickens, called the meeting to order on December 8, 2010 at 1 p.m. Roll call was taken and a quorum was established. Mr. Pickens reported on developments since the last meeting, noting first that comments received on the draft work plan had been incorporated to add new subject areas for academics and technology. Also, Mr. Erdle had prepared a one page document describing available technical certifications for small businesses that he provided to Mr. Pickens as a starting point for collating data on security certification and training. Mr. Pickens undertook to provide the document to the group in advance of the next meeting for review and discussion at the meeting. Subsequently, Mr. Pickens reported on his telephone conversation with Mr. Bob Russo of the PCI Security Standards Council (PCI SSC) to explore the possibility of having Mr. Russo brief the Task Force on the Council's work, and of having the PCI SSC conduct a webinar for the Task Force in the Spring of 2011 on credit card security issues for small businesses. The group then engaged in an open discussion regarding the collection and organization of the data to be included in the Task Force report. Additional subject areas were proposed for potential inclusion, such as government contracting security requirements, protection of customer privacy, and security certification and training applicable to both small business employees and contractors.

Ms. Marx noted that as the Task Force objective originated from the Credit Card Act, a useful starting point for reviewing information available to assist small merchants would be the Payment Card Industry Security Standards, which lay out the requirements for protecting credit card data. The group endorsed Mr. Pickens' proposal for a PCI Standards briefing and webinar; in addition, Ms. Marx offered to provide the group with a link to the PCI SSC's recently launched small business website dedicated to online credit card security.

Before concluding the meeting, the group discussed next steps in organizing the work plan. Mr. Pickens asked for volunteers to adopt each of the broad subject matter categories already identified by the group and to flesh them out with more detail for review at the next meeting Members duly volunteered for certain identified subject areas and Mr. Pickens agreed to suggest other members to accept

responsibility for the remaining areas at a later date.

The next meeting date was determined before the meeting was adjourned at 1:49 p.m.

FOR FURTHER INFORMATION CONTACT: Rusty Pickens, Special Consultant to the Office of the CIO, U.S. Small Business Administration, *Rusty.Pickens@sba.gov.*

Paul T. Christy,

SBA Chief Information Officer.

[FR Doc. 2011–1849 Filed 1–27–11; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions to OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA. *Fax:* 202–395–6974. *E-mail address: OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235. *Fax:* 410–965–6400. *E-mail address: OPLM.RCO@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than March 29, 2011. Individuals can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

1. *Statement Regarding the Inferred Death of an Individual by Reason of Continued and Unexplained Absence—20 CFR 404.720–721—0960–0002. Section 202(d)–(i) of the Social Security Act (Act)* provides for the payment of various monthly survivor benefits and a lump sum death payment to certain survivors upon the death of an individual who dies while fully or currently insured. In cases where insured wage earners have been absent from their homes for at least seven years, and there is no evidence these individuals are alive, SSA may presume they are deceased and pay their survivors the appropriate benefits. SSA uses the information from Form SSA–723 to determine if we may presume a missing wage earner is deceased, and if so, establish a date of presumed death. The respondents are relatives, friends, neighbors, or acquaintances of the presumed deceased wage earner or the person who is filing for survivors benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 3,000.

Frequency of Response: 1.

Average Burden per Response: 30 minutes.

Estimated Annual Burden: 1,500 hours.

2. *Questionnaire for Children Claiming SSI Benefits—20 CFR 416.912(a)—0960–0499.* Section *1631(d)(2)* of the *Act* allows SSA to collect information to determine the eligibility of an applicant's claim for Supplemental Security Income (SSI) payments. Parents or legal guardians seeking to obtain or retain SSI eligibility for their children use Form SSA–3881–BK to provide SSA with the addresses of non-medical sources such as schools, counselors, agencies, organizations, or therapists who would have information about a child's functioning. SSA uses this information to help determine a child's claim or continuing eligibility for SSI. The respondents are applicants who appeal SSI childhood disability decisions or recipients undergoing a continuing disability review.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 253,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 126,500 hours.

3. *Electronic Benefit Verification Information (BEVE)—20 CFR 401.40—0960–0595.* The electronic proof of income (POI) verification Internet service, BEVE, provides SSI recipients, Social Security beneficiaries, and Medicare beneficiaries the convenience of requesting a POI statement through the Internet. Beneficiaries and SSI recipients often require POI to obtain housing, food stamps, or other public services. After verifying the requestor's identity, SSA uses the information from BEVE to provide the POI statement. The respondents are Social Security beneficiaries, Medicare beneficiaries, and SSI recipients.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 870,958.

Frequency of Response: 1.

Average Burden per Response: 5 minutes.

Estimated Annual Burden: 72,580 hours.

II. SSA submitted the information collections listed below to OMB for clearance. Your comments on the information collections would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than February 28, 2011. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

1. *Advanced Notice of Termination of Child's Benefits & Student's Statement Regarding School Attendance—20 CFR 404.350–404.352, 404.367–404.368—0960–0105.* SSA collects information on Forms SSA–1372–BK and SSA–1372–BK–FC to determine whether children of an insured worker meet the eligibility requirements for student benefits. The data we collect allows SSA to determine student entitlement and decide whether to terminate benefits. The respondents are student claimants for Social Security benefits, their respective schools, and in some cases, their representative payees.

Type of Request: Revision of an OMB-approved information collection.

SSA–1372–BK:

Type of respondent	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
Individuals/Households	99,850	1	8	13,313

Type of respondent	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
State/Local/Tribal Government	99,850	1	3	4,993
Totals	199,700			18,306

SSA–1372–BK–FC:

Type of respondent	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
Individuals/Households	150	1	8	20
State/Local/Tribal Government	150	1	3	8
Totals	300			28

Total Burden: 18,334 hours.

2. *Agreement to Sell Property—20 CFR 416.1240–416.1245—0960–0127.* Individuals or couples who are otherwise eligible for SSI payments, but whose resources exceed the allowable limit, may receive conditional payments if they agree to dispose of the excess non-liquid resources and (in the case of current recipients) return excess SSI payments. SSA uses Form SSA–8060–U3 to document this agreement and to ensure the individuals understand their obligations. Respondents are applicants for and recipients of SSI payments who agree to dispose of excess non-liquid resources and return excess SSI payments.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 20,000.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 3,333 hours.

3. *Reporting Events—SSI—20 CFR 416.701–.732—0960–0128.* SSI applicants, recipients, or their representative payees must report any change in circumstances that could affect eligibility for SSI payments or the payment amount. SSA uses Form SSA–8150 for this purpose. The information assists us in determining if we should continue SSI payments or change a payment amount. The respondents are applicants for or recipients of SSI payments, or their representative payees.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 27,320.

Frequency of Response: 1.

Average Burden per Response: 5 minutes.

Estimated Annual Burden: 2,277 hours.

4. *Modified Benefit Formula Questionnaire—0960–0395.* Sections 215(a)(7) and 215(d)(3) of the *Act* specify how SSA computes benefits for retired and disabled workers receiving employment pensions not covered by Social Security. This is the Windfall Elimination Provision (WEP), which removes an unintended advantage in computing Social Security benefits for persons with substantial pensions from non-covered employment. SSA collects information on Form SSA–150 to determine the correct formula to use in computing the Social Security benefits for pensions subject to WEP. The respondents are applicants for title II benefits who have pensions from non-covered employment.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 90,000.

Frequency of Response: 1.

Average Burden per Response: 8 minutes.

Estimated Annual Burden: 12,000 hours.

5. *Epidemiological Research Report—20 CFR 401.165—0960–0701.* Section *311* of the *Social Security Independence and Program Improvements Act of 1994* directs SSA to provide support to health researchers involved in epidemiological research. Specifically, when we determine a study contributes to a national health interest, SSA furnishes information to determine whether a study subject appears in SSA administrative records as alive or deceased (vital status). SSA charges a small fee per request for providing this information. Web-posted questions solicit the information SSA needs to provide the data and to collect the fees. The requestors are scientific researchers who are applying to receive vital status information about individuals from Social Security administrative data records.

Type of Request: Revision of an OMB-approved information collection.

Type of respondent	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
State & Local Government	15	1	120	30
Private Entities	13	1	120	26
Federal Entities	2	1	120	4
Totals	30			60

Cost Burden

Average annual cost per respondent (based on SSA data): $3,665.

Total estimated annual cost burden: $109,950.

Dated: January 25, 2011.

Faye Lipsky,

Reports Clearance Officer, Center for Reports Clearance, Social Security Administration.

[FR Doc. 2011–1924 Filed 1–27–11; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2010–0082]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA Internal Match)—Match Number 1014

AGENCY: Social Security Administration (SSA)

ACTION: Notice of a new computer matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a new computer matching program that we are conducting with ourselves.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Dawn S. Wiggins,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA Internal Match

A. Participating Agency

SSA.

B. Purpose of the Matching Program

The purpose of this matching program is to establish the terms, conditions, and safeguards under which we will compare our current employee records of the Federal Personnel/Payroll System with the Disability Income (DI) and Supplemental Security Income (SSI) beneficiaries/recipients through a periodic computerized comparison of records. We will use this information to verify self-certification statements of income in order to verify continuing eligibility and benefit amounts of beneficiaries.

C. Authority for Conducting the Matching Program

The legal authority for this agreement is as follows:

1. Section 1631(f) of the Social Security Act (Act) (42 U.S.C. 1383(f)) provides that "[t]he head of any Federal agency shall provide such information as the Commissioner of Social Security needs for the purposes of determining eligibility for or amount of benefits or verifying information with respect thereto."

2. Section 1631(e)(1)(B) of the Act (42 U.S.C. 1383(e)) provides that Social Security is required to verify eligibility of a recipient or applicant for SSI using independent or collateral sources.

3. Section 224(h) of the Act (42 U.S.C. 424a(h)) provides that Social Security is entitled to review information to determine the amount of DI benefits and to verify information with respect thereto.

4. This agreement is subject to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, and the provisions of the Computer Matching and Privacy Protection Act of 1988. The Privacy Act provides that no record contained in a system of records may be disclosed to a recipient agency or non-federal agency for use in a computer matching program except pursuant to a written agreement containing specific provisions. 5 U.S.C. 552a(o). The comparison of records that is the subject of this agreement constitutes a matching program within the meaning of the Privacy Act, 5 U.S.C. 552a(a)(8)(A).

D. Categories of Records and Persons Covered by the Matching Program

We will compare identifying information from The Payroll, Leave and Attendance Records (60–0238) last published on January 11, 2006, at 71 FR 1856 with identifying information from The Master Files of Social Security Number (SSN) Holders and SSN Applications (60–0058) last published on December 29, 2010, at 74 FR 62866; The Master Beneficiary Record (60–0090) last published on January 11, 2006, at 71 FR 1826; and The Supplemental Security Income Record and Special Veterans Benefits (60–0103) last published on January 11, 2006, at 71 FR 1830.

E. Inclusive Dates of the Matching Program

The effective date of this matching program is March 10, 2011 provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and may be extended for an additional 12

months thereafter, if certain conditions are met.

[FR Doc. 2011–1810 Filed 1–27–11; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 7315]

60-Day Notice of Proposed Information Collection: Form DS–4071, Export Declaration of Defense Technical Data or Services; OMB Control Number 1405–0157

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comments 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:* Export Declaration of Defense Technical Data or Services.
- *OMB Control Number:* 1405–0157.
- *Type of Request:* Extension of currently approved collection.
- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.
- *Form Number:* DS–4071.
- *Respondents:* Business and nonprofit organizations.
- *Estimated Number of Respondents:* 8,100.
- *Estimated Number of Responses:* 15,000.
- *Average Hours per Response:* 30 minutes.
- *Total Estimated Burden:* 7,500 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Mandatory.

DATES: The Department will accept comments from the public up to 60 days from January 28, 2011.

ADDRESSES: Comments and questions should be directed to Nicholas Memos, Office of Defense Trade Controls Policy, Department of State, who may be reached via the following methods:

- *E-mail: memosni@state.gov.*
- *Mail:* Nicolas Memos, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522–0112.
- *Fax:* 202–261–8199.

You must include the information collection title in the subject lines of your message/letter.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the information collection and supporting documents, to Nicholas Memos, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC, 20522–0112, who may be reached via phone at (202) 663–2804, or via e-mail at *memosni@state.gov*.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed collection of information 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: Actual export of defense technical data and defense services will be electronically reported directly to the Directorate of Defense Trade Controls (DDTC). DDTC administers the International Traffic in Arms Regulations (ITAR) and Section 38 of the Arms Export Control Act (AECA). The actual exports must be in accordance with requirements of the ITAR and Section 38 of the AECA. DDTC will monitor the information to ensure there is proper control of the transfer of sensitive U.S. technology.

Methodology: Once the electronic means are provided, the exporter will electronically report directly to DDTC the actual export of defense technical data and defense services using form DS–4071. DS–4071 will be available on DDTC's Web site, *http://www.pmddtc.state.gov*. Currently, actual exports are reported via paper submission.

Dated: January 21, 2011.

Robert S. Kovac,

Managing Director of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State.

[FR Doc. 2011–1955 Filed 1–27–11; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 7314]

Culturally Significant Objects Imported for Exhibition Determinations: "Upside Down Arctic Realities"

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 objects to be included in the exhibition "Upside Down Arctic Realities," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Menil Collection, Houston, Texas, from on or about April 14, 2011, until on or about July 17, 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 a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: January 24, 2011.

Ann Stock,

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

[FR Doc. 2011–1961 Filed 1–27–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7313]

Culturally Significant Objects Imported for Exhibition Determinations: "Pastel Portraits: Images of 18th-Century Europe"

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 objects to be included in the exhibition "Pastel Portraits: Images of 18th-Century Europe," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, NY, from on or about May 17, 2011, until on or about August 14, 2011, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (*telephone:* 202/632–6473). The address is U.S. Department of State, SA–5, L/PD, Fifth Floor, Washington, DC 20522–0505.

Dated: January 24, 2011.

Ann Stock,

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

[FR Doc. 2011–1963 Filed 1–27–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2010–0151]

Surface Transportation Project Delivery Pilot Program; Caltrans Audit Report

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final report.

SUMMARY: Section 6005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) established the Surface Transportation Project Delivery Pilot Program, codified at 23 U.S.C. 327. To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) mandates semiannual audits during each of the first 2 years of State participation. This final report presents the findings from the fifth FHWA audit of the California Department of Transportation (Caltrans) under the pilot program.

FOR FURTHER INFORMATION CONTACT: Ms. Ruth Rentch, Office of Project Development and Environmental Review, (202) 366–2034, *Ruth.Rentch@dot.gov,* or Mr. Michael Harkins, Office of the Chief Counsel, (202) 366–4928, *Michael.Harkins@dot.gov,* Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the Office of the Federal Register's home page at *http://www.archives.gov* and the Government Printing Office's Web site at *http://www.access.gpo.gov.*

Background

Section 6005 of SAFETEA–LU (codified at 23 U.S.C. 327) established a pilot program to allow up to five States to assume the Secretary of Transportation's responsibilities for environmental review, consultation, or other actions under any Federal environmental law pertaining to the review or approval of highway projects. In order to be selected for the pilot program, a State must submit an application to the Secretary.

On June 29, 2007, Caltrans and FHWA entered into a Memorandum of Understanding (MOU) that established the assignments to and assumptions of responsibility to Caltrans. Under the MOU, Caltrans assumed the majority of FHWA's responsibilities under the National Environmental Policy Act, as well as the FHWA's responsibilities under other Federal environmental laws for most highway projects in California.

To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) requires the Secretary to conduct semiannual audits during each of the first 2 years of State participation; and annual audits during each subsequent year of State participation. The results of each audit must be presented in the form of an audit report and be made available for public comment. The FHWA solicited comments on the fifth audit report in a **Federal Register** Notice published on December 3, 2010, at 75 FR 75532. The FHWA received no comments. This notice provides the final draft of the fifth FHWA audit report for Caltrans under the pilot program.

Authority: Section 6005 of Pub. L. 109–59; 23 U.S.C. 315 and 327; 49 CFR 1.48.

Issued on: January 20, 2011.

Victor M. Mendez,

Administrator.

Surface Transportation Project Delivery Pilot Program

Federal Highway Administration Audit of California Department of Transportation

July 26–30, 2010

Overall Audit Opinion

Based on the information reviewed, it is the Federal Highway Administration (FHWA) audit team's opinion that as of July 30, 2010, the California Department of Transportation (Caltrans) continued to make progress toward meeting all responsibilities assumed under the Surface Transportation Project Delivery Pilot Program (Pilot Program), as specified in the Memorandum of Understanding (MOU) [1] with FHWA and in Caltrans' Application for Assumption (Application).

The FHWA commends Caltrans for its implementation of corrective actions in response to previous FHWA audit report findings. The FHWA also observed that Caltrans continued to identify and implement on a statewide Pilot Program basis best practices in use at individual Caltrans Districts (Districts).

With the completion of FHWA's fifth audit, Caltrans has now operated under the Pilot Program for 3 years. In compliance with the time specifications for the required audits, FHWA completed four semiannual audits in the first 2 years of State participation and has begun the annual audit cycle, beginning with this audit, which was completed July 30, 2010. Collectively, the FHWA audits have included on-site audits to 9 of the 12 Districts and to the Caltrans Regional Offices supporting the remaining 3 Districts. The audit team continues to identify significant differences across the Districts in terms of implementing Pilot Program policies, procedures, and responsibilities. Examples of such differences include: Resource availability and allocation; methods of implementation; methods of process evaluation and improvement; and levels of progress in meeting all assumed responsibilities. It is the audit team's opinion that the highly decentralized nature of operations across Districts continues to be a major contributing factor to the variations observed in the Pilot Program. As a result of this organizational structure, clear, consistent, and ongoing oversight by Caltrans Headquarters (HQ) over Districts' implementation and operation of the Pilot Program responsibilities is necessary. A robust oversight program will help foster the exchange of information and the sharing of best practices and resources between Districts and will put the entire organization in a better position to more fully implement all assumed responsibilities and to meet all Pilot Program commitments.

Due to the multiyear timeframes associated with more complex and controversial projects, the full lifecycle of the environmental review aspect of project

[1] Caltrans MOU between FHWA and Caltrans available at: *http://environment.fhwa.dot.gov/strmlng/safe_cdot_pilot.asp.*

development (proceeding from initiation of environmental studies and concluding with the issuance of a Record of Decision or equivalent decision document) has yet to be realized within the Pilot Program to date. Caltrans continues to gain experience in understanding the resource requirements and processes necessary to administer its Program. It is the audit team's opinion that Caltrans needs to maintain this continuous process improvement to refine its approaches and use of resources to meet all Pilot Program commitments, especially given the increasing resource demands associated with managing ever-more complex and controversial projects under the Pilot Program.

Caltrans staff and management continue to request feedback from the FHWA audit team regarding program successes, best practices, and areas in need of improvement. By addressing all findings in this report, Caltrans will continue to move toward full compliance with all assumed responsibilities and Pilot Program commitments.

As of the conclusion of the fifth FHWA audit, Caltrans has participated in the Pilot Program for 3 years. It is FHWA's opinion that Caltrans has continued to improve its processes and procedures and has benefited from participation in the Pilot Program. However, it also is FHWA's opinion that while Caltrans participation in the Pilot Program has been successful thus far, it is still functioning in a development context and has yet to reach full maturity. Ongoing repeat findings and program areas still in the process of being developed or improved contributed to this opinion.

Requirement for Transition Plan

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) Section 6005(a) established the Pilot Program, codified at 23 U.S.C. 327. Under the provisions of 23 U.S.C. 327(i)(1), as enacted in SAFETEA–LU, "the program shall terminate on the date that is 6 years after the date of enactment of this section" which will be August 10, 2011. Additionally, the MOU between FHWA and Caltrans contains a provision designed to implement 23 U.S.C. 327(i), as enacted by SAFETEA–LU. Specifically, the provision provides that Caltrans and FHWA must jointly "develop a plan to transition the responsibilities that Caltrans has assumed back to the FHWA so as to minimize disruption to the project, minimize confusion to the public, minimize burdens to other affected Federal, State, and local agencies, and, ensure, to the maximum extent possible, Caltrans will be able to complete by August 10, 2011, all anticipated environmental approvals." The MOU further provides that the transition plan must be completed and approved by both Caltrans and FHWA no later than March 10, 2011. In the section 2203(c) of the Surface Transportation Extension Act of 2010, Part II, Public Law 111–322, Congress modified 23 U.S.C. 327(i)(1) by extending the program termination date to 7 years after the date of enactment of SAFETEA–LU. As a result of this amendment, the program termination date is now August 10, 2012. The MOU will need to be amended to take this new termination date into account by delaying actions on the development of the transition plan by one year.

Effective Practices

The FHWA audit team observed the following effective practices during the fifth audit:

1. Caltrans HQ has sought out, shared, and implemented (or is implementing) best practices in use at the District level to use on a statewide basis. Examples include:

(a) Use of a standard form to document Class of Action determination;

(b) Use of the File Maker Pro environmental database system to track projects and milestones; and

(c) Creation of a Section 4(f) point of contact in each District to serve as a technical resource for District staff.

2. Use of monthly newsletters and e-mails from HQ environmental coordinators to inform District environmental staff of key issues, timely topics, and changes in practices.

3. The Sacramento Legal Office permanently assumed responsibility for all environmental law issues in two Districts where staff turnover resulted in limited expertise to support legal sufficiency reviews. As the number of legal sufficiency reviews performed under the Pilot Program has not been significant, concentrating reviews amongst a key group of attorneys should assist with a consistent level of review of environmental documents and the development of expertise under the Pilot Program.

4. Development of an on-line training course on Section 4(f) determinations that is nearing completion.

5. Expansion of the scope of the Caltrans self-assessment process to include review of Pilot Program areas identified as potential weaknesses by HQ Environmental Coordinators.

6. A variety of approaches are being used by individual Districts to capture, track, and ensure that environmental commitments identified in environmental documents are being met. Identified District specific approaches used to accomplish this include:

(a) Training environmental staff in environmental commitments tracking;

(b) Dedicating resources to track commitments, ensuring that the commitments are circulated at key stages of the project cycle, and checking that the commitments have been met at the completion of a project;

(c) Using dedicated formats to capture, describe, and ensure that environmental commitments are transferred and incorporated into contract documents;

(d) Requiring environmental awareness training for construction personnel prior to the start of construction; and

(e) Training appropriate staff on incorporation of environmental commitments into plan, specification, and estimate packages.

Background

The Pilot Program allows the Secretary of Transportation (Secretary) to assign, and the State to assume, the Secretary's responsibilities under the National Environmental Policy Act (NEPA) for one or more highway projects. Upon assigning NEPA responsibilities, the Secretary may further assign to the State all or part of the Secretary's responsibilities for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review of a specific highway project. When a State assumes the Secretary's responsibilities under this program, the State becomes solely responsible and is liable for carrying out the responsibilities it has assumed, in lieu of the FHWA.

To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) mandates that FHWA, on behalf of the Secretary, conduct semiannual audits during each of the first 2 years of State participation; and annual audits during each subsequent year of State participation. The focus of the FHWA audit process is four-fold: (1) To assess a Pilot State's compliance with the required MOU and applicable Federal laws and policies; (2) to collect information needed to evaluate the success of the Pilot Program; (3) to evaluate Pilot State progress in meeting its performance measures; and (4) to collect information for use in the Secretary's annual Report to Congress on the administration of the Pilot Program. Additionally, 23 U.S.C. 327(g) requires FHWA to present the results of each audit in the form of an audit report published in the Federal Register. This audit report must be made available for public comment, and FHWA must respond to public comments received no later than 60 days after the date on which the period for public comment closes.

Caltrans published its draft Application to participate in the Pilot Program on March 14, 2007, and made it available for public comment for 30 days. After considering public comments, Caltrans submitted its Application to FHWA on May 21, 2007, and FHWA, after soliciting the views of Federal agencies, reviewed and approved the Application. Then on June 29, 2007, Caltrans and FHWA entered into an MOU that established the assignments to and assumptions of responsibility to Caltrans, which became effective July 1, 2007. Under the MOU, Caltrans assumed the majority of FHWA's responsibilities under NEPA, as well as FHWA's responsibilities under other Federal environmental laws for most highway projects in California.

Scope of the Audit

This is the fifth FHWA audit of Caltrans participation in the Pilot Program. The on-site portion of the audit was conducted in California from July 26 through July 30, 2010. As required in SAFETEA–LU, each FHWA audit must assess compliance with the roles and responsibilities assumed by the Pilot State in the MOU. The audit also includes recommendations to assist Caltrans in successful participation in the Pilot Program.

The audit primarily focused on assessing compliance with assumed responsibilities. Key Pilot Program areas evaluated during this audit included:

- Section 4(f) process determination and documentation;

- The reevaluation process;
- The impact of furloughs and loss of staff;
- Project files;
- Resource agency consultation and coordination;
- Training;
- Quarterly reports;
- Quality Assurance Quality Control (QA/QC) process; and
- NEPA process documentation.

Prior to the on-site audit, FHWA completed telephone interviews with Federal resource agency staff at the U.S. Army Corps of Engineers (USACE), the National Park Service, the National Oceanic and Atmospheric Administration, the Advisory Council on Historic Preservation, and the Environmental Protection Agency. The on-site audit included visits to the Caltrans Offices in District 3/North Region (Marysville), District 4 (Oakland), District 5 (San Luis Obispo), District 7 (Los Angeles), District 8 (San Bernardino), and District 12 (Irvine). Additionally, FHWA auditors visited the Sacramento offices of the USACE and U.S. Fish and Wildlife Service (FWS) to interview staff.

This report documents findings within the scope of the audit as of the completion date of the on-site audit on July 30, 2010.

Audit Process and Implementation

The intent of each FHWA audit completed under the Pilot Program is to ensure that each Pilot State complies with the commitments in its MOU with FHWA. The FHWA does not evaluate specific project-related decisions made by the State because these decisions are the sole responsibility of the Pilot State. However, the FHWA audit scope does include the review of the processes and procedures (including documentation) used by the Pilot State to reach project decisions in compliance with MOU Section 3.2.

In addition, Caltrans committed in its Application (incorporated by reference in MOU Section 1.1.2) to implement specific processes to strengthen its environmental procedures in order to assume the responsibilities assigned by FHWA under the Pilot Program. The FHWA audits review how Caltrans is meeting each commitment and assesses Pilot Program performance in the core areas specified in the Scope of the Audit section of this report.

The Caltrans' Pilot Program commitments address:

- Organization and Procedures under the Pilot Program.
- Expanded QC Procedures.
- Independent Environmental Decisionmaking.
- Determining the NEPA Class of Action.
- Consultation and Coordination with Resource Agencies.
- Issue Identification and Conflict Resolution Procedures.
- Record Keeping and Retention.
- Expanded Internal Monitoring and Process Reviews.
- Performance Measures to Assess the Pilot Program.
- Training to Implement the Pilot Program.
- Legal Sufficiency Review.

The FHWA team for the fifth audit included representatives from the following offices or agencies:

- FHWA Office of Project Development and Environmental Review.
- FHWA Office of the Chief Counsel.
- FHWA Alaska Division Office.
- FHWA Resource Center Environmental Team.
- Volpe National Transportation Systems Center.
- FWS.

During the onsite audit, FHWA interviewed more than 70 staff from 6 District offices and the USACE and FWS. The audit team also reviewed project files and records for over 80 projects managed by Caltrans under the Pilot Program.

The FHWA acknowledges that Caltrans identified specific issues during its fifth self-assessment performed under the Pilot Program (required by MOU section 8.2.6), and is working on corrective actions to address the identified issues. Some issues described in the Caltrans self-assessment may overlap with FHWA findings identified in this audit report.

In accordance with MOU Section 11.4.1, FHWA provided Caltrans with a 30-day comment period to review this draft audit report. The FHWA reviewed comments received from Caltrans and revised sections of the draft report, where appropriate, prior to publishing it in the **Federal Register** for public comment.

Limitations of the Audit

The conclusions presented in this report are opinions based upon interviews of selected persons knowledgeable about past and current activities related to the execution of the Pilot Program at Caltrans, and a review of selected documents over a limited time period. The FHWA audit team's ability to conduct each audit and make determinations of Caltrans' compliance with assumed responsibilities and commitments under the Pilot Program has been further limited by the following:

- Select Districts visited by FHWA audit team. The FHWA audit team has not visited each District during the audit process. Each audit (including this audit) has consisted of visits to Districts with significant activity under the Pilot.
- Caltrans staff availability during audits. Some Caltrans staff selected to be interviewed by the audit team were out of the office and unavailable to participate in the onsite audit. This limited the extent of information gathering.
- Incomplete project files. Project files and associated project documentation have, when reviewed by the audit team, not always been complete. This is especially true for projects where the project or related studies were initiated prior to commencement of the Pilot Program. A full assessment of compliance with Pilot Program policies and procedures is not possible unless all required documents are available for review.
- Limited scope of Pilot Program project development activity. Caltrans has not operated under the Pilot Program for a sufficient period of time to manage the full lifecycle of most Environmental Impact Statements (EIS) and other complex projects. Therefore, FHWA is not yet able to fully determine how Caltrans will comply with its responsibilities assumed under the Pilot Program for these project situations.
- Insufficient data to determine time savings reported by Caltrans in the completion of environmental documents. Due to the short period of time that the Pilot Program has been in place, a sufficient number of projects of varying complexities have not been completed to adequately support a determination on the potential time savings resulting from participation in the Pilot Program.
- Distinction between the two Categorical Exclusion (CE) assumption processes—Section 6004 and Section 6005. Since the assumption by Caltrans of the SAFETEA–LU Section 6004 CE process is not a part of these audits, it is not possible to validate the correctness of determinations placing individual CEs under the aegis of each assumed responsibility.
- Continued errors in the quarterly reports. The quarterly reports prepared by Caltrans listing all environmental approvals and decisions made under the Pilot Program continue to contain omissions and errors. As a result, it is difficult for FHWA to exercise full oversight on Pilot Program projects unless a complete accounting of all NEPA documents produced under the Pilot is available and taken into account during the FHWA audit.

Status of Findings Since Last Audit (July 2009)

As part of the fifth audit, FHWA evaluated the corrective actions implemented by Caltrans in response to the "Deficient" and "Needs Improvement" findings in the fourth FHWA audit report.

1. Quarterly Reports—The quarterly reports Caltrans provided to FHWA under MOU Section 8.2.7 continued to include inaccuracies related to environmental document approvals and decisions made under the Pilot Program. The FHWA does acknowledge that Caltrans is in the process of implementing the File Maker Pro environmental database system on a statewide basis to assist in the developing of a comprehensive database of environmental projects and milestones to improve the accuracy of the information reported in the quarterly reports.

2. QA/QC Certification Process—Project file reviews completed during the fifth audit continued to identify incorrect and incomplete QC certification forms. Caltrans continues to address inadequacies in this process through staff specific training when inconsistencies are identified, most notably during the self-assessment process.

3. QA/QC Assurance—Under the Pilot Program, NEPA documentation must clearly identify that FHWA has no role in the environmental review and decisionmaking process for assigned projects. However, environmental document reviews continued to identify instances when FHWA was referenced as being involved in the decisionmaking process.

"Needs Improvement" audit findings status:

1. Inadequate Guidance in the Standard Environmental Reference (SER)—Caltrans updated the SER to address FHWA's

concerns regarding several instances where guidance provided was unclear, misleading, or incomplete. However, additional instances were observed during the fifth audit regarding unclear, misleading, or incomplete information in the SER.

2. Procedural and Substantive Requirements—The identified areas of confusion regarding implementation of the Endangered Species Act (ESA) Section 7 process have been addressed and the process of consulting with the FWS under ESA Section 7 has been improved.

3. Section 4(f) Issues:

(a) Documentation—Project file reviews and interviews with Caltrans staff confirmed continuing inconsistencies in the documentation required to meet the Section 4(f) provisions.

(b) Circulation of a Draft Section 4(f) Evaluation—Project file reviews and interviews with Caltrans staff identified confusion regarding the requirement to circulate Section 4(f) Evaluations to the Department of the Interior for review.

(c) Section 4(f) Implementation—Project file reviews and interviews with Caltrans staff identified several inconsistencies with the implementation and general understanding required in carrying out Section 4(f) provisions.

Caltrans is continuing to address each issue. For example, Caltrans requested and received two FHWA-led Section 4(f) trainings, each 2 days in length, with specific requests to address areas that FHWA has identified as problematic during the Pilot Program audit. Caltrans is also completing an on-line Section 4(f) training that will be posted on the "Training on Demand" Web site.

4. Legal Division Staff—Significant variability existed in the Federal environmental law experience of the attorneys in the four Caltrans legal offices. Most notably, the retirement of a highly experienced attorney near the end of 2008 resulted in two of Caltrans' legal offices serving some of Caltrans' largest and busiest Districts with no attorneys on staff with substantial experience in Federal environmental law. Since October 2009, the Sacramento Legal Division assumed permanent responsibility for all environmental law issues in the legal office affected by the retirement of the experienced attorney in 2008.

5. Training—In the past, inconsistencies in training were identified in the areas of Section 4(f) and Section 7 processes. There were also observed inconsistencies in the use of tools to identify training needs and to track employees' training histories, as well as no method for employees to track completion of any online training available on the Caltrans Web site. A method to record the completion of on-line trainings by Caltrans staff is now available with implementation of its use underway.

6. Maintenance of Project and General Administrative Files—Caltrans has instituted specific procedures for maintaining project files in accordance with the Uniform Filing System (UFS) and has provided training on these procedures. Inconsistencies in the application of these procedures, reported in previous audit findings, were also identified in this audit.

Findings Definitions

The FHWA audit team carefully examined Pilot Program areas to assess compliance in accordance with established criteria in the MOU and Application. The time period covered by this audit report is from the start of the Caltrans Pilot Program (July 1, 2007) through completion of the fifth onsite audit (July 30, 2010) with the focus of the audit on the most recent 12 month period. This report presents audit findings in three areas:

- *Compliant*—Audit verified that a process, procedure or other component of the Pilot Program meets a stated commitment in the Application and/or MOU.
- *Needs Improvement*—Audit determined that a process, procedure or other component of the Pilot Program as specified in the Application and/or MOU is not fully implemented to achieve the stated commitment or the process or procedure implemented is not functioning at a level necessary to ensure the stated commitment is satisfied. Action is recommended to ensure success.
- *Deficient*—Audit was unable to verify if a process, procedure or other component of the Pilot Program met the stated commitment in the Application and/or MOU. Action is required to improve the process, procedure or other component prior to the next audit;

or

Audit determined that a process, procedure or other component of the Pilot Program did not meet the stated commitment in the Application and/or MOU. Corrective action is required prior to the next audit.

or

Audit determined that for a past Needs Improvement finding, the rate of corrective action has not proceeded in a timely manner; is not on the path to timely resolution of the finding.

Summary of Findings—July 2010

Compliant

Caltrans was found to be compliant in meeting the requirements of the MOU for the key Pilot Program areas within the scope and the limitations of the audit, with the exceptions noted in the Deficient and Needs Improvement findings in this audit report set forth below. Caltrans continues to provide FHWA with all required oversight reports, per MOU Section 8.2 (e.g., Quarterly Reports listing project approvals and decisions made under the authority of the Pilot Program and the Self-assessment Summary Reports) and has fully cooperated with FHWA during the audit process. Even with the loss of staff, furloughs, and budget constraints Caltrans continues to be compliant in their commitment of resources needed to carry out the responsibilities assumed under the Pilot Program.

Needs Improvement

(N1) Maintenance of Project and General Administrative Files—MOU Section 8.2.4 requires that Caltrans maintains project and general administrative files pertaining to its discharge of the responsibilities assumed under the Pilot Program. Caltrans has instituted specific procedures for maintaining project files in accordance with the UFS and has provided training on these procedures. Inconsistencies in the application of these procedures, which have been reported in previous audit findings, were also identified throughout the Districts visited in this audit. Examples of inconsistencies observed in 10 of the approximately 80 project files reviewed during the audit included:

(a) Instances where required documentation was missing in project files but was produced by Caltrans staff at the request of the auditors. Examples of such missing documents included a letter documenting the State Historic Preservation Officer's concurrence on effect determination; correspondence between Caltrans and FWS regarding a Biological Opinion for a project; and project level conformity determinations by FHWA; and

(b) Missing, out of order, or incomplete UFS tabs.

(N2) Performance Measure—"Monitor relationships with agencies and the general public"—MOU Section 10.2.1.C requires Caltrans to "assess change in communication among Caltrans, Federal and State resource agencies, and the public." Caltrans conducted the first annual resource agency survey in 2009 and a second survey in February 2010. The Second Annual Resource Agency Survey Report was delivered in May 2010. Each report lists an average rating for each survey question and a comparison is made from the previous report average ratings. The Survey Report does not report each agency's rankings separately, which would produce a more accurate assessment of Caltrans' individual relationship with Federal and State agencies. It is FHWA's recommendation that the specific agencies' rating information be shared with FHWA so that agency specific relationship issues could be identified and corrective actions could be discussed.

(N3) Coordination with Resource Agencies—Through interviews with resource agency staff, the audit team learned the following:

(a) Under MOU Section 7.1.1, Caltrans "agrees to seek early and appropriate coordination with all appropriate Federal, State, and local agencies in carrying out any of the responsibilities and highway projects assumed under Part 3 of this MOU." Based on information obtained during audit interviews with representatives from a USACE District office, the audit team learned that Caltrans is not conducting pre-application coordination with this office nor engaging in appropriate coordination on NEPA reviews which is limiting the agencies' flexibility to develop project alternatives and mitigation options.

(b) MOU Section 7.1.2, Caltrans "agrees to make all reasonable and good faith efforts to identify and resolve conflicts with all appropriate Federal, State, and local agencies during the consultation and review process in carrying out any of the responsibilities assumed under Part 3 of this MOU." Interviews with representatives from a Caltrans District Office, a USACE District Office, and a FWS Field Office, determined that longstanding conflicts (i.e., insufficient

information provided, lack of compliance with environmental commitments and disagreements on regulatory timeframes, action areas and compensative mitigation requirements) are not being addressed and "good faith" efforts to resolve conflicts between these Federal agencies and a few Districts are lacking. These agencies reported that due to these conflicts, efforts to carry out responsibilities under applicable Federal laws are not being implemented to the fullest extent.

(N4) Procedural and Substantive Requirements—MOU Section 5.1.4 states that Caltrans will work with all other appropriate Federal agencies concerning the laws, guidance, and policies that such other Federal agencies are responsible for administering. Project file reviews and staff interviews identified the following inconsistencies:

(a) The Section 7 consultation was incomplete and the Section 7 finding was not included in the NEPA documentation of a project's Finding of No Significant Impacts (FONSI); and

(b) An Environmental Assessment document did not identify that the project was in a 100-year flood zone and therefore, a "practicability" finding was not made in the FONSI. As a result, the project was not in compliance with Executive Order 11988 Floodplain Management and 23 CFR 650.

(N5) Compliance with Procedural and Substantive Requirements—MOU Section 5.1 requires Caltrans to be subject to the same procedural and substantive requirements that apply to the U.S. Department of Transportation (DOT) in carrying out the responsibilities assumed under the Pilot Program. Such procedural and substantive requirements include compliance with Federal laws, Federal regulations, Executive Orders, DOT Orders, FHWA Orders, official guidance and policy issued by tDOT or FHWA, and any applicable Federal Court decisions, and interagency agreements such as programmatic agreements, memoranda of agreement, and other similar documents that relate to the environmental review process. Documentation errors during the NEPA process were noted in 11 of approximately 80 project files reviewed during the audit. Project file reviews identified incomplete or inaccurate NEPA documents and other related project materials. Some of these instances included:

(a) A FONSI that did not include a response to comments received on the Environmental Assesment regarding traffic operations and their impacts on the project;

(b) A FONSI that did not include a statement that the Section 7 consultation had been performed in compliance with the ESA;

(c) Two CE determinations failed to reference the most current noise studies performed prior to the approvals of the CEs;

(d) One CE determination failed to reference the most current traffic analysis performed prior to the approval of the CE and;

(e) A project file contained a fact sheet for the project that contained incorrect information on the level of environmental documentation. Even if this fact sheet was not released to the public, it is part of the project file and would become part of the administrative record, and thus contain incorrect information.

(N6) Re-evaluation Process—MOU Section 5.1 requires Caltrans to be subject to the same procedural and substantive requirements that apply to DOT in carrying out the responsibilities assumed under the Pilot Program. This includes the process and documentation for conducting NEPA re-evaluations to comply with 23 CFR 771.129. Additionally, SER Chapter 33 discusses re-validations and re-evaluations. Project file reviews and staff interviews identified varying degrees of compliance with these procedures. Project file reviews completed in some Districts determined that the re-evaluations completed complied with SER Chapter 33. However, in other Districts project files identified the following inconsistencies:

(a) A re-evaluation was used to combine portions of two EISs. The FHWA re-evaluation process does not accommodate such an approach. Other elements of this re-evaluation that appeared to deviate from established procedures included: (1) A change was made to the project that was not evaluated in either of the original EISs or the subsequent re-evaluations performed on the respective projects and (2) a previous conformity determination was relied on for the segment covered by one of the EISs, whereas a new conformity determination was done on the segment from the second EIS. There was no conformity determination for the combined project;

(b) In another project file review, no evidence was found that a Section 106 Area of Potential Effect (APE) was revised after a post-final environmental document change occurred that expanded the footprint of the proposed project outside of the original APE. No documents in the project file were identified to support that Caltrans had performed an evaluation to determine if the change had an effect on the validity of the original environmental document or the Section 106 determination of effects;

(c) A re-evaluation of an original CE determination contained, as a part of the re-evaluation, the addition of another project CE determination. The District concurrently issued a Section 6005 CE for the "combined" project, without including a new project description. The project file contained the new CE with the re-evaluation attached. Documentation in the file indicated that the second project was not to be added to the original CE, since that would make the first project ineligible for a Federal funding category;

(d) A re-evaluation did not include documentation of an affirmative determination that the NEPA document was still valid; and

(e) Instances were observed by the audit team that re-evaluations were approved without the original project file or approved environmental document being in the District Office. In one instance, a re-evaluation was approved by a District without reviewing the project file or final environmental document. According to information provided to the audit team, the project file had been removed from the office and could not be located.

The audit team feels that additional clarification and guidance needs to be provided by Caltrans to the environmental staff as to the purpose and use of the re-evaluation process. A re-evaluation is done to determine if the approved environmental document or the CE designation remains valid. In the re-evaluation process, the original decision and analysis needs to be reviewed for its validity.

(N7) Section 4(f) and "Locally Significant" Historic Resources—MOU Section 5.1.1 affirms that Caltrans is subject to the same procedural and substantive requirements that apply to the DOT in carrying out the responsibilities assumed under the Pilot Program. The SER Chapter 20, *Section 4(f) and Related Requirements,* sets forth procedures for documenting impacts to Section 4(f) properties in Caltrans-assigned environmental documents, while the *Forms and Templates* section of the SER contains annotated outlines for such documents. However, the SER does not address how Caltrans should determine whether a historic resource which is significant at the local level should be considered eligible for protection under Section 4(f). In the case of one project reviewed by the audit team, it was unclear from review of the project file and from interviews with Caltrans staff what process was used for making the determination and what internal and external coordination and consultation was required. It is the audit team's opinion that the SER should include a process to ensure consistency in the determination of the historic significance of local resources.

(N8) Training: Inconsistent Level of Training for Staff—MOU Section 12.1.1 requires Caltrans to ensure that its staff is properly trained and that training will be provided "in all appropriate areas with respect to the environmental responsibilities Caltrans has assumed." Section 4.2.2 of the MOU also requires that Caltrans maintain adequate staff capability to effectively carry out the responsibilities it has assumed.

The audit team found an inconsistent application of the training plan for generalists in two Districts. Interviews with several SEPs in two Districts indicated that oversight or tracking of training for generalists is not uniform and identified the need for a more systematic approach. The interviews found that training attended by generalists is not consistently monitored by their SEPs, nor is the training plan consistency applied or tracked to ensure employees attend the proper training given to support the generalist's responsibilities. While the audit team did learn that a more systematic training plan for generalists (i.e., the generalist roadmap) had recently been developed, it remains an important issue to ensure that staff attends the training prescribed by the plan to ensure they have the proper skill set to effectively carry out responsibilities under the Pilot Program.

(N9) Training: Inconsistent Understanding of Required Processes—MOU Section 4.2.2 requires Caltrans to maintain adequate organizational and staff capacity to effectively carry out the responsibilities it has assumed under MOU Section 3. The following inconsistencies were noted during interviews with Caltrans staff:

(a) Interviews with two SEPs and project file reviews indicated a lack of understanding of the Section 4(f) process and options available for implementation and documentation of the Section 4(f) process. A lack of understanding and knowledge was identified in the areas of the determination of *de minimis* impacts findings, the use of established Section 4(f) programmatic agreements, and the required documentation, evaluation, and explanation to be included in the environmental documents;

(b) Interviews with one HQ Environmental Coordinator and one SEP reflected a lack of awareness of any policy or guidance for the use of the Statute of Limitations notice and;

(c) Interviews with SEPs in two Districts reflected a lack of awareness and knowledge of the "Blanket" CE for approval of design exceptions. While the use of this may be limited, a general understanding and awareness is expected by Caltrans staff. Several SEPs either did not know of the "Blanket" CE or were unaware of how and when to use it.

Deficient

(D1) Reports Listing Approvals and Decisions (i.e., Quarterly Reports)—MOU Section 8.2.7 requires Caltrans to submit a report listing all Pilot Program approvals and decisions made with respect to responsibilities assumed under the MOU with FHWA (each quarter for the first 2 years; after the first 2 years no less than every 6 months). Caltrans has chosen to continue to provide quarterly reports to FHWA. Inaccurate project reporting continues to be an ongoing issue affecting the quarterly report process and has been identified in every previous FHWA audit report. Among the reporting errors identified in this audit were:

(a) Omission of two EAs;

(b) Omission of one FONSI;

(c) Omission of a biological opinion;

(d) Incorrect approval date for a CE determination;

(e) Incorrect listing of a re-evaluation/revalidation for a Section 6004 CE determination as Section 6005 CE determination; and

(f) Incorrectly included a re-evaluation/revalidation of a project with no Federal funding or required approvals, and therefore not a part of the Pilot Program.

The current Caltrans approach to developing the quarterly reports continues to be deficient. The accuracy of the reports on project approvals and decisions affects the FHWA oversight of the Pilot Program. The FHWA acknowledges that Caltrans is in the initial stages of statewide implementation of the File Maker Pro environmental database. It is anticipated that the implementation of this database system will improve the accuracy of information provided in the quarterly reports to FHWA.

(D2) Section 4(f) Documentation—MOU Section 5.1.1 affirms that Caltrans is subject to the same procedural and substantive requirements that apply to DOT in carrying out the responsibilities assumed under the Pilot Program. The SER Chapter 20, *Section 4(f) and Related Requirements,* sets forth procedures for documenting impacts to Section 4(f) properties in Caltrans-assigned environmental documents, while the *Forms and Templates* section of the SER contains annotated outlines for such documents, including appropriate language for addressing *de minimis* impacts (49 U.S.C. 303(d); 23 U.S.C. 139(b); 23 CFR 774.17). As was also noted in the fourth FHWA audit of the Pilot Program, project file reviews and interviews with staff during this audit identified inconsistencies in the documentation requirements for carrying out the Section 4(f) provisions. These included:

(a) For a bridge replacement project located within a National Forest, no documentation was provided in the EA document or in the project file regarding the Section 4(f) status of the recreational facilities in the immediate project vicinity or any possible project impacts to those resources;

(b) A project file contained a letter from the official with jurisdiction over the Section 4(f) recreational resource stating the impacts to the resource would be *de minimis*. Neither the EA document nor the project file contained the supporting documentation for that determination, as required under 23 CFR 774.7(b).

(c) The Section 4(f) discussion in the environmental document of another project (for which no NEPA approval had been made at the time of the audit) was unclear as to which type of Section 4(f) documentation and approval was being contemplated. The applicable section of the EA included the discussion of four different types of Section 4(f) approvals:

1. The EA described the project as qualifying for a Nationwide Programmatic Section 4(f) evaluation, but did not reach a conclusion pursuant to the applicable Programmatic.

2. The document then included a discussion similar to what is used in an individual Section 4(f) Evaluation, including impacts to Section 4(f) properties, avoidance alternatives, and measures to minimize harm, ending by stating that no preferred alternative had been identified for the project.

3. The EA also contained a Section 4(f) constructive use discussion, which reached no conclusion.

4. Finally, the project file contained an e-mail stating that although the EA was missing expected language regarding *de minimis* impacts and a concurrence letter from the officials with jurisdiction, the Caltrans Branch Chief would sign the QA/QC sheets "with the assurance that the above items will be completed."

(D3) QA/QC Certification Process—MOU Section 8.2.5 and SER Chapter 38 require Caltrans staff to review each environmental document in accordance with the policy memorandum titled, "Environmental Document Quality Control Program under the NEPA Pilot Program" (July 2, 2007). Incomplete and incorrectly completed QC certification forms continue to be identified. During project file reviews by the audit team, the following instances of incomplete or incorrect QC certification forms since the July 2009 audit were observed:

(a) An EA and Section 4(f) Evaluation was approved contingent on changes that still needed to be made to the document;

(b) One QC certification form was approved by the Quality Control Reviewer, Preparer, and Branch Chief without the technical reviewer's signature due to pending comments;

(c) Five other QC certification forms contained undated review signatures or the signatures were not obtained in the proper sequence in accordance with the Caltrans established QA/QC processes;

(d) Two QC certification forms were missing the signatures of required reviewers. In those cases, a memo was included in the files documenting this oversight. One memo noted that the NEPA document that was approved for the project had been incomplete. No additional explanation was provided; and

(e) Two external QC certification forms contained signatures that were obtained after the internal QC certification form signatures. The SER Chapter 38 process requires the QC external certification form to be completed before the internal certification review can be initiated.

(D4) Maintenance of Project and General Administrative Files—MOU Section 8.2.4 requires Caltrans to maintain project and general administrative files pertaining to its discharge of the responsibilities assumed under the Pilot Program. Caltrans has instituted specific procedures for maintaining project files and has provided training on these procedures. Previous audits identified inconsistencies with the application of these procedures (*i.e.,* missing required documents, missing UFS tabs) and inconsistencies throughout the Districts visited in this audit were also identified. This audit also identified inconsistencies with file maintenance in at least 15 of the approximately 80 project files reviewed. Examples of these include:

(a) Various types of required project documentation were missing from project files. Examples of missing documents included:

- Signed final environmental documents;
- Noise abatement decision report;
- Historic Properties Survey Report;
- Environmental Commitment Records;
- internal and external QC certification forms (some signed but undated);
- Signed copies of the Preliminary Environmental Analysis Report/Preliminary Environmental Scoping forms;
- Section 106 Memorandum of Agreement; and
- Information on the types of Section 4(f) resources and the projects' impacts upon them.

(b) Two instances in which the project files were not available for review; in one case, the file has been improperly disposed, while in the other case, it was uncertain whether the project file had been misplaced or had never been set up.

Response to Comments and Finalization of Report

The FHWA received no comments during the 30-day comment period for the draft audit report. Therefore, the FHWA feels that there is no need to revise the draft audit

report findings and finalizes the audit report with this notice.

[FR Doc. 2011–1870 Filed 1–27–11; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2010–0386]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt seventeen individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective January 28, 2011. The exemptions expire on January 28, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/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.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's 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, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

Background

On December 14, 2010, FMCSA published a notice of receipt of Federal diabetes exemption applications from seventeen individuals and requested comments from the public (75 FR 77947). The public comment period closed on January 13, 2011 and no comments were received.

FMCSA has evaluated the eligibility of the seventeen applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current standard for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441) **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777) **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These seventeen applicants have had ITDM over a range of 1 to 44 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the December 14, 2010, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comment

FMCSA did not receive any comments in this proceeding.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes standard in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's

qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the seventeen exemption applications, FMCSA exempts, Richard B. Angus, James T. Bezold, Allen C. Cornelius, Eugene M. Johnson, Michael A. McHenry, Steven L. Meredith, Gabriel Moreno, Gregory S. Myers, Scott A. Newell, Richard D. Peterson, Rudolph Q. Redd, Chad A. Sanders, Mark A. Sawyer, Isaac Singleton, Doris A. Tiberio, Gordon E. Toland, Raymond M. Wallace, Jr. from the ITDM standard in 49 CFR 391.41(b)(3), subject to the conditions listed under "Conditions and Requirements" above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: January 20, 2011.

Larry W. Minor,

Associate Administrator, Office of Policy.

[FR Doc. 2011–1838 Filed 1–27–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Alternative Transportation in Parks and Public Lands Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Paul S. Sarbanes Transit in Parks Program Announcement of FY 2010 Project Selections.

SUMMARY: The U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the selection of projects, funded with Fiscal Year (FY) 2010 appropriations and previously unallocated prior year funds, for the Paul S. Sarbanes Transit in Parks program, as authorized by Section 3021 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users of 2005 (SAFETEA–LU) and codified in 49 U.S.C. 5320. The Paul S. Sarbanes Transit in Parks program funds capital and planning expenses for alternative transportation systems in parks and public lands. Federal land management agencies and State, Tribal and local governments acting with the consent of a Federal land management agency are eligible recipients.

FOR FURTHER INFORMATION CONTACT: Project sponsors who are State, local, or Tribal entities may contact the appropriate FTA Regional Administrator (*See* the Appendix to this Notice) for grant-specific issues. Project sponsors who are a Federal land management agency or a specific unit of a Federal land management agency should work with the contact listed below at their headquarters office to coordinate the availability of funds to that unit.

- *National Park Service:* Mark H Hartsoe, *Mark_H_Hartsoe@nps.gov;* tel: 202–513–7025, fax: 202–371–6675, mail: 1849 C Street, NW. (MS2420); Washington, DC 20240–0001.
- *Fish and Wildlife Service:* Nathan Caldwell, *Nathan_Caldwell@fws.gov,* tel: 703–358–2205, fax: 703–358–2517, mail: 4401 N. Fairfax Drive, Room 634; Arlington, VA 22203.
- *Forest Service:* Ed James, *ejames@fs.fed.us,* tel: 703–605–4616, mail: 1400 Independence Avenue, SW.; Washington, DC 20250–1101.
- *Bureau of Land Management:* Victor F. Montoya, *Victor_Montoya@blm.gov,* tel: 202–912–7041, mail: 1620 L Street, WO–854, Washington, DC 20036

For general information about the Paul S. Sarbanes Transit in Parks program, please contact Adam Schildge, Office of Program Management, Federal Transit Administration, at *adam.schildge@dot.gov,* 202–366–0778.

SUPPLEMENTARY INFORMATION: A total of $26,844,035 was appropriated for FTA's Paul S. Sarbanes Transit in Parks program in Fiscal Year (FY) 2010. Of this amount, $26,709,815 is available for project awards, $134,220 is reserved for oversight activities, and $46,591 will be added to available FY 2011 appropriations for the program. A total of $338,467 is available for project awards from funds appropriated in 2007, 2008 and 2009. A total of 73 applicants requested $83.0 million, more than three times the amount available in FY 2010 for projects, indicating high competition for funds. A joint review committee of the U.S. Department of Interior, the U.S. Department of Agriculture's Forest Service and DOT evaluated the project proposals based on the criteria defined in 49 U.S.C. 5320(g)(2). Final selections were made through a collaborative process.

The goals of the program are to conserve natural, historical, and cultural resources; reduce congestion and pollution; improve visitor mobility and accessibility; enhance visitor experience; and ensure access to all, including persons with disabilities, through alternative transportation projects. The projects selected to use FY 2010 funding represent a diverse set of capital and planning projects across the country, ranging from bus purchases to installation of Intelligent Transportation Systems (ITS) and are listed in Table 1.

Applying For Funds

Recipients who are State or local government entities will be required to apply for Paul S. Sarbanes Transit in Parks program funds electronically through FTA's electronic grant award and management system, TEAM. These entities are assigned discretionary project IDs as shown in Table 1 of this notice. The content of these grant applications must reflect the approved proposal. (**Note:** Applications for the Paul S. Sarbanes Transit in Parks program do not require Department of Labor Certification.) Upon grant award, payments to grantees will be made by electronic transfer to the grantee's financial institution through FTA's Electronic Clearing House Operation (ECHO) system. Staff in FTA's Regional offices are available to assist applicants.

Recipients who are Federal land management agencies will be required to enter into an interagency agreement (IAA) with FTA. FTA will administer one IAA with each Federal land management agency receiving funding through the program for all of that agency's projects. Individual units of Federal land management agencies should work with the contact at their headquarters office listed above to coordinate the availability of funds to that unit.

Program Requirements

Section 5320 requires funding recipients to meet certain requirements. Requirements that reflect existing statutory and regulatory provisions can be found in the document "Alternative Transportation in Parks and Public Lands Program: Requirements for Recipients" available at *http://www.fta.dot.gov/atppl.* These requirements are incorporated into the grant agreements and inter-agency

agreements used to fund the selected projects.

Pre-Award Authority

Pre-award authority allows an agency that will receive a grant or interagency agreement to incur certain project costs prior to receipt of the grant or interagency agreement and retain eligibility of the costs for subsequent reimbursement after the grant or agreement is approved. The recipient assumes all risk and is responsible for ensuring that all conditions are met to retain eligibility, including compliance with Federal requirements such as the National Environmental Policy Act (NEPA), SAFETEA–LU planning requirements, and provisions established in the grant contract or Interagency Agreement. This automatic pre-award spending authority, when triggered, permits a grantee to incur costs on an eligible transit capital or planning project without prejudice to possible future Federal participation in the cost of the project or projects. Under the authority provided in 49 U.S.C. 5320(h), FTA is extending pre-award authority for FY 2010 Paul S. Sarbanes Transit in Parks projects effective December 22, 2010 when the projects were publicly announced.

The conditions under which pre-award authority may be utilized are specified below:

a. Pre-award authority is not a legal or implied commitment that the project(s) will be approved for FTA assistance or that FTA will obligate Federal funds for those projects. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project(s).

b. All FTA statutory, procedural, and contractual requirements must be met.

c. No action will be taken by the grantee that prejudices the legal and administrative findings that the Federal Transit Administrator must make in order to approve a project.

d. Local funds expended pursuant to this pre-award authority will be eligible for reimbursement if FTA later makes a grant or interagency agreement for the project(s). Local funds expended by the grantee prior to the April 5, 2010 public announcement will not be eligible for credit toward local match or reimbursement. Furthermore, the expenditure of local funds on activities such as land acquisition, demolition, or construction, prior to the completion of the NEPA process, would compromise FTA's ability to comply with Federal environmental laws and may render the project ineligible for FTA funding.

e. When a grant for the project is subsequently awarded, the Financial Status Report in TEAM–Web must indicate the use of pre-award authority, and the pre-award item in the project information section of TEAM should be marked "yes."

Reporting Requirements

All recipients must submit quarterly reports to FTA containing the following information:

(1) Narrative description of project(s); and,

(2) Discussion of all budget and schedule changes.

The headquarters office for each Federal land management agency should collect a quarterly report for each of the projects delineated in the interagency agreement and then send these reports (preferably by e-mail) to Adam Schildge, FTA, *adam.schildge@dot.gov;* 1200 New Jersey Avenue; Washington, DC 20590. Examples can be found on the program Web site at *http://www.fta.dot.gov/atppl.* State and local governments will send this information to FTA for projects that are funded through grants to State and local governments rather than through the interagency agreement. The quarterly reports are due to FTA on the dates noted below:

Quarter	Covering	Due date
1st Quarter Report	October 1–December 31	January 31.
2nd Quarter Report	January 1–March 31	April 30.
3rd Quarter Report	April 1–June 30	July 31.
4th Quarter Report	July 1–September 31	October 31.

In order to allow FTA to compute aggregate program performance measures FTA requests that all recipients of funding for capital projects under the Paul S. Sarbanes Transit in Parks program submit the following information annually:

- Annual visitation to the land unit;
- Annual number of persons who use the alternative transportation system (ridership/usage);
- An estimate of the number of vehicle trips mitigated based on alternative transportation system usage and the typical number of passengers per vehicle;
- Cost per passenger; and,
- A note of any special services offered for those systems with higher costs per passenger but more amenities.

State and local government entities should submit this information as part of their fourth quarter report through FTA's TEAM grants management system.

Federal land management agencies should also send this information as part of their fourth quarter report (preferably by e-mail), to Adam Schildge, FTA, *adam.schildge@dot.gov*; 1200 New Jersey Avenue, SE.; E46–303; Washington, DC 20590. Examples can be found on the program Web site at *http://www.fta.dot.gov/atppl.*

Oversight

Recipients of FY 2010 Paul S. Sarbanes Transit in Parks program funds will be required to certify that they will comply with all applicable Federal and FTA programmatic requirements. FTA direct grantees will complete this certification as part of the annual Certification and Assurances package, and Federal Land Management Agency recipients will complete the certification by signing the interagency agreement. This certification is the basis for oversight reviews conducted by FTA.

The Secretary of Transportation and FTA have elected not to apply the triennial review requirements of 49 U.S.C. 5307(h)(2) to Paul S. Sarbanes Transit in Parks program recipients that are other Federal agencies. Instead, working with the existing oversight systems at the Federal Land Management Agencies, FTA will perform periodic reviews of specific projects funded by the Paul S. Sarbanes Transit in Parks program. These reviews will ensure that projects meet the basic statutory, administrative, and regulatory requirements as stipulated by this notice and the certification. To the extent possible, these reviews will be coordinated with other reviews of the project. FTA direct grantees of Paul S. Sarbanes Transit in Parks program funds (State, local and Tribal government entities) will be subject to all applicable triennial, State management, civil rights, and other reviews.

Issued in Washington, DC this 24th day of January, 2011.

Peter Rogoff,

Administrator.

Appendix

FTA REGIONAL AND METROPOLITAN OFFICES

Mary-Beth Mello, Regional Administrator, Region 1—Boston, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, Tel. 617–494–2055. States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.	Robert C. Patrick, Regional Administrator, Region 6—Ft. Worth, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, Tel. 817–978–0550. States served: Arkansas, Louisiana, Oklahoma, New Mexico, and Texas.
Brigid Hynes-Cherin, Regional Administrator, Region 2—New York, One Bowling Green, Room 429, New York, NY 10004–1415, Tel. 212–668–2170. States served: New Jersey, New York.	Mokhtee Ahmad, Regional Administrator, Region 7—Kansas City, MO, 901 Locust Street, Room 404, Kansas City, MO 64106, Tel. 816–329–3920. States served: Iowa, Kansas, Missouri, and Nebraska.
New York Metropolitan Office, Region 2—New York, One Bowling Green, Room 428, New York, NY 10004–1415, Tel. 212–668–2202.	
Letitia Thompson, Regional Administrator, Region 3—Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7100. States served: Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and District of Columbia. Philadelphia Metropolitan Office, Region 3—Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7070. Washington, DC Metropolitan Office, 1990 K Street, NW., Room 510, Washington, DC 20006, Tel. 202–219–3562.	Terry Rosapep, Regional Administrator, Region 8—Denver, 12300 West Dakota Ave., Suite 310, Lakewood, CO 80228–2583, Tel. 720–963–3300. States served: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
Yvette Taylor, Regional Administrator, Region 4—Atlanta, 230 Peachtreet Street, NW. Suite 800, Atlanta, GA 30303, Tel. 404–865–5600. States served: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands.	Leslie T. Rogers, Regional Administrator, Region 9—San Francisco, 201 Mission Street, Room 1650, San Francisco, CA 94105–1926, Tel. 415–744–3133. States served: American Samoa, Arizona, California, Guam, Hawaii, Nevada, and the Northern Mariana Islands. Los Angeles Metropolitan Office, Region 9—Los Angeles, 888 S. Figueroa Street, Suite 1850, Los Angeles, CA 90017–1850, Tel. 213–202–3952.
Marisol Simon, Regional Administrator, Region 5—Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789. States served: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. Chicago Metropolitan Office, Region 5—Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789.	Rick Krochalis, Regional Administrator, Region 10—Seattle, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002, Tel. 206–220–7954. States served: Alaska, Idaho, Oregon, and Washington.

TABLE I

Paul S. Sarbanes Transit in Parks Program

FY 2010 Project Selections

State	Agency	Land Unit	Funding Recipient	Earmark ID	Project Name	Allocation
AK	National Park Service	Denali National Park and Preserve	Denali National Park and Preserve		Denali Hybrid Bus Project	$ 246,000
AK	National Park Service	Sitka National Historical Park	Sitka Tribe of Alaska	D2010-ATPL-001	Visitor Transportation to Sitka National Historical Park	325,000
AZ	U.S. Forest Service	Kaibab National Forest and Grand Canyon National Park	Grand Canyon National Park		Tusayan Multimodal Facility in cooperation with the Kaibab National Forest	703,200
AZ	U.S. Forest Service	Coronado National Forest	USFS – Coronado National Forest		Sabino Canyon Recreation Area Trails Enhancement Design and NEPA	450,000
CA	U.S. Forest Service	Inyo National Forest & Devils Postpile National Monument	Eastern Sierra Transit Authority	D2010-ATPL-002	Purchase Buses for Reds Meadow and Devils Postpile National Monument	2,800,000
CA	National Park Service	Sequoia and Kings Canyon National Parks	Sequoia and Kings Canyon National Parks		Lease Shuttle Buses for the Giant Forest Shuttle System	240,000
CA	National Park Service	Yosemite National Park	Yosemite National Park		Install ITS and Transit Information Systems in the Southern Part of Yosemite	495,000
CA	National Park Service	Cabrillo National Monument	San Diego Unified Port District	D2010-ATPL-003	Cabrillo Circulator Shuttle	625,000
CA	National Park Service	Sequoia and Kings Canyon National Parks	Sequoia and Kings Canyon National Parks		Complete Transportation and User Capacity Assessment	450,000
CA	National Park Service	Sequoia and Kings Canyon National Parks	City of Visalia, CA	D2010-ATPL-004	San Joaquin Valley/Sequoia National Park Gateway Shuttle Link	660,000
CA	U.S. Forest Service	National Forests of California - Central Sierra	Pacific Southwest Region		Programmatic assessment and guidance of transit expansion opportunities on the National Forests of California, Central Sierra region	250,000
CO	Fish & Wildlife Service	Rocky Mountain Arsenal National Wildlife Refuge	Rocky Mountain Arsenal National Wildlife Refuge		Transit Feasibility & Planning Study	400,000
CO	Bureau of Land Management	Red Hill Special Recreation Area	Town of Carbondale, CO	D2010-ATPL-005	Alternative Transportation Feasibility Study	160,000
CO	National Park Service	Rocky Mountain National Park	Rocky Mountain National Park		Evaluating new alternative transportation systems integrated with ITS and TDM	535,000
CO	National Park Service	Rocky Mountain National Park	Rocky Mountain National Park		Planning Study and NEPA Compliance for Alternative Transportation Multi-Use Trail	240,000
HI	Fish & Wildlife Service	Kilauea Point NWR, Hanalei NWR, and Hule'ia NWR	Kaua'i National Wildlife Refuge Complex		Comprehensive Transportation Planning Study	300,000
MA	National Park Service	Salem Maritime NHS	Salem Maritime National Historic Site		Passenger boat service between downtown Salem and Bakers Island	250,000
MA	National Park Service	Boston NHP, Boston Harbor Islands NRA	Boston NHP, Boston Harbor Islands NRA		Bicycle and pedestrian network systems to link Boston NHP (BOST) and Boston Harbor Islands NRA (BOHA) to regional transit	459,000
MA	Fish & Wildlife Service	Thacher Island National Wildlife Refuge	Thacher Island National Wildlife Refuge, MA		Visitor Ferry Service to Thatcher Island NWR	79,042
ME	National Park Service	Acadia National Park	Maine Department of Transportation	D2010-ATPL-006	Construct Multi Agency Intermodal Transportation Center	3,000,000
MI	National Park Service	Sleeping Bear Dunes National Lakeshore	Michigan Department of Transportation	D2010-ATPL-007	Construction of a 2.5 mile section of the Sleeping Bear Heritage Trail (SBHT)	1,625,000
MO	National Park Service	Jefferson National Expansion Memorial (JNEM)	The Bi-State Development Agency, dba Metro St. Louis	D2010-ATPL-008	Jefferson National Expansion Memorial Bicycle Connection	1,000,000
MT	National Park Service	Little Big Horn Battlefield National Monument	Little Big Horn Battlefield National Monument		Alternative Transportation Feasibility Study	180,000
MT	U.S. Forest Service	Gallatin National Forest	Gallatin National Forest		Bozeman Area Recreational Access Alternative Transportation Study	290,000
NM	National Park Service	Kasha-Katuwe National Monument	Pueblo de Cochiti Tribe	D2010-ATPL-009	Tour Shuttle Bus Station for the Kasha-Katuwe Tent Rocks National Monument	849,000
NV	Bureau of Land Management	Red Rock Canyon National Conservation Area	Bureau of Land Management		Comprehensive Transportation Planning Study	200,000
NY	National Park Service	Gateway NRA – Jamaica Bay Unit	Gateway National Recreation Area		Riis Landing Breakwater Replacement	1,500,000
OH	National Park Service	Cuyahoga Valley National Park	Cuyahoga Valley National Park		Develop a Systematic Rail Transportation Plan for Cuyahoga Valley National Park	300,000
OH	National Park Service	Cuyahoga Valley National Park	Cuyahoga Valley National Park		Replace Cuyahoga Valley National Park Scenic Raillroad Knuckle Boom Support Vehicle	165,000
OH	National Park Service	Cuyahoga Valley National Park	Cuyahoga Valley National Park		Purchase Railroad Track Inspection Truck	65,000
OK	Fish & Wildlife Service	Washita, Optima and Salt Plains National Wildlife Refuges	Washita National Wildlife Refuge, OK		Washita National Wildlife Refuge Bus Acquisition Project	130,000

TABLE I (continued)
Paul S. Sarbanes Transit in Parks Program
FY 2010 Project Selections

State	Agency	Land Unit	Funding Recipient	Earmark ID	Project Name	Allocation
OK	Fish & Wildlife Service	Sequoyah National Wildlife Refuge	Sequoyah National Wildlife Refuge, OK		Bus/Alternative Transportation Replacement Project	257,879
OR	U.S. Forest Service	Deschutes National Forest	City of Bend, OR / Bend Area Transit	D2010-ATPL-010	Mt. Bachelor Shuttle bus	998,700
OR	National Park Service	Lewis and Clark National Historical Park	Sunset Empire Transportation District, OR	D2010-ATPL-011	Lewis and Clark Explorer Shuttle	33,000
PA	National Park Service	Valley Forge National Historical Park	Valley Forge National Historical Park		Trail Connection to Existing ATS at Valley Forge National Historical Park	250,370
TX	Fish & Wildlife Service	Laguna Atascosa National Wildlife Refuge	South Texas National Wildlife Refuges Complex		Two Tour Vehicles to Replace Aging Tram and Van for interpretive tour program	230,000
UT	National Park Service	Zion National Park	Zion National Park		Study on the Effects of the Park Transportation System on Park Resources and Visitor Experiences	600,000
UT	National Park Service	Arches National Park	Arches National Park		Alternative Transportation Feasibility Study	180,000
UT	Bureau of Land Management	Arches National Park and BLM Moab Field Office	Grand County, UT	D2010-ATPL-012	North Moab Recreation Areas Alternative Transportation System	2,900,000
UT	U.S. Forest Service	Wasatch-Cache National Forest	Utah Transit Authority	D2010-ATPL-013	Replace 3 (35 Ft) Canyon Transit Buses and Repair Cottonwood Canyons Park and Ride Lot	1,120,000
UT	National Park Service	Bryce Canyon National Park	Bryce Canyon National Park		Integrated, Multi-Modal Park Transportation Plan for Bryce Canyon NP	400,000
UT	National Park Service	Zion National Park	Zion National Park		Improve Visitor Information & Wayfinding Systems for the Zion Canyon Shuttle	250,000
VT	National Park Service	Marsh-Billing-Rockefeller National Historical Park	Town of Woodstock, Vermont	D2010-ATPL-014	Pilot Shuttle Bus Program – Year 2	220,000
WA	National Park Service	Mount Rainier National Park	Mount Rainier National Park		Lease Paradise Area Shuttle Service Vehicles for Mount Rainier National Park VTS	110,500
WA	National Park Service	Mount Rainier National Park	Mount Rainier National Park		Install Phase I Intelligent Transportation System at Mount Rainier NP	375,000
WI	National Park Service	Effigy Mounds National Monument	City of Prairie du Chien, Wisconsin	D2010-ATPL-015	Feasibility study of implementing a trolley bus operation to connect Effigy Mounds NM to gateway communities	55,000
WV	National Park Service	Harpers Ferry National Historical Park	Harpers Ferry National Historical Park		Transit Study for Harpers Ferry NHP	50,000
	Total Projects.....47			Total FY 2010 Allocations.....		$27,001,691

[FR Doc. 2011–1840 Filed 1–27–11; 8:45 am]
BILLING CODE C

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA–08–0055]

Insurer Reporting Requirements; Annual Insurer Report on Motor Vehicle Theft for the 2005 Reporting Year

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of availability.

SUMMARY: This notice announces publication by NHTSA of the annual insurer report on motor vehicle theft for the 2005 reporting year. Section 33112(h) of Title 49 of the U.S. Code, requires this information to be compiled periodically and published by the agency in a form that will be helpful to the public, the law enforcement community, and Congress. As required by section 33112(c), this report provides information on theft and recovery of vehicles; rating rules and plans used by motor vehicle insurers to reduce premiums due to a reduction in motor vehicle thefts; and actions taken by insurers to assist in deterring thefts.

ADDRESSES: Interested persons may obtain a copy of this report or read background documents by going to *http://regulations.dot.gov* at any time or to Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington DC, 20590, between 9 am and 5 pm, Monday through Friday, except Federal Holidays. Requests should refer to Docket No. 2008–0055.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Ave., SE., Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–0846. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: The Motor Vehicle Theft Law Enforcement Act of 1984 (Theft Act) was implemented to enhance detection and prosecution of motor vehicle theft (Pub. L. 98–547). The Theft Act added a new Title VI to the Motor Vehicle Information and Cost Savings Act, which required the Secretary of Transportation to issue a theft prevention standard for identifying major parts of certain high-theft lines of passenger cars. The Act also addressed several other actions to reduce motor vehicle theft, such as increased criminal penalties for those who traffic in stolen vehicles and parts, curtailment of the exportation of stolen motor vehicles and off-highway mobile equipment, establishment of penalties for dismantling vehicles for the purpose of trafficking in stolen parts, and development of ways to encourage decreases in premiums charged to consumers for motor vehicle theft insurance.

This notice announces publication by NHTSA of the annual insurer report on motor vehicle theft for the 2005 reporting year. Section 33112(h) of Title 49 of the U.S. Code, requires this information to be compiled periodically and published by the agency in a form that will be helpful to the public, the law enforcement community, and Congress. As required by section 33112(h), this report focuses on the assessment of information on theft and recovery of motor vehicles, comprehensive insurance coverage and actions taken by insurers to reduce thefts for the 2005 reporting period.

Section 33112 of Title 49 requires subject insurers or designated agents to report annually to the agency on theft and recovery of vehicles, on rating rules and plans used by insurers to reduce premiums due to a reduction in motor vehicle thefts, and on actions taken by insurers to assist in deterring thefts. Rental and leasing companies also are required to provide annual theft reports to the agency. In accordance with 49 CFR 544.5, each insurer, rental and leasing company to which this regulation applies must submit a report annually not later than October 25, beginning with the calendar year for which they are required to report. The report would contain information for the calendar year three years previous to the year in which the report is filed. The report that was due by October 25, 2008 contains the required information for the 2005 calendar year. Interested persons may obtain a copy of individual insurer reports for CY 2005 by contacting the U.S. Department of Transportation, Docket Management, 1200 New Jersey Avenue, SE., West Building, Room W12–140 ground level, Washington, DC 20590–001. Requests should refer to Docket No. 2008–0055.

The annual insurer reports provided under section 33112 are intended to aid in implementing the Theft Act and fulfilling the Department's requirements to report to the public the results of the insurer reports. The first annual insurer report, referred to as the Section 612 Report on Motor Vehicle Theft, was prepared by the agency and issued in December 1987. The report included theft and recovery data by vehicle type, make, line, and model which were tabulated by insurance companies and, rental and leasing companies. Comprehensive premium information for each of the reporting insurance companies was also included. This report, the twentieth, discloses the same subject information and follows the same reporting format.

Issued on: January 20, 2011.

Joseph S. Carra,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2011–1463 Filed 1–27–11; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on an information collection that is due for extension approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning the collection of data for the Annual Report of Foreign-Residents' Holdings of U.S. Securities, including Selected Money Market Instruments. The next such collection is to be conducted as of June 30, 2011.

DATES: Written comments should be received on or before March 29, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by email (*dwight.wolkow@treasury.gov*), FAX (202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are unchanged from the previous survey that was conducted as of June 30, 2010 (Form SHLA (2010)), and are available on the Treasury's TIC webpage for "Forms SHL/SHLA & SHC/SHCA" (Part I.A), at: *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms-sh.aspx.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury Department Form SHLA/SHL, Foreign-Residents' Holdings of U.S. Securities, including Selected Money Market Instruments.

OMB Number: 1505–0123.

Abstract: These forms are used to conduct annual surveys of holdings by foreign-residents of U.S. securities for portfolio investment purposes. These data are used by the U.S. Government in the formulation of international and financial policies and for the computation of the U.S. balance of payments accounts and the U.S. international investment position. These data will also be used to provide information to the public and to meet international reporting commitments.

The benchmark survey (Form SHL) is conducted once every five years, and requires reporting by all significant U.S.-resident custodians and U.S.-resident security issuers. In non-benchmark years an annual survey (Form SHLA) is conducted, and requires reports primarily from the very largest U.S.-resident custodians and issuers. The data requested will be the same in Form SHL and, during the four succeeding years, in Form SHLA. The determination of who must report in the annual surveys (SHLA) will be based upon the securities data submitted during the previous benchmark survey. The data collected under the annual surveys (SHLA) will be used in conjunction with the results of the previous benchmark survey to compute economy-wide estimates for the non-benchmark years.

Current Actions: None. No changes in the forms or instructions will be made from the previous survey that was conducted as of June 30, 2010.

Type of Review: Extension of a currently approved collection.

Affected Public: Business/Financial Institutions.

Forms: TDF SHLA, Schedule 1 and Schedule 2 (1505–0123); TDF SHL, Schedule 1 and Schedule 2 (1505–0123).

Estimated Number of Respondents: An annual average (over five years) of 354, but this varies widely from about 1,475 in benchmark years (once every five years) to about 74 in each of the other years (four out of every five years).

Estimated Average Time per Respondent: An annual average (over five years) of about 89 hours, but this will vary widely from respondent to respondent. (a) In the year of a benchmark survey, which is conducted once every five years, it is estimated that exempt respondents will require an average of 16 hours; for custodians of securities, the estimate is a total of 321 hours on average, but this figure will vary widely for individual custodians; and for issuers of securities that have data to report and are not custodians, the estimate is 61 hours on average. (b) In a non-benchmark year, which occurs four years out of every five years: For the largest custodians of securities, the estimate is a total of 486 hours on average; and for the largest issuers of securities that have data to report and are not custodians, the estimate is 110 hours on average.

Estimated Total Annual Burden Hours: an annual average (over five years) of 31,500 hours.

Frequency of Response: Annual.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether the Survey is necessary for the proper performance of the functions of the Office, including whether the

information collected has practical uses; (b) the accuracy of the above burden estimates; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchases of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2011–1944 Filed 1–27–11; 8:45 am]

BILLING CODE 4811–42–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on an information collection that is due for extension approval by the Office of Management and Budget. The Office of International Monetary and Financial Policy within the Department of the Treasury is soliciting comments concerning Extension of Foreign Currency Form FC–1 (OMB No. 1505–0012) Weekly Consolidated Foreign Currency Report of Major Market Participants, Extension of Form FC–2 (OMB No. 1505–0010) Monthly Consolidated Foreign Currency Report of Major Market Participants, and Extension without change of Form FC–3 (OMB No. 1505–0014) Quarterly Consolidated Foreign Currency Report. The reports are mandatory.

DATES: Written comments should be received on or before March 29, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, Office of International Monetary and Financial Policy, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by email (*dwight.wolkow@treasury.gov*), FAX (202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Federal Reserve Bank of New York's Web site, in the section for Banking Reporting Forms and Instructions, on the webpages for the TFC–1 and TFC–2 forms, for example at: *http://www.ny.frb.org/banking/reportingforms/TFC_1.html.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Weekly Consolidated Foreign Currency Report of Major Market Participants, Foreign Currency Form FC–1.

OMB Control Number: 1505–0012.

Title: Monthly Consolidated Foreign Currency Report of Major Market Participants, Foreign Currency Form FC–2.

OMB Control Number: 1505–0010.

Title: Quarterly Consolidated Foreign Currency Report, Foreign Currency Form FC–3.

OMB Control Number: 1505–0014.

Abstract: The filing of Foreign Currency Forms FC–1, FC–2, and FC–3 is required by law (31 U.S.C. 5315, 31 CFR Part 128, Subpart C), which directs the Secretary of the Treasury to prescribe regulations requiring reports on foreign currency transactions conducted by a United States person or a foreign person controlled by a United States person. The forms collect data on the foreign exchange spot, forward, futures, and options markets from all significant market participants. Current Actions: None. No changes in the forms or instructions will be made.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents:

Foreign Currency Form FC–1: 22 respondents.

Foreign Currency Form FC–2: 22 respondents.

Foreign Currency Form FC–3: 38 respondents.

Estimated Average Time Per Response:

Foreign Currency Form FC–1: 48 minutes (0.8 hours) per response.

Foreign Currency Form FC–2: 3 hours 36 minutes (3.6 hours) per response.

Foreign Currency Form FC–3: Eight (8) hours per response.

Estimated Total Annual Burden Hours:

Foreign Currency Form FC–1: 915 hours, based on 52 reporting periods per years.

Foreign Currency Form FC–2: 950 hours, based on 12 reporting period per year.

Foreign Currency Form FC–3: 1,216 hours, based on 4 reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Foreign Currency Forms FC–1, FC–2, and FC–3 are necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimates of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Office of International Monetary and Financial Policy.

[FR Doc. 2011–1952 Filed 1–27–11; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In accordance with section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Kuwait
Lebanon
Libya
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Iraq is not included in this list, but its status with respect to future lists remains under review by the Department of the Treasury.

Dated: January 19, 2011.

Manal Corwin,

International Tax Counsel (Tax Policy).

[FR Doc. 2011–1687 Filed 1–27–11; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Office of Thrift Supervision

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Joint Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the OCC, the Board, the FDIC, and the OTS (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. On October 22, 2010, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), requested public comment for 60 days on a proposal to extend with revision the Advanced Capital Adequacy Framework Regulatory Reporting Requirements (FFIEC 101), which is a currently approved collection of information for each agency (75 FR 65402). No comments were received on the proposal. The agencies hereby give notice of their plan to submit to the OMB requests for approval of the FFIEC 101.

DATES: Comments must be submitted on or before February 28, 2011.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: You should direct all written comments to: Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, *Attention:* 1557–0239, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Board: You may submit comments, which should refer to "FFIEC 101," by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include the reporting form number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, which should refer to "FFIEC 101, 3064–0159," by any of the following methods:

- *Agency Web Site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments on the FDIC Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: comments@FDIC.gov.* Include "FFIEC 101, 3064–0159" in the subject line of the message.
- *Mail:* Leneta G. Gregorie, (202) 898–3719, Counsel, Attn: Comments, Room F–1064, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

OTS: You may submit comments, identified by "1550–0120 (FFIEC 101)," by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail address: infocollection.comments@ots.treas.gov.* Please include "1550–0120 (FFIEC 101)" in the subject line of the message and include your name and telephone number in the message.
- *Fax:* (202) 906–6518.
- *Mail:* Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, *Attention:* "1550–0120 (FFIEC 101)."
- *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, *Attention:* Information Collection Comments, Chief Counsel's Office, *Attention:* "1550–0120 (FFIEC 101)."

Instructions: All submissions received must include the agency name and OMB Control Number for this information collection. All comments received will be posted without change to the OTS Internet Site at *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1.*

In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–

7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: For further information about the revisions discussed in this notice, please contact any of the agency clearance officers whose names appear below. In addition, copies of the FFIEC 101 can be obtained at the FFIEC's Web site (*http://www.ffiec.gov/ffiec_report_forms.htm*).

OCC: Mary Gottlieb, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Cynthia Ayouch, Acting Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Leneta G. Gregorie, Counsel, (202) 898–3719, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Ira L. Mills, OTS Clearance Officer, at *Ira.Mills@ots.treas.gov,* (202) 906–6531, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The agencies are proposing to revise and extend for three years the FFIEC 101, which is a currently approved collection of information for each agency.

Report Title: Advanced Capital Adequacy Framework Regulatory Reporting Requirements.

Form Number: FFIEC 101.

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

OCC

OMB Number: 1557–0239.

Estimated Number of Respondents: 52 national banks.

Estimated Time per Response: 625 hours.

Estimated Total Annual Burden: 130,000 hours.

Board

OMB Number: 7100–0319.

Estimated Number of Respondents: 6 state member banks and 21 bank holding companies.

Estimated Time per Response: 625 hours.

Estimated Total Annual Burden: 52,500 hours.

FDIC

OMB Number: 3064–0159.

Estimated Number of Respondents: 9 state nonmember banks.

Estimated Time per Response: 625 hours.

Estimated Total Annual Burden: 22,500 hours.

OTS

OMB Number: 1550–0120.

Estimated Number of Respondents: 3 savings associations.

Estimated Time per Response: 625 hours.

Estimated Total Annual Burden: 7,500 hours.

General Description of Reports

This information collection is mandatory for banks [1] using the Advanced Capital Adequacy Framework: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 and 12 U.S.C. 1844(c) (for state member banks and BHCs respectively), 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks), and 12 U.S.C. 1464 (for savings associations). This information collection will be given confidential treatment (5 U.S.C. 552(b)(4)) except for selected data items (Schedules A and B, and data items 1 and 2 of the operational risk Schedule S) that will be released for reporting periods after an institution has successfully completed its parallel run period and is qualified to use the advanced approaches for regulatory capital purposes. The agencies will not publicly release information submitted during an entity's parallel run period.

Abstract

Each bank that qualifies for and applies the advanced internal ratings-based approach to calculate regulatory credit risk capital and the advanced measurement approaches to calculate regulatory operational risk capital, as described in the final rule implementing the Advanced Capital Adequacy Framework (72 FR 69288, December 7, 2007, referred to hereafter as the final rule), is required to file quarterly regulatory data. The agencies use these data to assess and monitor the levels and components of each reporting entity's risk-based capital requirements and the adequacy of the entity's capital under the Advanced Capital Adequacy Framework; to evaluate the impact and competitive implications of the Advanced Capital Adequacy Framework on individual reporting entities and on an industry-wide basis; and to supplement on-site examination processes. The reporting schedules also assist banks in understanding expectations around the system development necessary for implementation and validation of the Advanced Capital Adequacy Framework. Submitted data that are released publicly following a reporting entity's parallel run period will also provide other interested parties with information about banks' risk-based capital.

Current Actions

The agencies propose to implement revisions to certain portions of the FFIEC 101 report principally to align the reporting of the amount of qualifying restricted core capital elements (other than cumulative perpetual preferred stock) held by bank holding companies and qualifying mandatory convertible preferred securities held by internationally active bank holding companies to that of Schedule HC–R of the FR Y–9C [2] by separately including both capital elements in Schedule A of the FFIEC 101; to require all banks, bank holding companies, and savings associations to report capital numerator information on a common Schedule A of the FFIEC 101 (Schedule A, Part 2 for savings associations will be eliminated); and to revise the way equity exposures are reported in a reformatted Schedule R of the FFIEC 101. The agencies would implement the proposed changes beginning with the March 31, 2011, report date. These proposed changes are described below.

Discussion of Proposed Revisions to the FFIEC 101

Reporting of information about the numerator of a bank holding company's

[1] For simplicity, and unless otherwise indicated, this notice uses the term "bank" to include banks, savings associations, and bank holding companies (BHCs). The terms "bank holding company" and "BHC" refer only to bank holding companies regulated by the Board and do not include savings and loan holding companies regulated by the OTS. For a detailed description of the institutions covered by this notice, refer to Part I, Section 1, of the final rule entitled Risk-Based Capital Standards: Advanced Capital Adequacy Framework (72 FR 69397, December 7, 2007).

[2] Consolidated Financial Statements for Bank Holding Companies, *OMB Number:* 7100–0128.

risk-based capital ratios. For bank holding companies subject to these reporting requirements, the agencies propose to recaption line item 6.b of Schedule A, Part 1 of the FFIEC 101 report and to add line item 6.c. Line item 6.b is currently intended to capture two components of capital that are reported separately on Schedule HC–R of the FR Y–9C: The amount of qualifying restricted core capital elements (other than cumulative perpetual preferred stock) held by bank holding companies (as reported in item 6.b of Schedule HC–R) and qualifying mandatory convertible preferred securities held by internationally active bank holding companies (as reported in item 6.c of Schedule HC–R). The agencies propose to align the reporting of these capital elements to that of Schedule HC–R of the FR Y–9C by separately including both capital elements in the FFIEC 101. These two capital elements would replace the current item 6.b and would appear, as they do on Schedule HC–R in the FR Y–9C, as items 6.b and 6.c of Schedule A, Part 1, respectively. Reporting instructions for the FFIEC 101 would be revised accordingly. The change in reporting would apply only to bank holding companies.

Reporting of information about the numerator of a savings association's risk-based capital ratios. For the purposes of simplicity and comparability of reporting financial information among banks and savings associations under the Advanced Capital Adequacy Framework, the Agencies propose to delete Part 2 of Schedule A for savings associations. Instead, all banks, bank holding companies, and savings associations reporting under the Advanced Capital Adequacy Framework would report on the same Schedule A form (*see http://www.ffiec.gov/forms101.htm*). Reporting instructions for the FFIEC 101 would be revised accordingly.

Reporting of information on equity exposures. Banks subject to these reporting requirements currently provide information about equity exposure amounts and the risk-weighted asset amount of these exposures in Schedule R of the FFIEC 101. This schedule currently contains 22 line items (exposure categories, subtotals, and totals) and two columns (exposure and risk-weighted asset amounts) in which data are reported. A number of the line items listed on the schedule only apply to certain approaches contained within the final rule for calculating risk-weighted asset amounts for equity exposures. The agencies propose to reformat Schedule R to clarify what line items need to be reported based on which of the three approaches the bank uses to calculate risk-weighted asset amounts for its equity exposures: The simple risk weight approach (SRWA), the full internal models approach (full IMA), or the IMA applied to only publicly traded equity exposures (publicly traded or partial IMA).

The reformatted version of Schedule R does not alter any of the existing line items in the current schedule. More specifically, neither the exposure categories nor the number of equity exposure items completed by banks using a given approach would change as a result of this proposal. Rather, the proposal is to expand the number of columns shown on the schedule from two to six to allow for reporting of a distinct set of exposure and risk-weighted asset information for banks using the SRWA, a distinct set of exposure and risk-weighted asset information for banks using the full IMA, and a distinct set of exposure and risk-weighted asset information for banks using the partial IMA. Each set of exposure and risk-weighted asset columns would appear with the heading of the applicable final rule approach used by the bank and only those exposure categories (including subtotals and totals) applicable to a given approach would appear within each columnar section of the reformatted schedule (*see http://www.ffiec.gov/forms101.htm*). Reporting instructions for the FFIEC 101 would be revised accordingly.

Request for Comment

Public comment is requested on all aspects of this joint notice. Comments are invited on:

(a) Whether the proposed revisions to the collection of information that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collection as they are proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

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

Comments submitted in response to this joint notice will be shared among the agencies. All comments will become a matter of public record.

Dated: January 14, 2011.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, January 25, 2011.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 25th day of January 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: January 24, 2011.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2011–1945 Filed 1–27–11; 8:45 am]

BILLING CODE 4810–33–P 6210–01–P 6714–01–P 6720–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Federal Reserve System

Federal Deposit Insurance Corporation

Agency Information Collection Activities: Submission for OMB Review; Joint Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. On September 30, 2010, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), requested public comment for 60 days on a proposal to extend, with revision, the Consolidated Reports of Condition and Income (Call Report),

which are currently approved collections of information. After considering the comments received on the proposal, the FFIEC and the agencies will proceed with most, but not all, of the reporting changes that had been proposed and they will also revise two other Call Report items in response to commenters' recommendations. For some of the reporting changes that the agencies plan to implement, limited modifications have been made to the original proposals in response to the comments.

DATES: Comments must be submitted on or before February 28, 2011.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: You should direct all written comments to: Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, Attention: 1557–0081, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Board: You may submit comments, which should refer to "Consolidated Reports of Condition and Income (FFIEC 031 and 041)," by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov*. Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov*. Include reporting form number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, which should refer to "Consolidated Reports of Condition and Income, 3064–0052," by any of the following methods:

- *Agency Web Site: http://www.fdic.gov/regulations/laws/federal/propose.html*. Follow the instructions for submitting comments on the FDIC Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: comments@FDIC.gov*. Include "Consolidated Reports of Condition and Income, 3064–0052" in the subject line of the message.
- *Mail:* Gary A. Kuiper, (202) 898–3877, Counsel, Attn: Comments, Room F–1086, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: For further information about the revisions discussed in this notice, please contact any of the agency clearance officers whose names appear below. In addition, copies of the Call Report forms can be obtained at the FFIEC's Web site (*http://www.ffiec.gov/ffiec_report_forms.htm*).

OCC: Mary Gottlieb, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Cynthia Ayouch, Acting Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Gary A. Kuiper, Counsel, (202) 898–3877, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The agencies are proposing to revise and extend for three years the Call Report, which is currently an approved collection of information for each agency.

Report Title: Consolidated Reports of Condition and Income (Call Report).

Form Number: Call Report: FFIEC 031 (for banks with domestic and foreign offices) and FFIEC 041 (for banks with domestic offices only).

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

OCC

OMB Number: 1557–0081.

Estimated Number of Respondents: 1,491 national banks.

Estimated Time per Response: 53.25 burden hours.

Estimated Total Annual Burden: 317,583 burden hours.

Board

OMB Number: 7100–0036.

Estimated Number of Respondents: 841 State member banks.

Estimated Time per Response: 55.19 burden hours.

Estimated Total Annual Burden: 185,659 burden hours.

FDIC

OMB Number: 3064–0052.

Estimated Number of Respondents: 4,713 insured State nonmember banks.

Estimated Time per Response: 40.42 burden hours.

Estimated Total Annual Burden: 761,998 burden hours.

The estimated time per response for the Call Report is an average that varies by agency because of differences in the composition of the institutions under each agency's supervision (*e.g.,* size distribution of institutions, types of activities in which they are engaged, and existence of foreign offices). The average reporting burden for the Call Report is estimated to range from 17 to 665 hours per quarter, depending on an individual institution's circumstances.

General Description of Reports

These information collections are mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 (for State member banks), and 12 U.S.C. 1817 (for insured State nonmember commercial and savings banks). At present, except for selected data items, these information collections are not given confidential treatment.

Abstract

Institutions submit Call Report data to the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of individual institutions and the industry as a whole. Call Report data provide the most current statistical data available for evaluating institutions' corporate applications, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. The agencies use Call Report data in evaluating interstate merger and acquisition applications to determine, as required by law, whether the resulting institution would control more than ten percent of the total amount of deposits of insured depository institutions in the United States. Call Report data are also used to calculate institutions' deposit insurance and Financing Corporation assessments and national banks' semiannual assessment fees.

Current Actions

I. Overview

On September 30, 2010, the agencies requested comment on proposed revisions to the Call Report (75 FR 60497). The agencies proposed to implement certain changes to the Call Report requirements as of March 31, 2011, to provide data needed for reasons of safety and soundness or other public purposes. The proposed revisions would assist the agencies in gaining a better understanding of banks' credit and liquidity risk exposures, primarily through enhanced data on lending and securitization activities and sources of deposits. The banking agencies also proposed certain revisions to the Call Report instructions.

The agencies collectively received comments from 23 respondents: thirteen banks, three bankers' associations, two law firms, two insurance consultants, an insurance company, a deposit listing service, and an individual. Respondents tended to comment on one or more specific aspects of the proposal rather than addressing each individual proposed Call Report revision. One bankers' association observed that it supports the objective of the agencies' proposal, but it also provided comments on several of the proposed Call Report revisions. Another bankers' association reported that its "members have expressed no concerns with many of the agencies' proposed revisions," but it suggested that the agencies make several changes to the revisions. Only three commenters expressed an overall view on the proposal. One banker stated that "I generally support the Agencies proposal," but added that a few items deserve further consideration. The individual who commented stated that "[i]n form and virtually all substance I agree with the requests for data and changes for the definitions." In contrast, another banker expressed "deep concern over the proposed changes," adding that "this is not the time to place additional burdens on community banks."

In addition, one bankers' association provided comments on the definition of core deposits, which was not part of the agencies' proposal. The association noted that the definition currently incorporates a $100,000 threshold for time deposits, which was the standard maximum deposit insurance amount prior to the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 (July 21, 2010). This legislation permanently increased the standard maximum amount to $250,000 on July 21, 2010. Accordingly, the bankers' association urged the agencies to adjust the core deposit threshold to $250,000 for consistency with the deposit insurance limit. Another bankers' association also addressed the permanent increase in the standard maximum deposit insurance amount from $100,000 to $250,000, indicating that this change removed the need to continue to base the identification of core deposits on the $100,000 threshold. The association recommended that the agencies revise and update the Call Report accordingly.

This second bankers' association also recommended that the agencies revise and update Call Report Schedule RC–O, Other Data for Deposit Insurance and FICO Assessments, "to eliminate items that are no longer necessary in light of the new method for calculating the deposit insurance assessment base, as required by the Dodd-Frank Act." The agencies note that the FDIC published a Notice of Proposed Rulemaking on November 24, 2010,[1] to amend its deposit insurance assessment regulations to implement the provision of the Dodd-Frank Act that changes the assessment base from one based on domestic deposits to one based on assets. The agencies will soon be publishing an initial PRA **Federal Register** notice to request comment on proposed revisions to Schedule RC–O that will support the proposed changes in the FDIC's method of calculating an institution's assessment base.

The following section of this notice describes the proposed Call Report changes and discusses the agencies' evaluation of the comments received on the proposed changes, including modifications that the FFIEC and the agencies have decided to implement in response to those comments. The following section also addresses the agencies' response to the comments from the two bankers' associations concerning the definition of core deposits, which was not an element of the agencies' September 30, 2010, Call Report proposal.

In summary, after considering the comments received on the proposed Call Report revisions, the FFIEC and the agencies plan to move forward as of the March 31, 2011, report date with most, but not all, of the proposed reporting changes after making certain modifications in response to the comments. The agencies will not implement the items for interest income and quarterly averages for automobile loans as had been proposed, but will add items for automobile loans to the other Call Report schedules for which this revision had been proposed. After evaluating the automobile loan data that banks report, the agencies may propose in the future to collect interest income and quarterly averages for such loans. In addition, the agencies have decided not to add the proposed breakdown of deposits of individuals, partnerships, and corporations into deposits of individuals and deposits of partnerships and corporations. The agencies also are not proceeding with a proposed instructional change that would have revised the treatment of assets and liabilities whose interest rates have reached contractual ceilings or floors when reporting repricing data. The proposed breakdown of life insurance assets into general and separate account assets will be modified to also include a category for hybrid account assets. Finally, to implement revised definitions for core deposits and non-core funding, the agencies will add two-way breakdowns of two existing items for certain deposits with a remaining maturity of one year or less in the Call Report deposits schedule.

The agencies recognize institutions' need for lead time to prepare for reporting changes. Thus, consistent with

[1] *See* 75 FR 72582, November 24, 2010, at *http://www.fdic.gov/regulations/laws/federal/2010/10proposeAD66.pdf*.

longstanding practice, for the March 31, 2011, report date, banks may provide reasonable estimates for any new or revised Call Report item initially required to be reported as of that date for which the requested information is not readily available. Furthermore, the specific wording of the captions for the new or revised Call Report data items and the numbering of these data items discussed in this notice should be regarded as preliminary.

Type of Review: Revision and extension of currently approved collections.

II. Discussion of Proposed Call Report Revisions

The agencies received comments expressing support for, or no comments specifically addressing, the following revisions, and therefore these revisions will be implemented effective March 31, 2011, as proposed:

- A breakdown of the existing items for commercial mortgage-backed securities between those issued or guaranteed by U.S. Government agencies and sponsored-agencies and those that are not in Schedule RC–B, Securities, and Schedule RC–D, Trading Assets and Liabilities;
- Breakdowns of the existing items for loans and other real estate owned (OREO) covered by FDIC loss-sharing agreements by loan and OREO category in Schedule RC–M, Memoranda, along with a breakdown of the existing items in Schedule RC–N, Past Due and Nonaccrual Loans, Leases, and Other Assets, for reporting past due and nonaccrual U.S. Government-guaranteed loans to segregate those covered by FDIC loss-sharing agreements (which would be reported by loan category) from other guaranteed loans. The categories of covered loans to be reported would be (1) 1–4 family residential construction loans, (2) Other construction loans and all land development and other land loans, (3) Loans secured by farmland, (4) Revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit, (5) Closed-end loans secured by first liens on 1–4 family residential properties, (6) Closed-end loans secured by junior liens on 1–4 family residential properties, (7) Loans secured by multifamily (5 or more) residential properties, (8) Loans secured by owner-occupied nonfarm nonresidential properties, (9) Loans secured by other nonfarm nonresidential properties, (10) Loans to finance agricultural production and other loans to farmers (on the FFIEC 031 [2]), (11) Commercial and industrial loans, (12) Consumer credit cards, (13) Consumer automobile loans, (14) Other consumer loans, and (15) All other loans and all leases [3];
- New items for the total assets of captive insurance and reinsurance subsidiaries in Schedule RC–M, Memoranda;
- New Memorandum items in Schedule RI, Income Statement, for credit valuation adjustments and debit valuation adjustments included in trading revenues for banks with total assets of $100 billion or more;
- A change in reporting frequency from annual to quarterly for the data reported in Schedule RC–T, Fiduciary and Related Services, on collective investment funds and common trust funds for those banks that currently report fiduciary assets and income quarterly, *i.e.,* banks with fiduciary assets greater than $250 million or gross fiduciary income greater than 10 percent of bank revenue; and
- Instructional revisions that address the reporting of construction loans following the completion of construction in Schedule RC–C, part I, Loans and Leases, and other schedules that collect loan data.

The agencies received one or more comments specifically addressing or otherwise relating to each of the following proposed revisions:

- A breakdown by loan category of the existing Memorandum items for "Other loans and leases" that are troubled debt restructurings and are past due 30 days or more or in nonaccrual status (in Schedule RC–N, Past Due and Nonaccrual Loans, Leases, and Other Assets) or are in compliance with their modified terms (in Schedule RC–C, part I, Loans and Leases) as well as the elimination of the exclusion from reporting restructured troubled consumer loans in these Memorandum items;
- A breakdown of "Other consumer loans" into automobile loans and all other consumer loans in the Call Report schedules in which loan data are reported: Schedule RC–C, part I, Loans and Leases; Schedule RC–D, Trading Assets and Liabilities; Schedule RC–K, Quarterly Averages; Schedule RC–N, Past Due and Nonaccrual Loans, Leases, and Other Assets; Schedule RI, Income Statement; and Schedule RI–B, part I, Charge-offs and Recoveries on Loans and Leases;
- A new Memorandum item for the estimated amount of nonbrokered deposits obtained through the use of deposit listing service companies in Schedule RC–E, Deposit Liabilities;
- A breakdown of the existing items for deposits of individuals, partnerships, and corporations between deposits of individuals and deposits of partnerships and corporations in Schedule RC–E, Deposit Liabilities;
- A new Schedule RC–V, Variable Interest Entities, for reporting the categories of assets of consolidated variable interest entities (VIEs) that can be used only to settle the VIEs' obligations, the categories of liabilities of consolidated VIEs without recourse to the bank's general credit, and the total assets and total liabilities of other consolidated VIEs included in the bank's total assets and total liabilities, with these data reported separately for securitization trusts, asset-backed commercial paper conduits, and other VIEs;
- A breakdown of the existing item for "Life insurance assets" in Schedule RC–F, Other Assets, into items for general account and separate account life insurance assets; and
- Instructional changes (1) incorporating residential mortgages held for trading within the scope of Schedule

[2] As originally proposed, "Loans to finance agricultural production and other loans to farmers" would have been one of the categories of covered loans on the FFIEC 041. For consistency with the loan categories included in Schedule RC–N on the FFIEC 041, the agencies will include "Loans to finance agricultural production and other loans to farmers" within "All other loans and all leases." *See* footnote 3.

[3] For individual loan and lease subcategories within "All other loans and all leases" that exceed 10 percent of total loans and leases covered by FDIC loss-sharing agreements, the amount of covered loans in that subcategory must be itemized in Schedule RC–M, item 13.a.(5), and in Schedule RC–N, item 11.e. To simplify and clarify the reporting of these individual subcategories in these two items, the agencies will include preprinted captions for each of the individual subcategories within "All other loans and all leases" to facilitate banks' efforts to itemize these subcategories. As originally proposed, banks would have had to enter the titles of the subcategories themselves. Specifically, Schedule RC–M, item 13.a.(5), and Schedule RC–N, item 11.e, will have preprinted captions for the following loan and lease subcategories: (1) Loans to depository institutions and acceptances of other banks, (2) Loans to foreign governments and official institutions, (3) Other loans (*i.e.,* Obligations (other than securities and leases) of States and political subdivisions in the U.S. and Loans to nondepository financial institutions and other loans); (4) on the FFIEC 031 only, Loans secured by real estate in foreign offices, and (5) Lease financing receivables. On the FFIEC 041 only, "Other loans" also would include "Loans to finance agricultural production and other loans to farmers." A preprinted caption would be provided on the FFIEC 041 for "Loans to finance agricultural production and other loans to farmers," which would be applicable to banks with $300 million or more in total assets and banks with less than $300 million in total assets that have loans to finance agricultural production and other loans to farmers exceeding five percent of total loans at which the amount of "Loans to finance agricultural loans and other loans to farmers" included in "All other loans and all leases" covered by FDIC loss-sharing agreements exceeds the 10 percent threshold for itemization.

RC–P, 1–4 Family Residential Mortgage Banking Activities, and (2) revising the treatment of assets and liabilities whose interest rates have reached contractual ceilings or floors for purposes of reporting maturity and repricing data in Schedule RC–B, Securities; Schedule RC–C, part I, Loans and Leases; Schedule RC–E, Deposit Liabilities; and Schedule RC–M, Memoranda.

The comments related to each of these proposed revisions are discussed in Sections II.A. through II.G. of this notice along with the agencies' response to these comments. The agencies also received comments regarding a change in the definition of core deposits, which is derived from Call Report data and which the agencies had not included in their proposal. The core deposit issue is discussed in Section II.H.

A. Troubled Debt Restructurings

The banking agencies proposed that banks report additional detail on loans that have undergone troubled debt restructurings in Call Report Schedule RC–C, part I, Loans and Leases, and Schedule RC–N, Past Due and Nonaccrual Loans, Leases, and Other Assets. More specifically, Schedule RC–C, part I, Memorandum item 1.b, "Other loans and all leases" restructured and in compliance with modified terms, and Schedule RC–N, Memorandum item 1.b, Restructured "Other loans and all leases" that are past due or in nonaccrual status and included in Schedule RC–N, would be broken out to provide information on restructured troubled loans for many of the loan categories reported in the bodies of Schedule RC–C, part I, and Schedule RC–N. The breakout would also include "Loans to individuals for household, family, and other personal expenditures" whose terms have been modified in troubled debt restructurings, which are currently excluded from the reporting of troubled debt restructurings in the Call Report.

In the aggregate, troubled debt restructurings for all insured institutions have grown from $6.9 billion at year-end 2007, to $24.0 billion at year-end 2008, to $58.1 billion at year-end 2009, with a further increase to $80.3 billion as of September 30, 2010. The proposed additional detail on troubled debt restructurings in Schedules RC–C, part I, and RC–N would enable the agencies to better understand the level of restructuring activity at banks, the categories of loans involved in this activity, and, therefore, whether banks are working with their borrowers to modify and restructure loans. In particular, to encourage banks to work constructively with their commercial borrowers, the agencies issued guidance on commercial real estate loan workouts in October 2009 and small business lending in February 2010. Although this guidance has explained the agencies' expectations for prudent workouts, the agencies and the industry would benefit from additional reliable data outside the examination process to assess restructuring activity for commercial real estate loans and commercial and industrial loans. Further, it is important to separately identify commercial real estate loan restructurings from commercial and industrial loan restructurings given that the value of the real estate collateral is a consideration in a bank's decision to modify the terms of a commercial real estate loan in a troubled debt restructuring, but such collateral protection would normally be absent from commercial and industrial loans for which a loan modification is being explored because of borrowers' financial difficulties.

It is also anticipated that other loan categories will experience continued workout activity in the coming months given that most asset classes have been adversely impacted by the recent recession. This impact is evidenced by the increase in past due and nonaccrual assets across virtually all asset classes during the past two to three years.

Presently, banks report loans and leases restructured and in compliance with their modified terms (Schedule RC–C, part I, Memorandum item 1) with separate disclosure of (a) loans secured by 1–4 family residential properties (in domestic offices) and (b) other loans and all leases (excluding loans to individuals for household, family, and other personal expenditures). This same breakout is reflected in Schedule RC–N, Memorandum item 1, for past due and nonaccrual restructured troubled loans. The broad category of "other loans" in Schedule RC–C, part I, Memorandum item 1.b, and Schedule RC–N, Memorandum item 1.b, does not permit an adequate analysis of troubled debt restructurings. In addition, the disclosure requirements for troubled debt restructurings under generally accepted accounting principles do not exempt restructurings of loans to individuals for household, family, and other personal expenditures. Therefore, if the Call Report added more detail to match the reporting of loans in Schedule RC–C, part I, and Schedule RC–N, the new data would provide the banking agencies with the level of information necessary to assess banks' troubled debt restructurings to the same extent that other loan quality and performance indicators can be assessed. However, the agencies note that, under generally accepted accounting principles, troubled debt restructurings do not include changes in lease agreements [4] and they therefore propose to exclude leases from Schedule RC–C, part I, Memorandum item 1, and from Schedule RC–N, Memorandum item 1.

Thus, the banking agencies' proposed breakdowns of existing Memorandum item 1.b in both Schedule RC–C, part I, and Schedule RC–N would create new Memorandum items in both schedules covering troubled debt restructurings of "1–4 family residential construction loans," "Other construction loans and all land development and other land loans," loans "Secured by multifamily (5 or more) residential properties," "Loans secured by owner-occupied nonfarm nonresidential properties," "Loans secured by other nonfarm nonresidential properties," "Commercial and industrial loans," and "All other loans (including loans to individuals for household, family, and other personal expenditures)." [5] If restructured loans in any category of loans (as defined in Schedule RC–C, part I) included in restructured "All other loans" exceeds 10 percent of the amount of restructured "All other loans," the amount of restructured loans in this category or categories must be itemized and described.

Finally, Schedule RC–C, part I, Memorandum item 1, and Schedule RC–N, Memorandum item 1, are intended to capture data on loans that have undergone troubled debt restructurings as that term is defined in U.S. generally accepted accounting principles (GAAP). However, the captions of these two Memorandum items include only the term "restructured" rather than explicitly mentioning troubled debt restructurings, which has led to questions about the scope of these Memorandum items. Accordingly, the agencies proposed to revise the captions so they clearly indicate the loans to be reported in Schedule RC–C, part I, Memorandum item 1, and Schedule RC–N, Memorandum item 1, are troubled debt restructurings.

The agencies received comments from three bankers' associations on the proposed additional detail on loans that have undergone troubled debt

[4] Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) paragraph 470–60–15–11.

[5] For banks with foreign offices, the Memorandum items for restructured real estate loans would cover such loans in domestic offices. In addition, banks with foreign offices or with $300 million or more in total assets would also provide a breakdown of restructured commercial and industrial loans between U.S. and non-U.S. addressees.

restructurings. Two of the commenters recommended the agencies defer the proposed troubled debt restructuring revisions, including the new breakdowns by loan category, until the FASB finalizes proposed clarifications to the accounting for troubled debt restructurings by creditors.[6] In addition, two of the bankers' associations recommended retaining the term "restructured" in the caption titles instead of changing to the term "troubled debt restructurings," stating that changing this term would result in the collection of only a subset of total restructurings and would misrepresent banks' efforts to work with their customers.

As noted above, banks currently report loans and leases restructured and in compliance with their modified terms in Schedule RC–C, part I, Memorandum item 1, with separate disclosure of (a) loans secured by 1–4 family residential properties and (b) other loans and all leases. This same breakout is currently collected for past due and nonaccrual restructured loans in Schedule RC–N, Memorandum item 1. Although the captions for these line items do not use the term "troubled debt restructurings," the line item instructions generally characterize loans reported in these items as troubled debt restructurings and direct the reader to the Glossary entry for "troubled debt restructurings" for further information. Furthermore, the Glossary entry states that "all loans that have undergone troubled debt restructurings and that are in compliance with their modified terms must be reported as restructured loans in Schedule RC–C, part I, Memorandum item 1." Therefore, the agencies' longstanding intent has been to collect information on troubled debt restructurings in these line items, and these items were not designed to include loan modifications and restructurings that do not constitute troubled debt restructurings (*e.g.,* where a bank grants a concession to a borrower who is not experiencing financial difficulties).

The accounting standards for troubled debt restructurings are set forth in ASC Subtopic 310–40, Receivables—Troubled Debt Restructurings by Creditors (formerly FASB Statement No. 15, "Accounting by Debtors and Creditors for Troubled Debt Restructurings," as amended by FASB Statement No. 114, "Accounting by Creditors for Impairment of a Loan"). This is the accounting basis for the current reporting of restructured troubled loans in existing Schedule RC–C, part I, Memorandum items 1.a and 1.b, and Schedule RC–N, Memorandum items 1.a and 1.b. The proposed breakdown of the total amount of restructured "other loans" in existing Memorandum item 1.b in both schedules would result in additional detail on loans already within the scope of ASC Subtopic 310–40. To the extent the clarifications emanating from the FASB proposed accounting standards update may result in banks having to report certain loans as troubled debt restructurings that had not previously been identified as such, this accounting outcome will arise irrespective of the proposed breakdown of the "other loans" category in Schedule RC–C, part I, Memorandum item 1, and Schedule RC–N, Memorandum item 1. Therefore, the agencies will implement the new breakdown for the reporting of troubled debt restructurings as proposed.

However, to simplify and clarify the reporting of loan categories within "All other loans" that exceed 10 percent of the amount of "All other loans" restructured in troubled debt restructurings, as described above, the agencies will include preprinted captions for the various possible loan categories to facilitate banks' efforts to itemize and describe these categories. Specifically, Schedule RC–C, Memorandum item 1.f, and Schedule RC–N, Memorandum item 1.f, will have preprinted captions for the following loan categories: (1) Loans secured by farmland (in domestic offices), (2) Loans to depository institutions and acceptances of other banks, (3) Loans to finance agricultural production and other loans to farmers (on the FFIEC 031), (4) Credit cards, (5) Automobile loans, (6) Other consumer loans, (7) Loans to foreign governments and official institutions, (8) Other loans (*i.e.,* Obligations (other than securities and leases) of States and political subdivisions in the U.S. and Loans to nondepository financial institutions and other loans),[7] and (9) on the FFIEC 031, Loans secured by real estate in foreign offices.

B. Automobile Loans

The banking agencies proposed to add a breakdown of the "other consumer loans" loan category in several Call Report schedules in order to separately collect information on automobile loans. The affected schedules would be Schedule RC–C, part I, Loans and Leases; Schedule RC–D, Trading Assets and Liabilities; Schedule RC–K, Quarterly Averages; Schedule RC–N, Past Due and Nonaccrual Loans, Leases, and Other Assets; Schedule RI, Income Statement; and Schedule RI–B, part I, Charge-offs and Recoveries on Loans and Leases. Auto loans would include loans arising from retail sales of passenger cars and other vehicles such as minivans, vans, sport-utility vehicles, pickup trucks, and similar light trucks for personal use. This new loan category would exclude loans to finance fleet sales, personal cash loans secured by automobiles already paid for, loans to finance the purchase of commercial vehicles and farm equipment, and auto lease financing.

Automobile loans are a significant consumer business for many large banks. Because of the limited disclosure of auto lending on existing regulatory reports, supervisory oversight of auto lending is presently diminished by the need to rely on the examination process and public information sources that provide overall market information but not data on idiosyncratic risks.

Roughly 65 percent of new vehicle sales and 40 percent of used vehicle sales are funded with auto loans. According to household surveys and data on loan originations, banks are an important source of auto loans. In 2008, this sector originated approximately one-third of all auto loans. Finance companies, both independent entities and affiliates of auto manufacturers, originated a bit more than one-third, while credit unions originated a bit less than one-quarter. In addition to originating auto loans, some banks purchase auto loans originated by other entities, which suggests that commercial banks could be the largest holder of auto loans.

Despite the importance of banks to the auto loan market, the agencies know less about banks' holdings of auto loans than is known about finance company, credit union, and savings association holdings of these loans. All nonbank depository institutions are required to report auto loans on their respective regulatory reports, including savings associations, which originate less than five percent of auto loans. On their

[6] FASB Proposed Accounting Standards Update (ASU): Receivables (Topic 310), Clarifications to Accounting for Troubled Debt Restructurings by Creditors.

[7] On the FFIEC 041 only, "Other loans" also would include "Loans to finance agricultural production and other loans to farmers." A preprinted caption would be provided on the FFIEC 041 for "Loans to finance agricultural production and other loans to farmers," which would be applicable to banks with $300 million or more in total assets and banks with less than $300 million in total assets that have loans to finance agricultural production and other loans to farmers exceeding five percent of total loans at which the amount of "Loans to finance agricultural loans and other loans to farmers" included in "All other loans" restructured in troubled debt restructurings exceeds the 10 percent threshold for itemization.

regulatory reports, credit unions must provide not only the outstanding amount of new and used auto loans, but also the average interest rate and the number of loans. In a monthly survey, the Federal Reserve collects information on the amount of auto loans held by finance companies. As a consequence, during the financial crisis when funds were scarce for finance companies in general and the finance companies affiliated with automakers in particular, a lack of data on auto loans at banks hindered the banking agencies' ability to estimate the extent to which banks were filling in the gap in auto lending left by the finance companies.

Additional disclosure regarding auto loans on bank Call Reports is especially important with the implementation of the amendments to ASC Topics 860, Transfers and Servicing, and 810, Consolidation, resulting from ASU No. 2009–16 (formerly Statement of Financial Accounting Standards (SFAS) No. 166, *Accounting for Transfers of Financial Assets* (FAS 166)), and ASU No. 2009–17 (formerly SFAS No. 167, *Amendments to FASB Interpretation No. 46(R)* (FAS 167)), respectively. Until 2010, Call Report Schedule RC–S had provided the best supervisory information on auto lending because it included a separate breakout of securitized auto loans outstanding as well as securitized auto loan delinquencies and charge-offs. However, the accounting changes brought about by the amendments to ASC Topics 860 and 810 mean that if the auto loan securitization vehicle is now required to be consolidated, securitized auto lending previously reported on Schedule RC–S will be grouped as part of "other consumer loans" on Schedules RC–C, part I; RC–D; RC–K; RC–N; RI; and RI–B, part I, which diminishes supervisors' ability to assess auto loan exposures and performance.

Finally, separating auto lending from other consumer loans would assist the agencies in understanding consumer lending activities at individual institutions. When an institution holds both auto loans and other types of consumer loans (other than credit cards, which are currently reported separately), the current combined reporting of these loans in the Call Report tends to mask any significant differences that may exist in the performance of these portfolios. For example, a bank could have a sizeable auto loan portfolio with low loan losses, but its other consumer lending, which could consist primarily of unsecured loans, could exhibit very high loss rates. The current blending of these divergent portfolios into a single Call Report loan category makes it difficult to adequately monitor consumer loan performance.

The agencies received three comments from banks and one comment from a bankers' association on the proposal to separately collect information on automobile loans in Call Report schedules containing loan category data. The three banks requested an exemption from the proposed reporting requirements for smaller banks, with one of the banks seeking the exemption only for reporting auto loan interest income and quarterly averages. The bankers' association stated that this revision should not create a significant burden for future loans because core data processors generally have the ability to break out loan types, but it also asked for clarification on the reporting for situations in which auto loans are extended for multiple purposes. In addition, the bankers' association observed that some community banks do not have data readily available on the types or purposes of existing consumer loans, which would prevent them from determining the purpose of loans collateralized by autos, *i.e.,* for the purchase of the auto or for some other purpose, without searching paper loan files.

After considering these comments, the agencies continue to believe the reporting of information on auto loans from all banks is necessary for the agencies to carry out their supervisory and regulatory responsibilities and meet other public policy purposes. However, the agencies agree that the reporting of interest income and quarterly averages for auto loans may be particularly burdensome for banks to report. Therefore, the agencies will not implement the proposed collection of auto loan data on Schedule RI, Income Statement, or Schedule RC–K, Quarterly Averages, in 2011. Instead, the agencies will evaluate the auto loan data that will begin to be collected in the other Call Report schedules in March 2011 and reconsider whether to collect data on interest income and quarterly averages for auto loans. A decision to propose to collect auto loan interest income and quarterly averages would be subject to notice and comment.

Regarding the request for clarification of the reporting treatment for auto loans extended for multiple purposes and existing consumer loans with autos as collateral, the agencies have concluded that, to reduce burden, all consumer loans originated or purchased before April 1, 2011, that are collateralized by automobiles, regardless of the purpose of the loan, are to be classified as auto loans and included in the new Call Report items for auto loans. For consumer loans originated or purchased on or after April 1, 2011, banks should exclude from auto loans any personal cash loans secured by automobiles already paid for and consumer loans where some of the proceeds are used to purchase an auto and the remainder of the proceeds are used for other purposes.

C. Nonbrokered Deposits Obtained Through the Use of Deposit Listing Service Companies

In its semiannual report to the Congress covering October 1, 2009, through March 31, 2010, the FDIC's Office of Inspector General addressed causes of bank failures and material losses and noted that "[f]ailed institutions often exhibited a growing dependence on volatile, non-core funding sources, such as brokered deposits, Federal Home Loan Bank advances, and Internet certificates of deposit."[8] At present, banks report information on their funding in the form of brokered deposits in Memorandum items 1.b through 1.d of Schedule RC–E, Deposit Liabilities. Data on Federal Home Loan Bank advances are reported in items 5.a.(1) through (3) of Schedule RC–M, Memoranda. These data are an integral component of the banking agencies' analyses of individual institutions' liquidity and funding, including their reliance on non-core sources to fund their activities.

Deposit brokers have traditionally provided intermediary services for financial institutions and investors. However, the Internet, deposit listing services, and other automated services now enable investors who focus on yield to easily identify high-yielding deposit sources. Such customers are highly rate sensitive and can be a less stable source of funding than typical relationship deposit customers. Because they often have no other relationship with the bank, these customers may rapidly transfer funds to other institutions if more attractive returns become available.

The agencies expect each institution to establish and adhere to a sound liquidity and funds management policy. The institution's board of directors, or a committee of the board, also should ensure that senior management takes the necessary steps to monitor and control liquidity risk. This process includes establishing procedures, guidelines, internal controls, and limits for managing and monitoring liquidity and reviewing the institution's liquidity

[8] *http://www.fdicig.gov/semi-reports/sar2010mar/OIGSar2010.pdf.*

position, including its deposit structure, on a regular basis. A necessary prerequisite to sound liquidity and funds management decisions is a sound management information system, which provides certain basic information including data on non-relationship funding programs, such as brokered deposits, deposits obtained through the Internet or other types of advertising, and other similar rate sensitive deposits. Thus, an institution's management should be aware of the number and magnitude of such deposits.

To improve the banking agencies' ability to monitor potentially volatile funding sources, the agencies proposed to close a gap in the information currently available to them through the Call Report by adding a new Memorandum item to Schedule RC–E in which banks would report the estimated amount of deposits obtained through the use of deposit listing services that are not brokered deposits.

A deposit listing service is a company that compiles information about the interest rates offered on deposits, such as certificates of deposit, by insured depository institutions. A particular company could be a deposit listing service (compiling information about certificates of deposits) as well as a deposit broker (facilitating the placement of certificates of deposit). A deposit listing service is not a deposit broker if all of the following four criteria are met:

(1) The person or entity providing the listing service is compensated solely by means of subscription fees (*i.e.,* the fees paid by subscribers as payment for their opportunity to see the rates gathered by the listing service) and/or listing fees (*i.e.,* the fees paid by depository institutions as payment for their opportunity to list or "post" their rates). The listing service does not require a depository institution to pay for other services offered by the listing service or its affiliates as a condition precedent to being listed.

(2) The fees paid by depository institutions are flat fees: They are not calculated on the basis of the number or dollar amount of deposits accepted by the depository institution as a result of the listing or "posting" of the depository institution's rates.

(3) In exchange for these fees, the listing service performs no services except (A) the gathering and transmission of information concerning the availability of deposits; and/or (B) the transmission of messages between depositors and depository institutions (including purchase orders and trade confirmations). In publishing or displaying information about depository institutions, the listing service must not attempt to steer funds toward particular institutions (except that the listing service may rank institutions according to interest rates and also may exclude institutions that do not pay the listing fee). Similarly, in any communications with depositors or potential depositors, the listing service must not attempt to steer funds toward particular institutions.

(4) The listing service is not involved in placing deposits. Any funds to be invested in deposit accounts are remitted directly by the depositor to the insured depository institution and not, directly or indirectly, by or through the listing service.

The agencies received 15 comments (nine banks, three bankers' associations, two law firms, and one deposit listing service) that addressed the proposed collection of the estimated amount of deposits obtained through the use of deposit listing services that are not brokered deposits. Only the two law firms supported the addition of the proposed Memorandum item to the Call Report. The other 13 commenters expressed varying degrees of opposition to the proposal.

The deposit listing service recommended the agencies withdraw this proposal because not all listing services serve the same types of customers, not all listing service deposits can be easily tracked and controlled, not all listing services represent a source of high-yield deposits, and the collection of the proposed Memorandum item may dissuade bank examiners from appropriately evaluating the volatility and rate sensitivity of deposits reported in the item. Seven of the banks opposing this proposed Memorandum item raised these same four arguments. The other two banks and two of the bankers' associations that objected to the proposed item cited the difficulty in identifying and tracking deposits obtained from listing services. The other bankers' association expressed concern that the addition of a new Call Report item on deposits obtained from listing services, which are currently included in core deposits, "will be a first step to exclude these funds from being considered core deposits." [9]

In contrast, the two law firms supporting this proposed Call Report revision characterized it as "a step in the right direction," "long overdue," and "a necessary and vital step toward developing a rational policy concerning access to the national deposit funding markets by banks." One law firm commented that "[s]ince the FDIC issued a Final Rule in 2009 to revise insurance assessments on brokered deposits (12 CFR part 327), * * * numerous IDIs have turned away from accepting brokered deposits in favor of unregulated and opaque deposits from deposit listing services as an alternative (and less scrutinized) source for their non-core out-of-area funding." The other law firm made a similar observation, adding that the proposed Memorandum item "will provide important information to regulators about each banks' deposit funding sources."

Although commenters, including the deposit listing service, expressed concern about the ability to identify deposits obtained through the use of listing services, the deposit listing service described itself "[a]s a closed, member-only listing service" and stated that it "has always provided banks with tracking utilities and reports that will allow for the analysis of deposits being generated" through the use of the listing service, thereby easing "administrative burdens for our financial institution subscribers." The listing service also noted that this "is not the case with most or all other listing services." In addition, the deposit listing service stated that:

> Further complicating matters is the fact that some public, open listing services, national publications and rate-advertising Websites will post a bank's rate without the bank's authorization. These sources routinely pick up the bank's rates from its own Website, without the institution's knowledge. Because the bank did not initiate the advertisements (and may not even be aware that they exist), the bank will not be able to quantify deposits coming from these other sources for the purpose of the call report.

One bank made a similar observation about rate-advertising Web sites, stating that "[w]e do not pay to have our rates listed on such sites since we concentrate on relationships with local customers but it is possible that some of our customers opened their accounts with us based on those listings." The bank recommended that, if the proposed Memorandum item is added to the Call Report, "the instructions should exempt deposits acquired based on deposit listing services when the bank did not take any action to have its rates listed by the service."

The agencies acknowledge that, unless a deposit listing service offers deposit tracking to its bank customers, the precise amount of deposits obtained through the use of listing services is not readily determinable. It was for this

[9] *See* Section II.H. below for information on a change in the definition of core deposits unrelated to the proposed Memorandum item for nonbrokered deposits obtained through the use of deposit listing services.

reason that the agencies specifically proposed that banks report the estimated amount of listing service deposits. Furthermore, although some comment letters suggested the agencies' proposed new Memorandum item was designed to capture all deposits obtained via the Internet, that is not the intended scope of the proposed item.

In their comments, the deposit listing service and several banks expressed concern that the addition of the proposed Memorandum item to the Call Report will "encourage examiners to simply apply a blanket assumption of volatility and rate sensitivity to all deposits" reported in the new item. One bankers' association questioned what would be served if the agencies were to collect this information. The estimated amount of deposits obtained through deposit listing services, and how the estimate changes over time, will serve as additional data points for examiners as they begin their comprehensive fact-specific evaluations of the stability of banks' deposit bases. The collection of the proposed item is not intended to eliminate examiners' assessments of depositors' characteristics, which of necessity entails a thorough analysis of the risk factors associated with a bank's depositors and how bank management identifies, measures, manages, and controls these risks. Information on the level and trend of an individual bank's deposits obtained through the use of listing services also will assist examiners in planning how they will evaluate liquidity and funds management during examinations of the bank. From a surveillance perspective, significant changes in a bank's use of listing service deposits may trigger supervisory follow-up prior to the next planned examination.

After considering the comments on its proposal, the agencies have decided to proceed with the proposed new Memorandum item for the estimated amount of deposits obtained through the use of deposit listing services. As mentioned above, the new item is not intended to capture all deposits obtained through the Internet, such as deposits that a bank receives because a person or entity has seen the rates the bank has posted on its own Web site or on a rate-advertising Web site that has picked up and posted the bank's rates on its site without the bank's authorization. Accordingly, the final instructions will state that the objective of the Memorandum item is to collect the estimated amount of deposits obtained as a result of action taken by the bank to have its deposit rates listed by a listing service, and the listing service is compensated for this listing either by the bank whose rates are being listed or by the persons or entities who view the listed rates. However, the final instructions for the Memorandum item also will indicate that the actual amount of nonbrokered listing service deposits, rather than an estimate, should be reported for those deposits acquired through the use of a service that offers deposit tracking. A bank should establish a reasonable and supportable estimation process for identifying listing service deposits that meet these reporting parameters and apply this process consistently over time.

D. Deposits of Individuals, Partnerships, and Corporations

In Call Report Schedule RC–E, Deposit Liabilities, banks currently report separate breakdowns of their transaction and nontransaction accounts (in domestic offices) by category of depositor. The predominant depositor category is deposits of "Individuals, partnerships, and corporations," which comprises more than 90 percent of total deposits in domestic offices. The recent crisis has demonstrated that business depositors' behavioral characteristics are significantly different than the behavioral characteristics of individuals. Thus, separate reporting of deposits of individuals versus deposits of partnerships and corporations would enable the banking agencies to better assess the liquidity risk profile of institutions given differences in the relative stability of deposits from these two sources.

As proposed to be revised, Schedule RC–E, item 1, "Individuals, partnerships, and corporations," would be split into item 1.a, "Individuals," and item 1.b, "Partnerships and corporations." Under this proposal, accounts currently reported in item 1 for which the depositor's taxpayer identification number, as maintained on the account in the bank's records, is a Social Security Number (or an Individual Taxpayer Identification Number [10]) should be treated as deposits of individuals. In general, all other accounts currently reported in item 1 should be treated as deposits of partnerships and corporations. However, Schedule RC–E, item 1, also includes all certified and official checks. To limit the reporting burden of this proposed change, official checks in the form of money orders and travelers checks would be reported as deposits of individuals. Certified checks and all other official checks would be reported as deposits of partnerships and corporations. The agencies requested comment on this approach to reporting certified and official checks.

The agencies received three comments from banks and two comments from bankers' associations on the proposal for separate reporting of deposits of individuals versus deposits of partnerships and corporations. Two bank commenters requested the exemption of smaller banks from this proposed reporting requirement. The third bank and the two bankers' associations stated the proposal would require significant system programming changes and the bank also questioned the meaningfulness of the separate information. These commenters indicated that if the new deposit breakdown were adopted, it should be deferred until either December 31, 2011, or March 31, 2012, to allow time for banks to make the necessary systems changes. The bankers' associations also recommended that all certified and official checks be reported together in one of the two depositor categories, with one of the associations expressing a preference for reporting all of these checks as deposits of partnerships and corporations. Finally, one bankers' association recommended that all brokered deposits and all uninvested trust funds be reported as deposits of partnerships and corporations, and all mortgage escrows be reported as deposits of individuals.

The agencies have reconsidered their proposal for banks to report deposits of individuals separately from deposits of partnerships and corporations in Schedule RC–E. Although the agencies continue to believe that information distinguishing between deposits of individuals and deposits of partnerships and corporations would enhance the agencies ability to assess the liquidity risk profile of institutions, they acknowledge the proposed reporting revision could necessitate extensive programming changes and impose significant reporting burden. As a result of this reevaluation, the agencies have decided not to implement this proposed Call Report revision.

E. Variable Interest Entities

In June 2009, the FASB issued accounting standards that have changed the way entities account for securitizations and special purpose entities. ASU No. 2009–16 (formerly FAS 166) revised ASC Topic 860, Transfers and Servicing, by eliminating the concept of a "qualifying special-

[10] An Individual Taxpayer Identification Number is a tax processing number only available for certain nonresident and resident aliens, their spouses, and dependents who cannot get a Social Security Number. It is a 9-digit number, beginning with the number "9," in a format similar to a Social Security Number.

purpose entity" (QSPE) and changing the requirements for derecognizing financial assets. ASU No. 2009–17 (formerly FAS 167) revised ASC Topic 810, Consolidation, by changing how a bank or other company determines when an entity that is insufficiently capitalized or is not controlled through voting or similar rights, *i.e.,* a "variable interest entity" (VIE), should be consolidated. For most banks, ASU Nos. 2009–16 and 2009–17 took effect January 1, 2010.

Under ASC Topic 810, as amended, determining whether a bank is required to consolidate a VIE depends on a qualitative analysis of whether that bank has a "controlling financial interest" in the VIE and is therefore the primary beneficiary of the VIE. The analysis focuses on the bank's power over and interest in the VIE. With the removal of the QSPE concept from generally accepted accounting principles that was brought about in amended ASC Topic 860, a bank that transferred financial assets to an SPE that met the definition of a QSPE before the effective date of these amended accounting standards was required to evaluate whether, pursuant to amended ASC Topic 810, it must begin to consolidate the assets, liabilities, and equity of the SPE as of that effective date. Thus, when implementing amended ASC Topics 860 and 810 at the beginning of 2010, banks began to consolidate certain previously off-balance securitization vehicles, asset-backed commercial paper conduits, and other structures. Going forward, banks with variable interests in new VIEs must evaluate whether they have a controlling financial interest in these entities and, if so, consolidate them. In addition, banks must continually reassess whether they are the primary beneficiary of VIEs in which they have variable interests.

For those VIEs that banks must consolidate, the banking agencies' Call Report instructional guidance advises institutions to report the assets and liabilities of these VIEs on the Call Report balance sheet (Schedule RC) in the balance sheet category appropriate to the asset or liability. However, ASC paragraph 810–10–45–25 [11] requires a reporting entity to present "separately on the face of the statement of financial position: a. Assets of a consolidated variable interest entity (VIE) that can be used only to settle obligations of the consolidated VIE [and] b. Liabilities of a consolidated VIE for which creditors (or beneficial interest holders) do not have recourse to the general credit of the primary beneficiary." This requirement has been interpreted to mean that "each line item of the consolidated balance sheet should differentiate which portion of those amounts meet the separate presentation conditions." [12] In requiring separate presentation for these assets and liabilities, the FASB agreed with commenters on its proposed accounting standard on consolidation that "separate presentation * * * would provide transparent and useful information about an enterprise's involvement and associated risks in a variable interest entity." [13] The banking agencies concur that separate presentation would provide similar benefits to them and other Call Report users, particularly since data on securitized assets that are reconsolidated are no longer reported on Call Report Schedule RC–S, Servicing, Securitization, and Asset Sale Activities.

Consistent with the presentation requirements discussed above, the banking agencies proposed to add a new Schedule RC–V, Variable Interest Entities, to the Call Report in which banks would report a breakdown of the assets of consolidated VIEs that can be used only to settle obligations of the consolidated VIEs and liabilities of consolidated VIEs for which creditors do not have recourse to the general credit of the reporting bank. The following proposed categories for these assets and liabilities would include some of the same categories presented on the Call Report balance sheet (Schedule RC): Cash and balances due from depository institutions, Held-to-maturity securities; Available-for-sale securities; Securities purchased under agreements to resell, Loans and leases held for sale; Loans and leases, net of unearned income; Allowance for loan and lease losses; Trading assets (other than derivatives); Derivative trading assets; Other real estate owned; Other assets; Securities sold under agreements to repurchase; Derivative trading liabilities; Other borrowed money (other than commercial paper); Commercial paper; and Other liabilities. These assets and liabilities would be presented separately for securitization vehicles, asset-backed commercial paper conduits, and other VIEs.

In addition, the agencies proposed to include two separate items in new Schedule RC–V in which banks would report the total amounts of all other assets and all other liabilities of consolidated VIEs (*i.e.,* all assets of consolidated VIEs that are not dedicated solely to settling obligations of the VIE and all liabilities of consolidated VIEs for which creditors have recourse to the general credit of the reporting bank). The collection of this information would help the agencies understand the total magnitude of consolidated VIEs. These assets and liabilities also would be reported separately for securitization vehicles, asset-backed commercial paper conduits, and other VIEs.

The asset and liability information collected in Schedule RC–V would represent amounts included in the reporting bank's consolidated assets and liabilities reported on Schedule RC, Balance Sheet, *i.e.,* after eliminating intercompany transactions.

The agencies received one comment from a bankers' association that addressed proposed Schedule RC–V. The bankers' association recommended delaying the March 2011 effective date of this new schedule until a later quarter because the collection of the data to be reported in the schedule, given the proposed level of granularity, would be mostly a manual process involving spreadsheets until systems modifications could be made.

Because the Call Report balance sheet is completed on a consolidated basis, the VIE amounts that banks would report in new Schedule RC–V are amounts that, through the consolidation process, already must be reported in the appropriate balance sheet asset and liability categories. These balance sheet categories, by and large, have been carried over into Schedule RC–V. Schedule RC–V distinguishes between assets of consolidated VIEs that can be used only to settle obligations of the consolidated VIEs and assets not meeting this condition as well as liabilities of consolidated VIEs for which creditors do not have recourse to the general credit of the reporting bank and liabilities not meeting this condition. This distinction is based on existing disclosure requirements applicable to financial statements prepared in accordance with U.S. GAAP, to which the banks likely to have material amounts of consolidated VIE assets and liabilities to report have been subject for one year. Thus, these banks should have a process in place, even if manual, for segregating VIE assets and liabilities based on this distinction.

The agencies recognize that the proposed separate reporting of consolidated VIE assets and liabilities by the type of VIE activity, *i.e.,* securitization vehicles, ABCP conduits, and other VIEs, goes beyond the

[11] Formerly paragraph 22A of FIN 46(R), as amended by FAS 167.

[12] Deloitte & Touche LLP, "Back on-balance sheet: Observations from the adoption of FAS 167," May 2010, page 4 (*http://www.deloitte.com/view/en_US/us/Services/audit-enterprise-risk-services/Financial-Accounting-Reporting/f3a70ca28d9f8210VgnVCM200000bb42f00aRCRD.htm*).

[13] *See* paragraphs A80 and A81 of FAS 167.

disclosure requirements in U.S. GAAP. Otherwise, the proposed data requirements for Schedule RC–V have been based purposely on the GAAP framework. Thus, the agencies have concluded that it would be appropriate to proceed with the introduction of new Schedule RC–V in March 2011 as proposed. Banks are reminded that, as mentioned above, they may provide reasonable estimates in their March 31, 2011, Call Report for any new or revised Call Report item initially required to be reported as of that date for which the requested information is not readily available.

F. Life Insurance Assets

Banks purchase and hold bank-owned life insurance (BOLI) policies as assets, the premiums for which may be used to acquire general account or separate account life insurance policies. Banks currently report the aggregate amount of their life insurance assets in item 5 of Call Report Schedule RC–F, Other Assets, without regard to the type of policies they hold.

Many banks have BOLI assets, and the traditional distinction between those life insurance policies that represent general account products and those that represent separate account products has meaning with respect to the degree of credit risk involved as well as performance measures for the life insurance assets in a volatile market environment. In a general account policy, the general assets of the insurance company issuing the policy support the policy's cash surrender value. In a separate account policy, the policy's cash surrender value is supported by assets segregated from the general assets of the insurance carrier. Under such an arrangement, the policyholder neither owns the underlying separate account created by the insurance carrier on its behalf nor controls investment decisions in the account. Nevertheless, the policyholder assumes all investment and price risk.

A number of banks holding separate account life insurance policies have recorded significant losses in recent years due to the volatility in the markets and the vulnerability to market fluctuations of the instruments that are investment options in separate account life insurance policies. Information distinguishing between the cash surrender values of general account and separate account life insurance policies would allow the banking agencies to track banks' holdings of both types of life insurance policies with their differing risk characteristics and changes in their carrying amounts resulting from their performance over time. Accordingly, the banking agencies proposed to split item 5 of Schedule RC–F into two items: item 5.a, "General account life insurance assets," and item 5.b, "Separate account life insurance assets."

Two insurance consultants and an insurance company submitted comments supporting the agencies' proposal to add a breakdown of life insurance assets by type of policy to the Call Report. However, all three commenters noted that the evolution of life insurance products in recent years has led to a third type of policy becoming more prevalent in the banking industry: Hybrid accounts. Such accounts combine features of general and separate account products by providing the additional asset protection offered by separate accounts while also providing a guaranteed minimum interest-crediting rate, which is common to general accounts. They recommended the agencies revise their proposal from a two-way to a three-way breakdown of life insurance assets or, although not the preferable approach, advise banks with hybrid account life insurance assets to report them together with general account life insurance assets because they have more general account characteristics. Because of the agencies' interest in being better able to understand the risk characteristics of banks' holdings of life insurance assets, the agencies have decided to implement the three-way breakdown of these assets consistent with the commenters' recommendation.

G. Call Report Instructional Revisions

1. Reporting of 1–4 Family Residential Mortgages Held for Trading in Schedule RC–P

The banking agencies began collecting information in Schedule RC–P, 1–4 Family Residential Mortgage Banking Activities in Domestic Offices, in September 2006. At that time, the instructions for Schedule RC–C, part I, Loans and Leases, indicated that loans generally could not be classified as held for trading. Therefore, all 1–4 family residential mortgage loans designated as held for sale were reportable in Schedule RC–P. In March 2008, the banking agencies provided instructional guidance establishing conditions under which banks were permitted to classify certain assets (*e.g.,* loans) as trading, and specified that loans classified as trading assets should be excluded from Schedule RC–C, part I, Loans and Leases, and reported instead in Schedule RC–D, Trading Assets and Liabilities (if the reporting threshold for this schedule were met). However, the agencies neglected to address the reporting treatment in Schedule RC–P of 1–4 family residential loans that met the conditions for classification as trading assets. Therefore, the agencies are proposing to correct this by providing explicit instructional guidance that all 1–4 family residential mortgage banking activities, whether held for sale or trading purposes, are reportable on Schedule RC–P.

The agencies received one comment from a bankers' association on the proposed guidance on the reporting of 1–4 family residential mortgages held for trading in Schedule RC–P. The commenter supported the proposed clarification and requested further clarification on the reporting of repurchases and indemnifications in this schedule. The commenter suggested separate reporting of loan repurchases from indemnifications for all subitems of Schedule RC–P, item 6, "Repurchases and indemnifications of 1–4 family residential mortgage loans during the quarter."

In September 2010, the agencies clarified the Call Report instructions for Schedule RC–P, item 6, to explain which repurchases of 1–4 family residential mortgage loans are reportable in this item. Specifically, instructional guidance was provided stating that banks should exclude 1–4 family residential mortgage loans that have been repurchased solely at the discretion of the bank from item 6. The agencies do not believe there is a supervisory need to separate the reporting of loan repurchases from indemnifications in Schedule RC–P, item 6, but welcome comments regarding any further clarifications to these reporting instructions.

2. Maturity and Repricing Data for Assets and Liabilities at Contractual Ceilings and Floors

Banks report maturity and repricing data for debt securities (not held for trading), loans and leases (not held for trading), time deposits, and other borrowed money in Call Report Schedule RC–B, Securities; Schedule RC–C, part I, Loans and Leases; Schedule RC–E, Deposit Liabilities; and Schedule RC–M, Memoranda, respectively. The agencies use these data to assess, at a broad level, a bank's exposure to interest rate risk. The instructions for reporting the maturity and repricing data currently require that when the interest rate on a floating rate instrument has reached a contractual floor or ceiling level, which is a form of embedded option, the instrument is to be treated as "fixed rate" rather than "floating rate" until the rate is again free

to float. As a result, a floating rate instrument whose interest rate has fallen to its floor or risen to its ceiling is reported based on the time remaining until its contractual maturity date rather than the time remaining until the next interest rate adjustment date (or the contractual maturity date, if earlier). This reporting treatment is designed to capture the potential effect of the embedded option under particular interest rate scenarios.

The American Bankers Association (ABA) requested that the agencies reconsider the reporting treatment for floating rate loans with contractual floors and ceilings. More specifically, the ABA recommended revising the instructions so that floating rate loans would always be reported based on the time remaining until the next interest rate adjustment date without regard to whether the rate on the loan has reached a contractual floor or ceiling.

The agencies considered this request and concluded that an instructional revision was warranted, provided it applied to all floating rate instruments for which repricing information is reported in the Call Report, but the extent to which the revision applied to floors and ceilings should be narrower than recommended by the ABA. The agencies concluded that when a floating rate instrument is at its contractual floor or ceiling and the embedded option has intrinsic value to the bank, the floor or ceiling should be ignored and the instrument should be treated as a floating rate instrument. However, if the embedded option has intrinsic value to the bank's counterparty, the contractual floor or ceiling should continue to be taken into account and the instrument should be treated as a fixed rate instrument. For example, when the interest rate on a floating rate loan reaches its contractual ceiling, the embedded option represented by the ceiling has intrinsic value to the borrower and is a detriment to the bank because the loan's yield to the bank is lower than what it would have been without the ceiling. When the interest rate on a floating rate loan reaches its contractual floor, the embedded option represented by the floor has intrinsic value to the bank and is a benefit to the bank because the loan's yield to the bank is higher than what it would have been without the floor.

Accordingly, the agencies proposed to revise the instructions for reporting maturity and repricing data in the four Call Report schedules identified above. As proposed, the instructions would indicate that a floating rate asset that has reached its contractual ceiling and a floating rate liability that has reached its contractual floor would be treated as a fixed rate instrument and reported based on the time remaining until its contractual maturity date. In contrast, the instructions would state that a floating rate asset that has reached its contractual floor and a floating rate liability that has reached its contractual ceiling would be treated as a floating rate instrument and reported based on the time remaining until the next interest rate adjustment date (or the contractual maturity date, if earlier).

The agencies received comments from two bankers' associations on this proposed instructional change. One bankers' association recommended the agencies adopt their proposed approach only for floating rate loans reported in Schedule RC–C, part I. This bankers' association opposed extending the same proposed approach to the other three Call Report schedules in which repricing data are reported for certain other floating rate instruments because its "members believe that not enough research has been completed" to understand the effect of the proposed instructional change on how these other instruments would be reported. The other bankers' association recommended against proceeding with the proposed instructional change because of the implementation burden associated with the multiple systems that would need to be revised. This association also observed that the revised information for floating rate instruments at contractual ceilings and floors would be commingled with the maturity and repricing information for all of the other instruments in the same asset or liability category.

After considering the comments received, the agencies have decided not to change the instructions for reporting repricing information for floating rate instruments at contractual ceilings and floors in Schedules RC–B; RC–C; part I, RC–E; and RC–M. Such floating rate instruments should continue to be reported in these schedules in accordance with the longstanding requirement that the instruments be treated as "fixed rate" rather than "floating rate" until their rate is again free to float.

H. Definitions of Core Deposits and Non-Core Funding

As previously mentioned, two bankers' associations submitted comments addressing the definition of core deposits, which was not part of the agencies' proposed Call Report revisions for March 2011. The associations noted that the definition of this term, which is used in the calculation of ratios published by the agencies in the Uniform Bank Performance Report (UBPR), currently incorporates a $100,000 threshold for time deposits. This amount was the standard maximum deposit insurance amount before the enactment of the Dodd-Frank Act, which permanently increased the standard maximum amount to $250,000 on July 21, 2010. Consequently, one bankers' association urged the agencies to adjust the core deposit threshold to $250,000 for consistency with the deposit insurance limit. Similarly, the second bankers' association stated this change in the standard maximum deposit insurance amount eliminated the need to continue to base the identification of core deposits on the $100,000 threshold. This association recommended that references in the Call Report to $100,000 be revised and updated.

The banking agencies publish the UBPR quarterly to facilitate peer comparisons of bank performance by bankers, examiners, and bank analysts. UBPR data are calculated primarily from data reported in the Call Report. The UBPR includes a liquidity page that contains calculated values for a variety of predefined ratios, including several ratios measuring core and non-core funding dependency. The agencies' staffs use these ratios for offsite surveillance purposes to identify institutions with potentially heightened risk characteristics, while examiners may use these ratios in their reports, as appropriate, for benchmarking purposes in their liquidity analyses.

At present, the UBPR defines core deposits as the sum of demand deposits, negotiable order of withdrawal (NOW) accounts, automatic transfer service (ATS) accounts, money market deposit accounts (MMDA), other savings deposits, and time deposits of less than $100,000. All time deposits with balances of $100,000 or more, including those with balances between $100,000 and $250,000, are not included in core deposits for UBPR purposes.

The UBPR also defines an associated concept, non-core liabilities, as total time deposits of $100,000 or more, other borrowed money, foreign office deposits, securities sold under agreements to repurchase, Federal funds purchased, and brokered deposits of less than $100,000. Thus, for example, all fully insured time deposits in amounts greater than $100,000 are currently deemed to be non-core liabilities. Finally, the UBPR further refines the concept of non-core liabilities by separately defining short-term non-core liabilities as those non-core liabilities with maturities of one year or less.

For purposes of liquidity evaluations conducted during safety-and-soundness examinations, examiners are expected to consider a variety of factors in assessing the stability of a bank's deposit base. Given that such an assessment is complex and fact specific, a bank's core deposit and non-core funding ratios calculated by the UBPR are best viewed as a starting point for further liquidity analysis. Furthermore, a strong case can be made that the current UBPR definitions of core deposits and non-core funds are not the appropriate starting point for analysis given the permanent change in the standard maximum deposit insurance amount to $250,000. At present, non-brokered time deposits of $100,000 or more with fully insured balances are automatically being deemed non-core funds in the current UBPR. Although examiners can, and are expected to, look through ratios to assess the underlying stability of deposits, it seems inappropriate to automatically penalize all such deposits with a non-core funding designation in the UBPR.

Accordingly, after considering the comments from the two bankers' associations, the agencies have concluded that non-brokered time deposits with balances between $100,000 and $250,000 should be considered core deposits rather than non-core liabilities for UBPR calculation purposes. The agencies further believe that, for consistency, this increased deposit threshold should be incorporated at the same time into the UBPR definitions of non-core liabilities and short-term non-core liabilities. Although the definitional changes for core deposits and non-core liabilities can be implemented using information currently collected in the Call Report, each of two existing Call Report items would need to be revised to support an updated definition of short-term non-core liabilities that reflects the increased standard maximum insurance amount of $250,000. Therefore, effective with the Call Report for March 31, 2011, the agencies have decided to implement a further breakdown of two items in Schedule RC–E, Deposit Liabilities, as follows:

(1) Existing Memorandum item 1.d.(2), "Brokered deposits of $100,000 or more with a remaining maturity of one year or less," would be split into new Memorandum item 1.d.(2), "Brokered deposits of $100,000 through $250,000 with a remaining maturity of one year or less," and new Memorandum item 1.d.(3), "Brokered deposits of more than $250,000 with a remaining maturity of one year or less," and

(2) Existing Memorandum item 4.b, "Time deposits of $100,000 or more with a remaining maturity of one year or less," would be split into new Memorandum item 4.b, "Time deposits of $100,000 through $250,000 with a remaining maturity of one year or less," and new Memorandum item 4.c, "Time deposits of more than $250,000 with a remaining maturity of one year or less."

For UBPR calculation purposes beginning with Call Report data reported as of March 31, 2011, core deposits will be defined as the sum of demand deposits, NOW accounts, ATS accounts, MMDAs, other savings deposits, and total time deposits of $250,000 or less, minus brokered deposits of $250,000 or less. Non-core liabilities will be defined as the sum of total time deposits of more than $250,000, brokered deposits of $250,000 or less, other borrowed money, foreign office deposits, securities sold under agreements to repurchase, and Federal funds purchased. Short-term non-core liabilities will be defined as the sum of time deposits of more than $250,000 with a remaining maturity of one year or less, brokered deposits of $250,000 or less with a remaining maturity of one year or less, other borrowed money with a remaining maturity of one year or less, foreign office deposits with a remaining maturity of one year or less, securities sold under agreements to repurchase, and Federal funds purchased.

Request for Comment

Public comment is requested on all aspects of this joint notice. Comments are invited on:

(a) Whether the proposed revisions to the collections of information that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

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

Comments submitted in response to this joint notice will be shared among the agencies. All comments will become a matter of public record.

Dated: January 20, 2011.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, January 24, 2011.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 20th day of January 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–1815 Filed 1–27–11; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

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Federal Register

Vol. 76, No. 19

Thursday, January 28, 2011

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FEDERAL REGISTER PAGES AND DATE, JANUARY

1–250 3
251–418 4
419–696 5
697–1058 6
1059–1332 7
1333–1510 10
1511–1978 11
1979–2242 12
2243–2570 13
2571–2798 14
2799–3010 18
3011–3484 19
3485–3820 20
3821–4026 21
4027–4200 24
4201–4488 25
4489–4800 26
4801–5052 27
5053–5266 28

CFR PARTS AFFECTED DURING JANUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revison date of each title.

1 CFR

Proposed Rules:
304 1542

3 CFR

Proclamations:
8622 2241
8623 3817
8624 3819

Executive Orders:
13563 3821

Administrative Orders:
Memorandums:
Memorandum of January 6, 2011 1977
Memo. of January 18, 2011 (2011-1386) 3825
Memo. of January 18, 2011 (2011-1387) 3827
Notices:
Notice of January 13, 2011 3009
Notice of January 26, 2011 5053

Presidential Determinations:
No. 2011-6 of November 29, 2010 1333

5 CFR

3401 1335

Proposed Rules:
531 1096
575 1096

7 CFR

1b 4801
2 4801
8 4801
12 4801
23 4801
52 251
301 ..... 1337, 1338, 1339, 3011
407 4801
457 ..... 4201, 4801
550 4801
761 5055
766 5055
920 4201
927 4202
985 4204
1410 4801
1436 4801
1437 4801
1468 4801
1469 4801
1491 4027
2904 3790
3400 4801
3401 4801
3402 4801
3403 4801
3404 4801
3405 4801
3406 4801
3407 4801
3411 4801
3415 4801
3430 4801
3565 1

Proposed Rules:
59 4554
185 3046
205 288
210 2494
220 2494
400 718
945 4254
989 4254

8 CFR

234 5058

9 CFR

93 4046
94 4046
95 4046
201 3485

Proposed Rules:
103 2268
112 2268
114 2268

10 CFR

72 2243
430 972

Proposed Rules:
40 1100
50 3540
52 3540
72 2277
73 ..... 1376, 5102
431 648
835 4258
1021 214

12 CFR

330 4813
380 4207
707 3487

Proposed Rules:
3 1890
208 1890
225 1890
325 1890
1310 4555

13 CFR

115 2571

Proposed Rules:
107 2029

14 CFR

1 5

25 5061
39 ....253, 255, 419, 421, 423, 426, 428, 430, 432, 435, 437, 441, 444, 1339, 1342, 1346, 1349, 1351, 1979, 1983, 1985, 1990, 1993, 1996, 2572, 4056, 4216, 4219, 4221, 4224, 4226, 5066
65 9
71 ....1511, 1512, 1513, 1999, 2000, 2609, 2799, 2800, 2801, 3011, 5068
77 2802
97 ....1354, 1355, 4061, 4064
135 3831

Proposed Rules:
17 2035
25 ....291, 472
39 ....28, 31, 34, 42, 46, 50, 292, 477, 480, 482, 485, 721, 1552, 1556, 2279, 2281, 2284, 2605, 2607, 2840, 2842, 2846, 2848, 3054, 3561, 3564, 3566, 3854, 3856, 4260, 4264, 4567
71 ....489, 1377, 1378, 1380, 2572, 3569, 3570, 3571
77 490

15 CFR

732 1059
734 1059
738 4228
740 ....1059, 4228
742 4228
744 4228
748 2802
772 1059
774 1059

Proposed Rules:
30 4002
922 ....294, 2611

16 CFR

305 1038

17 CFR

200 2805
201 4066
202 4066
229 ....4231, 4489
230 4231
232 ....1514, 4489
240 ....4066, 4489
249 4489
275 255
279 255

Proposed Rules:
1 ....722, 4752
37 ....722, 1214
38 722
39 ....722, 3698
40 722
150 4752
151 4752
165 4569
240 ....824, 2049, 2287, 3859
249 ....824, 2049, 2287

18 CFR

260 4516

Proposed Rules:
35 4569
410 295

19 CFR

10 697
12 3012
24 697
122 5058
145 2573
159 2573
162 697
163 697
173 2573
174 2573
178 697

20 CFR

416 446
655 3452

21 CFR

50 256
510 2807
522 ....2807, 3488

Proposed Rules:
16 737
1107 737
1308 2287

24 CFR

Proposed Rules:
5 4194
200 4194
203 4194
236 4194
570 4194
574 4194
982 4194

25 CFR

Proposed Rules:
Ch. I 2617

26 CFR

1 ....708, 1063, 3837, 4244
31 708
40 ....708, 709
301 ....708, 709

Proposed Rules:
1 ....1101, 1105, 2852
31 ....1105, 2852
300 2617
301 2852

27 CFR

4 3489
9 3489
19 3502
24 3502
25 3502
26 3502
40 3502
41 3502
70 ....3489, 3502

Proposed Rules:
4 3573
5 3584
19 3584
24 3584
25 3584
26 3584
40 3584
41 3584
70 3584

28 CFR

570 1516

29 CFR

24 2808
4022 2578

Proposed Rules:
452 1559

30 CFR

285 4244
3020 1357

Proposed Rules:
70 2617
71 2617
72 2617
75 2617
90 2617
920 5103
931 4266

31 CFR

1 4816
285 5070
515 5072

32 CFR

185 2246
199 2253

Proposed Rules:
199 ....2288, 2290, 2291
311 56

33 CFR

117 ....12, 1359, 3516, 3837, 4817, 4818, 4819
146 2254
165 ....12, 1065, 1360, 1360, 1362, 1519, 1521, 2579, 2827, 2829, 3014, 4529, 4532

Proposed Rules:
100 ....1381, 1384, 1564, 1568, 3057
117 4574
165 ....1386, 1568, 4575, 4833
401 5104

36 CFR

261 3015
1200 1523

Proposed Rules:
7 57
230 744

37 CFR

202 4072

Proposed Rules:
202 5106

38 CFR

3 4245
17 4245
21 4245
74 3017

Proposed Rules:
5 2766

39 CFR

111 4820

Proposed Rules:
3050 ....296, 297

40 CFR

9 ....1067, 4156
35 709
50 4780
52 ....15, 1525, 2263, 2581, 2589, 2591, 2829, 3023, 4076, 4534, 4537, 4540, 5078
53 4780
58 4780
60 ....2832, 3517
63 ....2832, 4156
70 4076
81 ....1532, 3838, 3840
180 ....3026, 4542
239 270
258 270
261 4823
799 ....1067, 4549
1500 3843
1501 3843
1502 3843
1505 3843
1506 3843
1507 3843
1508 3843

Proposed Rules:
49 2056
51 1109
52 ....298, 491, 508, 752, 758, 763, 1109, 1578, 1579, 2066, 2070, 2293, 2294, 2853, 2859, 4084, 4268, 4271, 4578, 4579, 4584, 4588, 4592, 4597, 4801, 4835
55 1389
60 ....2056, 2860, 3060, 3587
63 ....2056, 2860
70 4084
72 1109
75 2056
78 1109
86 2056
89 2056
92 2056
94 2056
97 1109
98 3062
152 ....302, 4602
180 3422
230 303
258 303
260 5107
261 ....5107, 5110
271 2618
300 510
761 2056
1065 2056

41 CFR

Proposed Rules:
60-1 62
60-2 62

42 CFR

405 1670
409 1670
410 ....1366, 1670
411 1670
413 ....628, 1670
414 1670
415 1670
424 1670

Proposed Rules:
71 678
412 4998
422 2454
480 2454

44 CFR

64 ....2596, 5081

65 .....17, 23, 2837
67 .....272, 1093, 1535, 3524, 3531

Proposed Rules:
67 .....1121, 3590, 3595, 3596

45 CFR

170.....1262
680.....3853
1611.....4550

47 CFR

54.....4827
73.....4078
90.....2598

Proposed Rules:
20 .....1126, 2297, 2625
64.....4838
73 .....3875, 5119, 5120
90.....3064

48 CFR

Ch. 1.....4188, 4191
1.....4188
9.....4188
12.....4188
52.....4188
216.....3536
219.....3536
225.....3536
227.....3536
233.....3536
245.....3536
249.....3536
252.....25, 3536
1804.....4079
1845.....2001
1852.....2001, 4079

49 CFR

26.....5083
105.....454
107.....454
171.....454, 3308
172.....3308
173.....3308
175.....3308
176.....3308
179.....4250
180.....3308
541.....2598
571.....3212
580.....1367
585.....3212

Proposed Rules:
173.....4847
174.....4276
177.....5120
195.....303
228.....64
229.....2200
238.....2200
392.....5120
567.....2631
571.....78
575.....2309
591.....2631
592.....2631
593.....2631
1011.....766
1034.....766
1102.....766
1104.....766
1115.....766

50 CFR

17.....3029
32.....3938
300 .....283, 464, 2011
660.....3539
665.....4551
679 .....26, 466, 467, 469, 1539, 2027, 3044, 3045, 4081, 4082, 4551, 4552

Proposed Rules:
17 .....304, 2076, 2863, 3069, 3392
226.....515, 1392
300.....2871
622.....3596, 4084
635.....2313
648.....2640
660.....4854

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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S. 118/P.L. 111–372
Section 202 Supportive Housing for the Elderly Act of 2010 (Jan. 4, 2011; 124 Stat. 4077)

S. 841/P.L. 111–373
Pedestrian Safety Enhancement Act of 2010 (Jan. 4, 2011; 124 Stat. 4086)

S. 1481/P.L. 111–374
Frank Melville Supportive Housing Investment Act of 2010 (Jan. 4, 2011; 124 Stat. 4089)

S. 3036/P.L. 111–375
National Alzheimer's Project Act (Jan. 4, 2011; 124 Stat. 4100)

S. 3243/P.L. 111–376
Anti-Border Corruption Act of 2010 (Jan. 4, 2011; 124 Stat. 4104)

S. 3447/P.L. 111–377
Post-9/11 Veterans Educational Assistance Improvements Act of 2010 (Jan. 4, 2011; 124 Stat. 4106)

S. 3481/P.L. 111–378
To amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution. (Jan. 4, 2011; 124 Stat. 4128)

S. 3592/P.L. 111–379
To designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building". (Jan. 4, 2011; 124 Stat. 4130)

S. 3874/P.L. 111–380
Reduction of Lead in Drinking Water Act (Jan. 4, 2011; 124 Stat. 4131)

S. 3903/P.L. 111–381
To authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo. (Jan. 4, 2011; 124 Stat. 4133)

S. 4036/P.L. 111–382
To clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury. (Jan. 4, 2011; 124 Stat. 4134)

Last List January 10, 2011

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